

From Status to Contract: Inheritance and Succession in George Eliot's Late Fiction

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Despite the work of the 'Law and Literature' movement in illuminating the law's representation in literary texts, it is a truth rarely acknowledged that the law is often present only in the subtext or margins of fictional narrative. As William P. MacNeil writes of law in nineteenth-century literature,

Law, if present at all ... in any substantive way, is often figured subtly, even elliptically—in a range of things: a lost deed, a long hidden testimonial, an unusual 'law-hand' [as in the case of *Bleak House*].¹

This article will focus on the legal marginalia that rise to prominence at certain moments in George Eliot's last three novels—the 'base fee' that represents the Transomes' interest in an estate in *Felix Holt*, the entail on Casaubon's property that is questioned by Dorothea in *Middlemarch*, and the settlement of Sir Hugo Mallinger's estates that ensures their future transmission to his nephew Grandcourt in *Daniel Deronda*. Through the realistic portrayal of how settlement, entail, and primogeniture operated in practice, Eliot transformed the inheritance plot from a well-worn convention of material reward for heroic conduct into a powerful vehicle of critique against anachronistic customs of inheritance and succession.

In her later fiction, inheritance is revealed as a point of stress in relations between the individual and the family, particularly among the landed classes, for whom land was treated as a patrimony belonging to

¹ William P. MacNeil, *Novel Judgements: Legal Theory as Fiction* (Oxon: Routledge, 2012), p.15.

the family, rather than to individual members of family. The aristocracy and (to a lesser extent) the landed gentry preferred the practice of settling the estate on the eldest son to a more straightforward bequest by will, as settlement could restrict the rights of the son to alienate part or all of the land from the patrimony. The holder of settled property therefore was not so much absolute owner as tenant for life, whose responsibility was to look after the land and transmit it intact to future generations. As land law historian A.W.B. Simpson suggests,

although the family ... was not treated as a legal entity by the common law, which dealt only in individual property rights, landed society did nevertheless view property as ultimately belonging to the family in some moral sense, and the legal system reflected this.²

Ironically, this regard for land as familial or communally-owned property made the English landowner appear less ‘the cultured man [who] acts more as an individual’ than ‘the peasant, [who acts] more as one of a group.’³ The distinction between communal and individualist mentalities that Eliot noted in her essay, ‘The Natural History of German Life’ (1856), chimed with a post-Enlightenment vision that saw the family, rather than the individual, as the basic foundation of society. It was a vision exemplified in Auguste Comte’s *Course of Positive Philosophy* (1853), in which he asserted that

the family presents the true germ of the various characteristics of the social organism. Such a conception is intermediate between the idea of the individual and that of the species or society.⁴

This idea of the family as mediator between the individual and society was also a major theme in Henry Sumner Maine’s *Ancient Law: Its Connection With the Early History of Society, and Its Relation to Modern Ideas* (1861), a work of jurisprudence which Eliot read from

² A.W.B. Simpson, *A History of the Land Law*, 2nd ed. (Oxford: Clarendon Press, 1986), p.209.

³ George Eliot, ‘The Natural History of German Life,’ *Westminster Review* 66 (July 1856): 51-79; rpt. in *Essays of George Eliot*, ed. Thomas Pinney (London: Routledge and Kegan Paul, 1962), p.274.

⁴ *The Positive Philosophy of Auguste Comte*, Vol. 2, trans. Harriet Martineau (1853; New York: Cosimo, 2009), ch. V, p.502.

November to December 1869 while she was working on *Middlemarch*. Within her eight pages of extant notes on Maine's 'legal best-seller,'⁵ Eliot summarised one of Maine's most enduring propositions thus: 'Society consists of Families, not of individuals.'⁶ The actual statement in *Ancient Law*—'the *unit* of an ancient society was the Family, of a modern society the Individual'—became the foundation of Maine's celebrated dictum at the end of Chapter 5: '[T]he movement of the progressive societies has hitherto been a movement *from Status to Contract*.'⁷ Recasting the distinction between ancient and modern conceptions of society into a theory of social evolution, Maine shifted from sociological terminology (family/individual) to jurisprudential terminology (status/contract). Despite his reputation among his contemporaries as a jurist, he has been reclaimed since the 1980s as a somewhat forgotten pioneer of the social sciences, particularly sociology and anthropology. However, as Simon Petch has rightly pointed out, Maine's status in literary studies remains 'uncertain,' as his hypothesis about the movement from status to contract is often cited, but rarely accorded any substantial significance.⁸ This article contends that Maine's hypothesis offers a unique conception of how Victorians viewed their world as a modern legal culture increasingly defined by contractual relations forged between autonomous individuals, a culture that developed from ancient Indo-European societies, where a person's legal status in the family had determined her rights and duties.

While privileging individualism as the apotheosis of modernity, Maine's status-contract model highlighted the deeply embedded vestiges of family-oriented custom in Victorian society. Three chapters of *Ancient Law* compare customs of inheritance and succession in the ancient and modern world: Chapters VI, VII, and VIII are titled 'The Early History of Testamentary Succession,' 'Ancient and Modern Ideas Respecting Wills and Successions,' and 'The Early History of Property' respectively. In a passage from Chapter VI, Maine wrote:

⁵ A. W. B. Simpson, 'Contract: A Twitching Corpse,' *Oxford Journal of Legal Studies* 1 (1981): 268.

⁶ *George Eliot's Middlemarch Notebooks*, eds. John Clark Pratt and Victor A. Neufeldt (Berkeley, CA: University of California Press, 1979), p.204.

⁷ Henry Sumner Maine, *Ancient Law: Its Connection with the Early History of Society and its Relation to Modern Ideas*, Foreword by Lawrence Rosen (1861; Tucson: University of Arizona Press, 1986), p.121, 165.

