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Abstract

Many women, particularly feminists, find Scarlett O'Hara, from Gone with the Wind 2 (Mitchell 1936), at best irritating, and at worst, despicable: a character who embodies all of the negative stereotypes attributed to women throughout history. She is narcissistic, shallow, dishonest, manipulative, amoral, and completely lacking in any capacity for self-reflection and for analysis of the emotional and psychological responses of others. In fact, even Margaret Mitchell, who did not much care for the character she had created, often made "disparaging remarks about Scarlett" (Jones 1981: 333) and "claimed that she set out to write about Melanie as the protagonist and that Scarlett just took over the story." (Jones 1999: 35)

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Julie M. Spanbauer

After all, as it says on a needlepoint sampler or throw pillow or the occasional bumper sticker: *Good girls go to heaven, but bad girls go everywhere*. In high heels. Wurtzel 1998:7 (1)

Introduction

Many women, particularly feminists, find Scarlett O'Hara, from *Gone with the Wind* 2 (Mitchell 1936), at best irritating, and at worst, despicable: a character who embodies all of the negative stereotypes attributed to women throughout history. She is narcissistic, shallow, dishonest, manipulative, amoral, and completely lacking in any capacity for self-reflection and for analysis of the emotional and psychological responses of others. In fact, even Margaret Mitchell, who did not much care for the character she had created, often made "disparaging remarks about Scarlett" (Jones 1981: 333) and "claimed that she set out to write about Melanie as the protagonist and that Scarlett just took over the story." (Jones 1999: 35)

I have always been secretly fascinated by Scarlett. So, as I began my search for a foothold in this project, I realized I needed to ask myself why I had always felt compelled to keep my interest in Scarlett to myself. The obvious answer is very simply that Scarlett *is* selfish and shallow; she is deeply flawed. She does not like other women, they do not like her, and she does not appear to miss their friendship or their camaraderie, at least until Melanie, her only true friend, has died. (Mitchell 1936: 60, 1012) Melanie's death also marks the first time Scarlett's mantra against analysis and introspection--"I won't think of that now"--fails her. (Mitchell 1936: 72) And let's face it, it is difficult to take seriously a woman whose stock response to a challenging remark or comment is "fiddle-dee-dee." (Mitchell 1936: 102, 263, 499, 510, 636, 833)

Scarlett's combination of ambivalence about and general disinterest in sex also make her character problematic for analysis. Throughout the novel, Scarlett contemptuously imagines sexual intercourse as "indecent," something husbands "forced" upon their wives. (Mitchell 1936: 250) She associates sex with pregnancy, bringing a woman "a passel of brats." (Mitchell 1936: 341) The one time she allows herself to enjoy sex, she is, in the opinion of many feminists, raped by her husband, Rhett: "For the first time in her life she had met someone, something stronger than she, someone she could neither bully nor break, someone who was bullying and breaking her." (Mitchell 1936: 940) Thus, Scarlett is either frigid, bored with sex, or else she embraces her own sexual subordination. (Faust 1999: 15)

It is true that this scene may be interpreted differently--Scarlett initially resists Rhett, but this resistance is transformed into consent as she experiences passion for the first time. This scene would then represent Scarlett's sexual awakening, that unfortunately Scarlett only glimpses this single time in the novel. I read the scene as a rape because rather than focusing only upon what some might interpret as Scarlett's ultimate "consent" after force is used to overpower her will, I focus also upon Rhett's intent. (Estrich, 1986: 1099-1101) Rhett is furious that his wife is still in love with Ashley Wilkes; he has been stewing over this betrayal for the duration of their marriage, and on this particular day, his anger and sadness spill over into hostility and aggressive behavior. He becomes drunk, and in this drunken state, he intends not to seduce Scarlett, but to have sex with her. For me, this combination of forceful intent and resistance amounts to rape.

Other reasons may justify a reticence to publicly embrace Scarlett O'Hara, reasons extending beyond this single character. For instance, the author has constructed an over-simplified world in which men and women fall into one of two general categories based upon their gender. Women are quietly intelligent and strong. Men, in contrast, are weak, less intelligent and even foolish. "The man roared like a bull when a splinter was in his finger, and the woman muffled the moans of childbirth, lest she disturb him." (Mitchell 1936: 58) Women are also masters of manipulation: "The man owned the property, and the woman managed it. The man took the credit for the management, and the woman praised his cleverness." (Mitchell 1936: 58) The clever Southern women resent these men "above all for undertaking a futile and destructive war they had no chance to win." (Faust 1999: 11)

A deeper, pervasive problem with the book is the author's racist depiction of African Americans, whom she portrays as possessing one of two personality types. The vast majority of the African American characters further the traditional or historic Southern stereotype. Although some within this group are "stupid and lazy," most are loyal and docile, imbued with childlike intellectual capacities. (Mitchell 1936: 472, 654) The institution of slavery is presented as a protective device for these inferior creatures, often described after the Civil War as "bewildered," "frightened animals," (Mitchell 1936: 655) or as "children" who needed to be "directed, praised, petted, scolded" (Mitchell 1936: 673, 674, 505, 782) and who continue to be loyal to and dependent upon their benevolent, former owners. Counterpoised against this stereotype is the other African American personality whom the author portrays after emancipation as a dangerous animal, a "gorilla," an "ape" possessed of a "rank odor." (Mitchell 1936: 787, 505, 788)

Yet, it is possible to understand these racist characterizations as reflecting the beliefs, no doubt the fears and defensive justifications, of the characters in the novel and of many Southerners at the particular time in history when the Civil War was fought and within which this novel is situated. Unfortunately, the author's racist stereotypes are frequently internalized by readers as historical fact, and in this way, these stereotypes are perpetuated as truth. (Stern 1972: 11-12)

It is also necessary to understand these characterizations as a reflection of the racist beliefs of the author, Margaret Mitchell, who "thoroughly believed her novel to be a realistic depiction of the South." (Jones 1981: 319-20) In the novel, she treats the old South nostalgically, not as a system of violent racial subordination, but as a lost social order, which produced "a more stable agrarian world." (Fox-Genovese 1981: 408)

The book thus must be analyzed in terms of its historical placement and the cultural context of its plot--the Civil War South--and in terms of the author's personal relationship to the historical moment in which the novel is situated and to its characters. Thus, no analysis of Scarlett O'Hara is complete without an understanding of Mitchell's racial biases3 and her own "questions of female identity, role, and sexuality, that figured in American consciousness during the first three decades of the twentieth century." (Fox-Genovese 1981: 393)

Mitchell, born in 1900, did not consider herself racist, although she believed in segregation. "She was part of a 'group' that 'took up for Negroes, who were much oppressed by the local police of that day,' and she originated the idea of a separate hospital for blacks who were not poor enough to go to Grady, the free hospital." (Jones 1981: 319) Mitchell was simultaneously a "Southern lady" and a "hard-boiled" young woman who came of age during the Jazz Age. (Jones 1981: 313-14) From "this tension produced by the conflict of different definitions of Southern women, her life--and her novel--grew." (Jones 1981: 313)

I do not believe, however, that the racist and sexist attitudes reflected in the novel render it unsuited for academic analysis. In fact, I believe that academic analysis that sheds light on these stereotypes, may help to dispel them. (Faust 1999:13) I should also make it clear that I believe that the book should be relegated to a place in history (as it has been) as a popular, though not a great, novel, a novel which is generally not included in any serious anthology of American literature.4 (Jones 1999: 29) The book's overwhelming and enduring popularity is the very reason I have chosen it for analysis. When *Gone with the Wind* was originally published in 1936, critics generally reviewed the book favorably,5 and it won the Pulitzer Prize for literature. (Faust 1999: 12) The book, which was an instant best seller, sold one million copies in its first six months. (Jones 1981: 315) It still sells more than 500,000 copies annually. (Watson 1999: 2)

I believe it is worthwhile to analyze Scarlett O'Hara for the simple reason that so many women continue to read the book and to be drawn to her character rather than to the author's intended heroine, Melanie Wilkes. (Jones 1999: 35) We, as feminist teachers and scholars, whose works these women are not reading, can learn about the fears, beliefs, and struggles of so many women within society by analyzing what they read and think about. Rather than "just talking to ourselves," we can and should focus on the wider, popular culture and inquire as to what the widely read literature within this arena might be saying about women. (Heilbrun & Resnik 1990: 1920)

Thus, we not only begin to see "the multiple and complex ways in which women talk about themselves and allow others to talk about them," we also may discover something about the political, legal, and

social context within which literature is read. (Heinzelman & Wiseman 1994: vii, 103) Moreover, when we analyze this text or any text embraced by popular culture, we not only learn of the various kinds of values the text replicates, we also begin to see how the text produces culture. (Binder & Weisberg 1997: 1155)

The many women who have read *Gone With the Wind* over its sixty-five year history, for example, surely find certain of Scarlett's character traits to be worthy of their admiration, such as her ability not only to survive, but to enjoy financial success within a traditional, sexist culture and legal system. Women are very likely drawn to her inner conflicts and to her external struggle to work within the prevailing legal system amidst the chaos created by the Civil War, as she simultaneously rejected many of the cultural and legal constraints of her society. The Civil War, in turn, may represent the war and the struggles women continue to face.

Texts, moreover, not only express the values and struggles of the author as filtered through the author's chosen historical context, but as they are read and embraced within the popular culture, they reflect the values and conflicts of women in contemporary society not merely because such conflicts have enduring qualities that are repeated over time, but because the texts themselves actually create or perpetuate such conflicts and values. Contemporary women thus are attracted to the fact that Scarlett is not the traditional "good girl" heroine at least in part because they have internalized the "good girl/bad girl" dichotomy reflected in the novel. In this way, "history" creates culture. The struggle between complicity and rebellion is thus played out in the lives of the women who read the novel and who, in turn, adopt some of the heroine's conflicts and values.

Scarlett O'Hara--A Thumbnail Sketch

The story opens in April, 1861, immediately before the start of the Civil War, when Scarlett is sixteen years old, and it unfolds over more than a decade, ending when Scarlett is twenty-eight. (Mitchell 1936: 3, 128, 1032) The story is told primarily through the eyes of women and even the narrator has a distinctly feminine voice, a voice occasionally angered by the constraints of the sexist society within which Scarlett and the other female characters find themselves.6 (Jones 1981: 341) We learn from the beginning that Scarlett does not fit the traditional stereotyped Southern woman. "The green eyes in the carefully sweet face were turbulent, wilful, lusty with life, distinctly at variance with her decorous demeanor." (Mitchell 1936: 3)

On the exterior, she appeared poised and feminine, like her mother, but her personality was her father's. In fact, as the eldest of Gerald O'Hara's three daughters, she grew up a tomboy, riding horses, climbing trees, and throwing rocks as well as any of the neighborhood boys and slave children whose companionship she preferred to that of her sisters and other girls. (Mitchell 1936: 14, 30, 31, 58) As a result of her "headstrong and impetuous nature," (Mitchell 1936: 60) she "found the road to ladyhood hard." (Mitchell 1936: 58) Although we learn early in the novel that she possessed "sharp intelligence," Scarlett was also "self-willed, vain and obstinate." (Mitchell 1936: 59)

We are also immediately apprised of Scarlett's boredom and irritation with any discussion of the Civil War, a continuing theme for our heroine until her welfare and safety are directly threatened by impending defeat and Yankee occupation. (Mitchell 1936: 5, 23) Even after defeat, Scarlett remains uninterested in the War which "had always seemed foolish to her," declaring it to be "a man's business, not a woman's." (Mitchell 1936: 489, 492) And the reason for her indifference, her boredom? Scarlett O'Hara "could never long endure any conversation of which she was not the chief subject," (Mitchell 1936: 5) and no subject, not even the Civil War, could unlock Scarlett's resolute self-absorption.

Another feature of the novel's central character is Scarlett's obstinate and enduring love for Ashley Wilkes. (Mitchell 1936: 26, 34-35) From the beginning, she attempts to wrest Ashley from Melanie. First, she confronts him and boldly professes her love for him shortly before his engagement is to be announced. (Mitchell 1936: 115-18) Even after his marriage to Melanie, Scarlett unsuccessfully attempts on several occasions to seduce Ashley, although she has no clear plan for her future with this married man if she succeeds. As he is departing to return to the War after being home on furlough for the Christmas holiday, she again steals a moment alone with him and declares her love, begging him to acknowledge his love for her. (Mitchell 1936: 264, 276-77) After the War has ended, she entreats Ashley to run away with her. Ashley responds with a passionate kiss and admits his love for Scarlett,

but remains loyal to Melanie. (Mitchell 1936: 532-35) At the end of the novel, with Melanie's death, Scarlett finally realizes that she and Ashley do not love each other:

> Out of the dullness, one thought arose. Ashley did not love her and had never really loved her and the knowledge did not hurt. It should hurt. She should be desolate, broken hearted, ready to scream at fate. She had relied upon his love for so long. It had upheld her through so many dark places. Yet, there the truth was. He did not love her and she did not care. She did not care because she did not love him. (Mitchell 1936: 1016)

Scarlett marries three times, but not for love. Her first marriage is to Charles Hamilton, Melanie's brother, "a man she not only did not love but for whom she had an active contempt." (Mitchell 1936: 131) She marries Charles out of spite over Ashley's rejection of her and his engagement to Melanie (Mitchell 1936: 125), and when Charles dies two months later while away at war, he dies "ignominiously and swiftly of pneumonia, following measles," without ever seeing battle. (Mitchell 1936: 132)

Next, in order to obtain money needed to pay taxes on Tara, the family plantation, she visits Rhett, who is in prison, and offers herself first in marriage and then, in exchange for the tax money when he rejects her proposal and her other offers of collateral, as his mistress. (Mitchell 1936: 579-87) When Rhett refuses even this last humiliating offer to sell her body to him, Scarlett immediately sets her sights on her sister's fiance, Frank Kennedy, and marries him "after a two week whirlwind courtship." (Mitchell 1936: 594-95, 612) Once again, she is not even attracted to the man she marries, whom she coolly assesses as "no beauty," a man with "very bad teeth" whose "breath smells," and who is "old enough to be [her] father." (Mitchell 1936: 595) "Moreover, he's nervous and timid and well meaning," and she doesn't "know of any more damning qualities a man can have." (Mitchell 1936: 595) Frank, a member of the Ku Klux Klan, later dies when he is shot in the head while avenging an attack and attempted robbery of Scarlett by two men, one of whom is African American.7 (Mitchell 1936: 797-98, 812)

Finally, Scarlett agrees to marry Rhett who, in the height of bad taste, proposes to her on the evening of Frank's funeral. (Mitchell 1936: 831-35) Scarlett is somewhat intoxicated from the brandy she has been surreptitiously drinking in her room to assuage her guilt over Frank's death. (Mitchell 1936: 823-26) Although Rhett knows of her intoxication, he proposes, and she reluctantly accepts his proposal, making it clear to him that although she is "fond of" him, she does not love him. (Mitchell 1936: 831-37)

Scarlett has a child with each husband, but her selfish nature precludes her from ever becoming a loving mother. "She had very little interest in Wade," her first child, "and sometimes it was difficult to remember that he actually was hers." (Mitchell 1936: 134) Scarlett finds her pregnancy with her second child, Ella, irritating, wanting only to "get this baby over and done with" so that she can return to work and be near Ashley once again. (Mitchell 1936: 741) Scarlett is irritated and angered when she learns of each of her pregnancies, declaring to herself, "Death and taxes and childbirth! There's never any convenient time for any of them!" (Mitchell 1936: 668) Scarlett's third child, Bonnie, is her favorite, but Scarlett is also sometimes jealous of Bonnie's relationship with Rhett. (Mitchell 1936: 987-88)

As the novel unfolds, we learn that Scarlett is an emotional child who is incapable of being a good wife, a loving mother, a caring sister, or a true friend, but that throughout the novel she is sustained by her love for Tara, her love of the land; it is "the thing she loved best." (Mitchell 1936: 693) Scarlett's insatiable drive for money substitutes for emotional security and happiness in her life, or so she thinks. Scarlett steadfastly believes, until the very end of the novel, that "money is the most important thing in the world." (Mitchell 1936: 630)

For all of her childlike behavior, her coldness, and her inability to establish and maintain meaningful relationships in her life, there is much to commend in Scarlett's strong personality. She is direct and forthright. At the very beginning of the novel, the Tarleton twins comment upon this aspect of Scarlett's fiery personality: "when Scarlett gets mad, everybody knows it. She don't hold herself in like some girls do." (Mitchell 1936: 11) Rhett tells her that the reason he likes her is that she "is the only frank woman" he knows. (Mitchell 1936: 341)

She flouts tradition in a society in which tradition is everything. She dances with Rhett Butler at a charity event when she is still in mourning after her first husband's death. (Mitchell 1936: 191-95) She goes out in public to tend to her business during her pregnancy, knowing that she is violating social and cultural norms. Women are expected to cloister themselves at home after a pregnancy becomes noticeable

until after the baby is born, and they are expected to attend to domestic chores, not business activities outside of the home. (Mitchell 1936: 661) Her second husband, Frank, finds it "unthinkable" that she would buy a sawmill; "There were no women in business in Atlanta. In fact, Frank had never heard of a woman in business anywhere." (Mitchell 1936: 637)

Ultimately, Scarlett does pay a price for her independent nature--loneliness. (Mitchell 1936: 172) She feels different from other women and other Southerners:

> She sat and watched them and she felt herself an alien among them, as alien and lonely as if she had come from another world, speaking a language they did not understand and she not understanding theirs. Then she knew that this feeling was the same one she felt with Ashley. With him and with people of his kind--and they made up most of her world--she felt outside of something she could not understand. (Mitchell 1936: 607)

Scarlett, however, accepts her fate--isolation and ostracism--for being different from the other members of her community. (Mitchell 1936: 679-80)

Above all else, Scarlett is courageous. When Atlanta is burning and the Confederate army is retreating, Rhett abandons Scarlett behind enemy lines, leaving her to drive her son, Wade, Melanie, who is very frail from recently giving birth, and Prissy, through darkness and danger back to Tara where many homes have been burned by the advancing Union army. (Mitchell 1936: 390-04) She wills the under-nourished, weak horse along the trail and by the time she reaches Tara her face is sunburned and her hands are covered with blisters. (Mitchell 1936: 382-83, 393-98) Later, when a lone Union soldier arrives at Tara to loot and to possibly rape her, she shoots him in the face and kills him. (Mitchell 1936: 440-41)

Confronted with her mother's death, her father's senility, and her sisters' illness, Scarlett assumes the patriarchal role of running Tara and saving the family from starvation. (Mitchell 1936: 422-516) She also assumes traditional domestic responsibilities, which planter class women of her era did not perform, and finally, she assumes the role occupied by slaves prior to the start of the Civil War. No chore is beneath her now, not "the backbreaking work," or "the desperate struggle for food." (Mitchell 1936: 429) Scarlett, who had been spoiled and pampered her entire life, "who had never raised her hand even to pick up her discarded stockings from the floor," is driven by hunger to care for her family, to survive. (Mitchell 1936: 427, 428)

The reason Scarlett is able to assume these various roles and to rebuild and even thrive in the post-War South is that she is, as Rhett described her upon their first meeting, "a girl of rare spirit, very admirable spirit." (Mitchell 1936: 120) Scarlett "could not ignore life. She had to live it." (Mitchell 1936: 608) Scarlett is also adaptive, or as Rhett labels her, an opportunist. (Mitchell 1936: 830) When "the rules of the game" change after the Civil War, she changes, she adapts, while other Southerners remain the same and are unable to regain their former status and wealth. (Mitchell 1936: 521) Scarlett is the consummate survivor.

As Scarlett assumes these conflicting roles, she also reflects both the conflicting cultural expectations of women at this historical moment and Mitchell's own complex and conflicted views about her role as a woman in the early twentieth century. Scarlett embraces the conflict and also acts against it.

Legal Culture in the Civil War South

In order to fully understand the implications of the behavior and the choices of Mitchell's central character, it is helpful to investigate the legal and cultural constraints of the society within which Mitchell situated Scarlett. The laws of the mid-nineteenth century reflected a sexist, paternalistic ideology. Women occupied a separate, subordinate sphere in life and this domestic sphere was naturally or divinely ordained. (Rhode 1989: 9-11) In *Bradwell v. Illinois*. (1872) the U.S. Supreme Court affirmed this separate and unequal view of women:

The civil law, as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and women. Man is, or should be, woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of

the occupations of civil life. The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood ... The paramount destiny and mission of woman are to fulfill the noble and benign offices of wife and mother. This is the law of the Creator.8

The laws of Georgia echoed this sentiment regarding married women, declaring: "In this state, the husband is the head of the family and the wife is subject to him; her legal civil existence is merged in the husband, except so far as the law recognizes her separately." (Ga. Code 1861: s. 1700) Statutory law also explicitly pronounced the "contracts of married women" to be "generally void." (Ga. Code 1867: s. 2688)

In certain circumstances, women could enter into contractual agreements, but only with their husband's express permission. For example, women needed their husbands' consent before they could borrow money, and upon giving consent, the husband became personally liable for the loan. (Ga. Code 1861: s. 2112) A woman was also statutorily permitted by consent of her husband "evidenced by notice in a public gazette for one month" to "become a free trader; in which event she" became "liable as a *feme sole* for all her contracts." (s. 1708) Married women were thereby effectively precluded from entering the workforce without the support and consent of their husbands. A husband's ongoing involvement in a woman's business dealings was also necessitated by these and other laws such as the statutory requirement that when a woman appeared in court to pursue civil litigation, she appear "by and with her husband." (s. 1723)

State statutory law also virtually eliminated married women's property rights: "Upon marriage, all the real estate of the wife, and all the personalty in possession, or which may be reduced to possession by the husband during his lifetime, shall vest in and belong absolutely to the husband," and all property either given to or acquired by the wife during marriage "shall vest in the husband."9 (s. 1701) In 1866, the Georgia legislature did adopt amending legislation, commonly referred to as the Married Women's Property Act, allowing a woman to maintain separate title to property acquired before and during the marriage. (Ga. Code 1873: 1754) Although this legislation did afford greater rights to women, it was intended to protect a family's property from the husband's creditors. (Edwards 2000: 29)

These changes in property laws generally inured to the benefit of planter class women, but the laws were never intended as equality measures for women. Instead, women typically worked under their husbands' authority by managing property and overseeing certain aspects of the husband's business. (Edwards 2000: 29) Thus, the legal and cultural expectations of the period Mitchell dramatizes are at odds with her central character's enterprising business decisions after the Civil War. Scarlett not only purchased a sawmill, she supervised and hired her employees, solicited new business, and exercised direct oversight of expenses and profits. In short, Mitchell created a heroine who shrewdly assessed her husband's aptitude for business as inferior to her own and who embraced the uncertainty brought on by the aftermath of the Civil War as an opportunity for entering the business world, and for engaging in a profitable enterprise. (Mitchell 1936: 636, 660-62) Mitchell did not allow the existing laws, her heroine's inexperience in the business world, or prevailing notions of propriety (including a husband's) to inhibit or restrict Scarlett's ambition.

Other laws also shape our understanding of the character Mitchell created. For example, the common law in some states in the early nineteenth century still allowed a husband to "administer 'moderate' discipline" upon his wife. (Rhode 1989: 238) The laws were later repealed.10 Their basis, however, derived from a view of women that prevailed long after the laws had changed, a view of men as superior to women and of women as losing their legal identity upon marriage through merger into their husbands. (Siegel 1996: 2122) Stated another way, a husband could not be found guilty of an assault upon himself, nor could he be held liable as against his wife who, by marrying him, consented to her subordinate status.

The marital unity doctrine, consent theory, and even notions of wife as chattel or property also appear in nineteenth century divorce law. In 1850, the Georgia legislature amended the law to reflect the slowly changing attitude toward violence against women, specifically allowing "cruelty" as a basis for dissolution. (Ga. Code 1861: s. 1671) Although the statutory amendment contained no definition of cruelty, courts interpreted the term to encompass both mental and physical cruelty, including "such conduct on the part of the husband as will endanger the life, limb or health of the wife or create a reasonable apprehension of bodily hurt," or "render cohabitation unsafe." (*Odom* 1867: 317-18)

Unfortunately, the subordinate view of women continued as an undercurrent in subsequent judicial opinions interpreting this statutory provision. For example, in *Buckholts v. Buckholts* (1858: 238) the amendment was deemed prospective in effect, rendering cruelty occurring in a marriage before the effective date of the amendment as insufficient, invisible to the court. The *Buckholts* decision illustrates what little protection from serious physical violence this statutory amendment afforded a woman. In this case, the wife petitioned for divorce after more than thirty years of marriage. She alleged that over the course of the marriage, her husband inflicted "inhuman and degrading beatings" upon her, "often threatening to kill her." (239)

She also made three specific allegations of physical violence. Her first allegation of cruelty was that in 1828, her husband whipped her "with a cowhide" apparently because she had invited some women to her house "to help her quilt the next day." (242) The husband also admitted that sometime between 1837 and 1839, "he kicked plaintiff on the jaw and broke her jawbone." (242) The third allegation of cruelty involved another whipping in 1852. (242)

The *Buckholts* court not only ruled that the violent acts occurring before the effective date of the amendment were irrelevant, but it also found that by continuing to live with her husband after each incident, the wife "condoned" the third offense. (242-43) It is true that the dissolution laws of Georgia expressly prohibited a divorce when, subsequent to the cruel treatment, the wife voluntarily continued to cohabit with her husband and thus condoned or forgave her husband's conduct. (Ga. Code s. 1673) This strict or literal interpretation of the statute, however, appears inconsistent with a subsequent decision by the same court. In 1867, the Supreme Court of Georgia interpreted the same statutory section as permitting "fresh acts of cruelty" to "revive [prior] acts of cruelty." (*Odom*: 319) This court also cautioned that forgiveness or condonation should not be presumed, but "must be clearly and distinctly proved." (319)

Not only do opinions such as *Buckholts* reflect a judicial tolerance of violence against women, but they also put the victim on trial. (Estrich 1986: 1094) The *Buckholts* court was not at all sympathetic to the physical brutality the wife endured, stating that because she lived with him and "begged" his forgiveness after each incident, she could not be afraid of him. The court explicitly found that "she was not blameless. He complained of her 'tongue,' 'said, she had told false things on him, but did not specify what.' In her libel she charged him with incest; she offered no proof in support of the charge." (244)

In a similar manner a number of jurisdictions expressly limited rape victims to women other than the assailant's wife. (Rhode 1989: 249) Other states implied into their statutes a marital exemption to rape. The Georgia Code never explicitly allowed such an exemption for spousal rape, and although the words of the Georgia statute were similar to the common law definition of rape, which included the marital exemption, such an exemption may never have been recognized in Georgia.11 Even if Georgia rape law was never interpreted by courts to imply a marital exemption, the Georgia Supreme Court in a nineteenth century opinion evinced an attitude endorsing the consent theory when it quoted Lord Hale: "But of all difficulties in evidence, there are two sorts of crime that give the greatest difficulty, namely, rape and witchcraft." (*Smith* 1886: 712) Quoting Lord Hale later in the opinion, the Court included as a factor in assessing the evidence whether the victim be "of good fame." (713) Once again, the alleged victim, via her "reputation," could be placed on trial.

This aspect of nineteenth century law comports with Mitchell's decision to include a spousal rape scene in the novel and with her heroine's apparent acceptance of the rape as something a husband had a right to do to his wife. Mitchell also unequivocally vests Rhett with the firm belief that he is entitled to sexual intercourse with his wife. When Scarlett told Rhett that she did not want any more children and declared her desire for separate bedrooms, threatening to lock her bedroom door at night, Rhett coolly stated, "Scarlett, understand this. If you and your bed still held any charms for me, no locks and no entreaties could keep me away. And I would have no sense of shame for anything I did, for I made a bargain with you--a bargain which I have kept and you are now breaking." (Mitchell 1936: 895-96)

Once again, we see either a consent theory or more likely a property or chattel theory advanced as justification for the brutal sexual subordination of women. Although Rhett speaks of Scarlett breaking her "bargain" with him, when Rhett proposed to Scarlett, for all of their uncharacteristic honesty, neither he nor Scarlett discussed their sexual expectations in marriage. It is true that when Rhett kissed Scarlett, he did inform her in a menacing tone that he intended to make love to her in a way neither of

her previous husbands had, that she "had this coming to" her. (Mitchell 1936: 835) For her part, when Scarlett accepted Rhett's proposal, she vowed always to be honest with him, since he was the only man she had ever known "who could stand the truth from a woman, and it would be nice having a husband who didn't...expect" her "to tell lies." (Mitchell 1936: 837) She also admitted that he was an attractive marriage partner to her in part because he was wealthy, and she told him in no uncertain terms that she did not love him, that she was merely fond of him. (Mitchell 1936: 832)

None of this exchange, however, explains why Mitchell would allow Scarlett to experience pleasure in being raped: "He had humbled her, hurt her, used her brutally through a wild, mad night and she had gloried in it" (Mitchell, 1936 940) It is both telling and troubling that this forced sexual encounter represents the only time in the entire novel Mitchell permits Scarlett to derive any pleasure from sex.

Once again, a careful reading of the text in its entirety, taken in conjunction with an understanding of the legal and cultural forces of the period within which Mitchell situates these characters, can provide some insights. Scarlett's reactions can be interpreted as reflecting an underlying belief about sex generally, that women should never actually enjoy sex, that "a real lady" could not allow herself pleasure in her own body. (Mitchell 1936: 940) Thus, when sex is forced upon her, she is not responsible for her feelings. In this way, gender and sexuality are equated with male dominance and female submission; sexuality is a form of power, and domination becomes eroticized. (MacKinnon 1989: 203)

To the extent that this scene does not represent rape, but instead embodies a passionate seduction of Scarlett by Rhett, and the single instance in which Scarlett experiences sexual pleasure, it also conforms with cultural definitions and expectations of a Southern woman in the Civil War South. Throughout the novel, Scarlett struggles with the role of "lady" by holding herself in and by filtering her words as she interacts with men, because she has been taught that she must be delicate and passive. Scarlett struggles against the cultural expectation that a lady must not express passion or intelligence, and instead should allow men to feel superior.

From the very beginning of the novel, Scarlett expresses contempt for these social norms of femininity:

> I'm tired of everlastingly being unnatural and never doing anything I want to do. I'm tired of acting like I don't eat more than a bird, and walking when I want to run and saying I feel faint after a waltz, when I could dance for two days and never get tired. I'm tired of saying, "How wonderful you are!" to fool men who haven't got one-half the sense I've got, and I'm tired of pretending I don't know anything, so men can tell me things and feel important while they're doing it (Mitchell 1936: 79)

These notions of inferiority and delicacy, also deeply rooted in the laws of the nineteenth century South, prohibited the mere discussion of sexual matters in a lady's presence. In the state of Georgia, a man could be criminally charged with obscenity and, if convicted, imprisoned for simply saying to a woman who was not his wife, "Have sexual intercourse with me." (*Kelly* 1906: 482) Thus, it is certainly believable that before Scarlett's first marriage, at the age of sixteen, no one, including her mother, had ever discussed sexual pleasure and passion with Scarlett. And since Mitchell makes clear in the novel that Scarlett did not experience sexual enjoyment in either her marriage to Charles Hamilton or to Frank Kennedy, it is not surprising that Mitchell would find such passion with Rhett, Scarlett's third husband, to be beyond both the expectation and comprehension of her heroine.

The fact that Mitchell's heroine transcends some legal and cultural barriers, but not others, that she is trapped by her community's construction of feminine sexuality and blind to either her own rape, or to her lack of sexual fulfillment, should not be surprising.12 She is no less a heroine for her inconsistency, even hypocrisy. The novel remains so very popular because it dramatizes this tension and these conflicts in a way that makes them attractive, and because Mitchell makes this tension attractive, even glamorous, in Scarlett, the book produces the tension as well. It allows women who read the book, whether they read it in 1936 or today, to identify with Scarlett and her struggles as a woman within the sexist world she inhabited and to experience these conflicts in their own lives in a similar way.

This tension also reflects Mitchell's own resistance and complicity, her conflicts about her identity and role as a woman in the early twentieth century--her desire to be independent and successful in her career, but to simultaneously abandon that career and success upon marriage. The book replicates and

glamorizes this tension between resistance and submission as it tells a story that disguises the tension and makes it seem less painful.

Construction and Expression of Power

Michel Foucault argues that by the nineteenth century, power could no longer be defined exclusively in terms of the relationship of sovereign to subject--as represented by mandatory or restrictive laws.13 (Foucault 1980: 103-04) A new mechanism of power, outside sovereignty, emerged, one which invested itself in social institutions, in prisons, in science, medicine, education, and the military.14 (Foucault 1988: 102-07) For Foucault, truth and knowledge are and were socially constructed forms of power within society, which could "in no way be dissociated from the exercise of power." (Foucault 1988: 106-07)

Power is not static and, in fact, legal codes and judicial opinions merely represent power at its extremities. Pursuant to this theory, power is multiple and complex and

> must be analyzed as something which circulates, or rather as something which only functions in the form of a chain. It is never localized here or there, never in anybody's hands, never appropriated as a commodity or piece of wealth. Power is employed and exercised through a netlike organization. And not only do individuals circulate between its threads; they are always in the position of simultaneously undergoing and exercising this power. They are not its inert or consenting target; they are always also the elements of its articulation. In other words, individuals are the vehicles of power, not its points of application. (Foucault 1980: 98)

Mitchell's sketch of Scarlett is consistent with "the complex network of disciplinary systems and prescriptive technologies through which power" (Diamond & Quinby 1988: xi) operated in the nineteenth century. We can examine one such institution--education--both in terms of the character's experience and in terms of the typical experience for a young woman in her position. We know that Scarlett's formal education ended when she was fifteen. (Mitchell 1936: 4) We also know that although Scarlett was intelligent and excelled in mathematics, she did not much care for school. (Mitchell 1936: 4, 58-60) The extent of Scarlett's formal education "was sketchy," consisting of "a succession of governesses and two years at the near-by Fayetteville Female Academy." (Mitchell 1936: 59)

Early in the nineteenth century, boarding schools "were sparsely attended" by young Southern women, but by the time of the Civil War, attendance was commonplace for planter class young women. (Edwards 2000: 18) The standard curriculum at such institutions had changed since the beginning of the century to include "history, science, mathematics, literature, and classical languages." (Edwards 2000: 18) It was not, however, uncommon for young women to be apathetic about their education, preferring instead to socialize with their friends. (Edwards 2000: 18-19) Some parents believed that a young woman's education should focus solely upon domestic activities and responsibilities.

Although the education of young Southern women had become more common and many parents did encourage their daughters to learn, there were arguments advanced that women's studies should not be as "intense" as were young men's due to the delicate nature of woman. (McMillen 1980: 51) Some nineteenth century physicians went a step further, advising young women that by pursuing an education during puberty they could be harming their reproductive capacities. (McMillen 1980: 51) Thus, notions of delicacy, femininity, proper gender roles, and even sexuality also permeated ideas about education, and the cultural expectations placed on Mitchell's character are fully consistent with such beliefs.

Foucault identified the societal construction of sex and sexuality during the nineteenth century as important components of identity formation. Discourses about sexuality and sex both produce power and are produced by relationships of power within society. (Allen 1996: 272) "Sexuality is... a discursively constructed and highly regulated network of pleasures and bodily exchanges, produced through prohibitions and sanctions... As a regulatory regime, sexuality operates primarily by investing bodies with a category of sex... either male or female." (Butler 1996: 66)

The institutions of psychiatry and medicine had a profound influence on the construction of sex and sexuality within nineteenth century Southern society. These institutions produced certain social expectations and realities. For example, "the first duty of a girl" Scarlett's age "was to get married."

(Mitchell 1936: 58) Following marriage, a young woman's next duty was to bear children. (McMillen 1980: 57) These expectations produced the following results: white Southern women, who married younger than did white Northern women, bore children at an earlier age and bore more children on average than did their Northern counterparts. (McMillen 1980: 64) White Southern woman died in childbirth at approximately double the rate of white Northern women. (McMillen 1980: 69-70) Childbirth was thus a dangerous and difficult experience for women like Scarlett.

The reasons for the higher regional mortality rate are not clear; moreover, medical science, and in particular, the emerging specialty, gynecology, held no clear answers to the problems accompanying pregnancy and childbirth. (Dally 1991: 7) Many women died of "puerperal fever or childbed fever," a contagious disease, that was "transmitted by hands, clothes, or instruments to women" in hospitals before doctors understood how infections were spread and how antiseptic procedures could eliminate such problems. (Dally 1991: 31) Doctors sometimes administered laudanum, opium, or morphine to lessen the pain of contractions, with tragic consequences, including the death of both mother and baby. (McMillen 1980: 75)

Although methods of birth control were available, they were apparently not widely used by Southern couples. (McMillen 1980: 77, 84 & n. 25) Doctors mistakenly advised "women that they were fertile just prior to menstruation," and thus, women were ignorant about when and whether they had become pregnant. (McMillen 1980: 73) Southern women were aware of the dangers of childbirth long before they married because they wrote letters to each other, discussing their miscarriages, the deaths in their families from childbirth, and their own fears and ignorance about pregnancy. (McMillen 1980: 75)

It is not surprising, then, that Mitchell's central character did not wish to become pregnant. Although Scarlett did not express any fears of danger to her own health, she did witness Melanie's physical problems. She also knew that her mother had given birth to three sons who did not survive. They were each buried "in the family burying ground." (Mitchell 1936: 30) She aptly saw marriage as bringing her a "passel" of children, or "brats" as she liked to refer to them. Once again, Mitchell's character illustrates the struggle between complicity and rebellion, the thematic tension of the novel.

In this way, Scarlett also reflects Mitchell's own conflicts and struggles within her social situation, one in which children were viewed as an inevitable, career-ending component of marriage. Mitchell replicates these views both despite and because of her own social position as a woman.

Psychiatry operated as another institution of power within nineteenth century America. "Feminine sexuality in the nineteenth century became officially connected with psychiatry and was firmly institutionalized as such." (Goodwin 1999: 640) Doctors removed women's ovaries in an attempt to cure female masturbation, "nymphomania, and especially for nervous and psychological problems such as hysteria and 'ovarian insanity,'" frequently at the instance of their husbands,15 (Scully 1994: 49) and in rare instances even performed clitoridectomies. (Dally 1991: 160) Women who were thought to be sexually promiscuous by nineteenth century standards were thus brutally repressed. Sexual deviance was also associated with mental illness. (Goodwin 1999: 641)

Viewed through a Foucauldian lens, Scarlett's ambivalence toward, lack of interest in, and inability to enjoy sex with the single exception of her rape, is fully consistent with her culture. In fact, her rape, or forceful seduction, represents another act of power exercised in and through Scarlett, not directly by her society or culture, but by her husband (who is also a product of these constructions of sexuality) and through her own gendered subjectivity. Given these instruments and exercises of power, is it really any wonder that Mitchell's character did not object to Rhett's actions? Scarlett's inability to resist that which she could not see (or to understand that which she had never before experienced) is a manifestation of the conflict occurring in her as a result of her position in her culture, and the inability to assert herself sexually or to enjoy sex other than this single occasion does not make her any less a compelling subject for feminist analysis.

Scarlett's ambivalence and character flaws also reflect the conflicts and character traits of the author, a woman who came of age early in the twentieth century. Mitchell enjoyed a brief career as a journalist, and excelled in this male- dominated profession. (Jones 1981: 325) She was a talented writer, but until its impending publication, she kept her only novel, *Gone With the Wind*, a secret from almost everyone she knew, with the exception of her husband. (Jones 1981: 333) Although the novel enjoyed great success, she never published another. When asked about her book after it had been submitted for

publication, Mitchell proclaimed, "It stinks--and I don't know why I bother with it, I've got to do something with my time." (Jones 1981: 329)

Mitchell had also divorced and remarried, which placed her in a distinct minority--the national divorce rate in 1930 was only seventeen percent. (Kay 2000: 2040) Her rendition of Scarlett can be seen, then, as a reflection of her own conflict regarding the appropriate role of women within marriage. In Scarlett, Mitchell recasts and perpetuates this conflict.

Mitchell likewise struggled with the early twentieth century definition of the Southern lady and her desire, as a talented and intelligent woman, to be independent and to have a career. Mitchell's struggles with these conflicting desires created profound problems of self-confidence. The laws of her day reinforced the conflict. The courts upheld all kinds of protective legislation, including laws setting maximum hours that women could work and laws prohibiting women from working at night. (Novkov 1996: 859) It is no surprise, then, few married women worked outside the home. From 1920 until 1930, the time during which Mitchell was writing her novel, women comprised only twenty percent of the work force. (Kay 2000: 2039) These were Mitchell's contemporary cultural circumstances.

Mitchell's conflicts in her own life and as reflected in her novel are still with us today. In fact, there are those who offer the rape scene or forced seduction from *Gone with the Wind* together with the book's great popularity among women as support for the argument that most women do not advocate "criminalizing marital rape," and to downplay what this scene represents by arguing that "it would be a travesty of the highest order if Rhett Butler... ended up facing a five-year jail term for [his] excess of passion." (Eskow 1996: 689) It was unthinkable in nineteenth century Southern culture that Rhett had committed the crime of rape against his wife. But it should be equally unthinkable that in the twentieth century, a Senator could publicly proclaim, "If you can't rape your wife, who can you rape?" (Eskow 1996: 689) This statement reflects a part of the "truth" of modern day constructions of sexuality. In fact, this statement represents a classic example of how the themes expounded in *Gone with the Wind* are repeated in contemporary culture. Because it is politically possible for an elected official to utter this statement in a public conversation, the theme recirculates.

As these themes circulate in fiction and in other public arenas, they are perpetuated and become a part of the existing popular and legal culture, one in which women are sent conflicting messages. In the law, for example, the conflict between dominance and submission can be found in judicial analyses of legislation promising women protection from pregnancy discrimination in employment. In the first case in which the Supreme Court exercised review of this legislation, *Newport News Shipbuilding & Dry Dock Co. v. EEOC* (1983: 669), the law was interpreted to protect men from so-called pregnancy discrimination against them and their dependents in the provision of benefits.

Women are similarly told they are protected from sexual harassment in the employment setting, but in cases such as *Baskerville* (1995: 431), they are labeled, described by the court as possessing "Victorian delicacy" for making allegations against a superior whose offensive conduct, which included a reference to masturbation, the court then trivialized by describing him as "a silly man." What makes this case especially troubling is that in order to reach this particular result, the court overturned a jury's finding that sexual harassment had been established.

As a final example, in *De Clue v Central Illinois Light Company* (2000: 435-6), the same judge as in the prior case, in affirming a lower court's grant of summary judgment, told a woman that the following conduct did not create a sexually hostile working environment:

A coworker's deliberately urinating on the floor near where the plaintiff was working, repeated shoving, pushing, and hitting her, sexually offensive touching, exposing her to pornographic magazines, and--the point she particularly emphasizes--failing to make adequate provision for restroom facilities for her. (2000: 435-36)

Thus, the law overtly protects women in their career pursuits, but in its operation reflects little change from Mitchell's day. Women are sent the message that although laws exist to protect them, facts like these are insufficient to invoke legal protection. In this way, the conflicts expressed in *Gone with the Wind* are perpetuated. When, for example, pregnancy discrimination laws expressly designed to protect women in the workplace for physical conditions unique to them are interpreted by judges in ways to benefit men, by increasing their medical benefit packages for female dependants, the conflict between

domination and submission is perpetuated.

Conclusion

Just as in Scarlett's day, the body remains "the site of power," the local operation of domination. (Diamond & Quinby 1988: x) Mitchell's character reflects this theme. She exercised power and was disciplined by mechanisms of power that operated in and through her. This conflict makes Scarlett both despicable and a compelling, attractive, even glamorous, character. Scarlett exercises a constrained kind of power, a power like that experienced by Mitchell in her own life. This constrained empowerment may provide the basis for Scarlett's attractiveness to so many readers because this mixture of constraint and power persists from the nineteenth century until today.

The women who continue to read *Gone with the Wind* also operate both within and against the constraining, sexist forces of power within society, power which operates much like the corset Scarlett wore. It imprisoned her and she also found empowerment within it. (Mitchell 1936: 78) Scarlett endured physical pain and even hunger to wear the corset (Mitchell 1936: 78-79) and was rewarded with a "seventeen-inch waist, the smallest in three counties." (Mitchell 1936: 3) As a result, "she was the belle of five counties" and "had received proposals from nearly all the young men in the neighborhood and many from places as far away as Atlanta and Savannah." (Mitchell 1936: 59) The modern-day equivalent of the corset may be found in the high-heeled shoes worn by many contemporary women who resist some sexist mechanisms of power while simultaneously adopting others, and the conflicts expressed in novels such as *Gone with the Wind* continue to circulate.

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Footnotes

1 Although this quote is taken from Elizabeth Wurtzel's book, *Bitch: In Praise of Difficult Women*, I do not subscribe to the theory that Scarlett O'Hara is just another bitch simply because I believe she is a multifaceted, complex character.

2 This book has been published in numerous editions, including the first edition, published in 1936 by the Macmillan Company and the special "Motion Picture Edition," which was published to coincide with the release of the movie in 1939. (Faust 1999: 16) All page references in this article are taken from the Warner Books edition, published in 1999.

3 One author has argued, "Unable herself to understand the cruelties of white racism, Mitchell is incapable of translating any such insight into her fiction or her portrayal of Scarlett O'Hara. Thus, for all her ability to see through and to challenge certain basic assumptions of Southern life, Scarlett, like Mitchell, remains blind to the most fundamental reality of all: that Southern civilization rested on the oppression of four million African Americans whose labor made Southern wealth, gentility, and even ladyhood possible." (Faust 1999: 13)

4 It has been briefly mentioned in the *Oxford Book of the American South* (Jones 1999: 29) Several years ago, African American editors of the *Heath Anthology of American Literature* successfully argued against the inclusion of *Gone with the Wind* because they believed it "not only represented racism, but could actively construct racism in its readers." (Jones 1999:29)

5 Propst 1973: 3-6 Dissertation, citing J. Donald Adams, "A Fine Novel of the Civil War," *New York Times Book Review*, 5 July 1936, Sec. 6, p. 1; Henry S. Commanger, "The Civil War in Georgia's Red Clay Hills," *New York Herald Tribune Books*, 5 July 1936, p. 1; Helen McAfee, Review, *Yale Review*, 26 (Autumn 1936), p. v; Malcolm Cowley, Review, *The New Republic*, 88 (September 16, 1936), p. 161-62; Herschel Brickell, "The Literary Landscape," *Review of Reviews*, 94 (August 1936), p. 8; *Christian Science Monitor*, 5 July 1936, p. 11; Louis Kronenberger, Review, *New Yorker*, (July 1936), p. 48. My point, however, is not to address the merits of the book--whether it is "vulgar literature," or a good novel, but simply to address the book because it is read by so many women (Watkins 1970: 89)

6 Because the author gives the character, Rhett Butler, "such remarkable powers of knowledge... it is easy to make the mistake of thinking that he is her authorial point-of-view character; indeed the narrator herself often agrees with his perceptions when they conflict with others' and enhances his sense of infallibility by never entering his mind, as she does with almost every other character." (Jones 1981: 347)

7 Many readers "recall this scene as an attempted rape. That's the route the most familiar racist discourse sends us on," when in fact, the African American attacker is not attempting to sexually assault Scarlett, but to steal her money, which is hidden under her clothing near her breasts. (Jones 1999: 37) This scene is thought to be racist because it is not a rape, but the author's description leads the reader to view it as an attempted rape. In contrast, readers are led to believe when she is raped by a Caucasian man who also happens to be her husband, Rhett Butler, it is not in fact rape, but rather something she enjoys. (Jones 1999: 39)

8 83 U.S. (16 Wall.) 130, 141 (1872) (Bradley, J., concurring). In this case, Myra Bradwell, who published a "the most widely read legal newspaper in the Midwest," and who had also passed the Illinois bar exam in 1869, was denied admission to the bar by the State of Illinois. (Cain 1990: 816) She pursued her claim under the Privileges and Immunities Clause of the Fourteenth Amendment to the United States Constitution. (*Bradwell* 83 U.S. at 133)

9 Another statutory section lessened the harshness of this provision by allowing a wife to obtain separate title to property transferred to her during marriage when the transfer was accompanied by any express indication or "wish" that the property be for her "personal enjoyment." Ga. Code s. 1702 (Irwin & Cobb 1861)

10 For a detailed review of these nineteenth century cases allowing a husband to discipline his wife, see Siegel 1996: 2124 & n. 25. One author described the definition of "moderate" discipline to include "anything short of life-threatening or permanent injury." (Rhode 1989: 238) There are apparently no published court decisions from Georgia expressly recognizing a husband's right to discipline his wife.

11 *Warren v State*, 336 SE2d 221, 225 (Ga 1985), quoting an 1863 version of the Georgia Code, which defined rape as: "the carnal knowledge of a female whether free or slave, forcibly and against her will." It should be noted that although the statute was similar to the common law definition, it was not identical and specifically, the word "unlawful," "which has been widely recognized as signifying the incorporation of the common law spousal exclusion," was omitted. *Id.* After examining the history of rape law in Georgia, the Supreme Court of Georgia concluded that if a marital exemption "attached to our earlier statutory crime of rape, it would not have survived because it conflicts with our Constitution and statutory laws." Id. At 226 & n.11.

12 For a discussion of the distinction of the meaning of the terms "woman" and "lady" in *Gone with the Wind*, see Fox-Genovese 1981:398-99. The author argues that the term "lady" encompasses "a public presence" and in this sphere, "no lady would admit to sexual desire or pleasure." (399)

13 Foucault views the operation of the legal system and laws not as "essential forms of power," but instead as "its limits, power in its frustrated or extreme forms." (Foucault 1988: 118)

14 For a discussion of the differing view prevailing in the south, and in particular in Georgia, regarding enforcement of criminal laws and punishment, and in particular, prison systems and penitentiaries, see Finkelman 1985: 105-07.

15 This procedure, which came to be known as the ovariotomy, was successfully performed for the first time by Ephraim McDowell in his Kentucky home. (Dally 1991: 8-9, 16-17)