⁸ Simon Petch, 'Law, Literature, and Victorian Studies,' *Victorian Literature and Culture* 35 (2007): 381.

The popular or even the legal conception of a Will ... [is] that a Will necessarily takes effect *at death only*, - that it is *secret*, not known as a matter of course to persons taking interests under its provisions, - that it is *revocable*, i.e. always capable of being superseded by a new act of testation. Yet I shall be able to show that there was a time when none of these characteristics belonged to a Will.⁹

Maine subsequently revealed that, for Roman citizens, wills were irrevocable, public documents that took effect during the life of the testator. While the ancient Roman will was historically distant from the settlements and entails depicted in Eliot's novels, its characteristics (entirely opposite to those of the modern will) clearly resembled the deeds of strict settlement that were used by the aristocracy and landed gentry to ensure that their estates descended intact to future generations. Although not in all instances completely irrevocable, a settlement was 'strict' in the sense that conditions imposed by its original maker (the 'settlor') were not easily revoked or modified. They were private family documents, but the need to 'break' or 'bar' existing entails and resettle the estate once every generation meant that the current holder of the estate (the 'life tenant') had to disclose the legal details to his successor (the 'tenant in tail'); the contents of a settlement therefore were not necessarily secret. Finally, settlements did not, in many instances, take effect at death, as the procedure for 'barring' the entail usually occurred on one of three occasions—soon after the son's majority, at his marriage, or at the time that the father made his will.¹⁰

The entail was one of two main elements in a deed of settlement, the second being family provision—provision for the wife through jointure, and the younger children through fixed monetary sums or portions. As property devised to women became their husband's upon their marriage, the entail enabled landowners to create a fixed order of succession that

⁹ Maine, *Ancient Law*, p.169.

¹⁰ The advantage of *inter vivos* settlement, which took effect while father and son were still alive, rather than testamentary settlement, which took effect after the father's death, was that the father could supervise the succession of his son and witness the 'changing-of-the-guard' in his lifetime. See John Habakkuk, *Marriage, Debt, and the Estates System: English Landownership 1650-1950* (Oxford: Clarendon Press, 1994), pp.26-9; Barbara English and John Saville, *Strict Settlement: A Guide to Historians* (Hull: University of Hull Press, 1983), pp.32-40.

kept the patrimonial estate intact in the male line. However, the maximum length of an entail was ‘a life or lives in being’ plus ‘a period in gross of twenty-one years.’¹¹ This meant that land could be tied up ‘for three generations only, in the typical case a father, his eldest son, and his (unborn) eldest grandson until he was 21 years of age.’¹² While incumbent life tenants could not reduce endless generations of unborn male descendants to a life tenancy, a chain of resettlements every generation virtually amounted to the creation of a perpetual entail. For landlords with dynastic ambitions, the ideal was to keep ‘a succession of life tenants on the family lands *ad infinitum*.’¹³ In this manner, their estates ‘would descend in the family generation after generation with never an absolute owner in possession,’ who had the capacity to alienate all or part of the property from the patrimony.¹⁴ Therefore, while the fundamental principle of land law was *tenure*, which limited landownership to an individual lifetime, settlements of landed property could provide for ownership in perpetuity not by individuals, but by families.

In every ‘ideal’ legal situation, there are always loopholes or exceptions, a rare one of which is detailed in *Felix Holt*. Before a certain John Justus Transome in the eighteenth century had the opportunity to resettle his estate in the manner described above, his prodigal son Thomas had tried to bar the entail and exchange his future patrimony for cash:

Thomas ... proving a prodigal, had, without the knowledge of his father, the tenant in possession, sold his own and his descendants’ rights to a lawyer-cousin named Durfey; ... therefore, the title of the Durfey-Transomes, in spite of that old Durfey’s tricks to show the contrary, depended solely on the purchase of the ‘base fee’ thus created by Thomas Transome; and ... the Bycliffes were the

¹¹ *Cadell v. Palmer* (1833) 1 Cl and F 372. See A.W.B. Simpson, *A History of the Land Law*, 2nd ed. (Oxford: Clarendon Press, 1986), p.226; and J. H. Baker, *An Introduction to English Legal History*, 2nd ed. (London: Butterworths, 1979), p.245.

¹² F. M. L. Thompson, *English Landed Society in the Nineteenth Century* (London: Routledge and Kegan Paul, 1963), p.64.

¹³ Simpson, *A History of the Land Law*, p.236.

¹⁴ Eileen Spring, *Law, Land and Family: Aristocratic Inheritance in England, 1300 to 1800* (Chapel Hill: University of North Carolina Press, 1993), p.125.

‘remainder-men’ who might fairly oust the Durfey-Transomes if ever the issue of the prodigal Thomas went clean out of existence, and ceased to represent a right which he had bargained away from them.¹⁵

Without his father’s consent, Thomas could only partially ‘bar’ or ‘cut off’ the entail, that is, he could sell ‘his own and his descendants’ rights’ to the Transome estates, but not the rights of non-linear descendants, namely the Bycliffes, known as the ‘remainder-men.’ The resulting legal interest from a partial barring was a mere ‘base fee,’ which attracted very little value on the market because its legal complexities rendered it a risky security for buyers and creditors. According to legal historian A. W. B. Simpson, a base fee was an interest in property founded on a contingency:

The alienee [the purchaser of the fee] will be safe until the issue of the alienor [the seller] who were capable of inheriting under the entail die out.¹⁶

In the event that the alienor’s issue does die out, the estate would revert to the remainder-men named under the original settlement. The alienee and his descendants could therefore be dispossessed of property that they had held for generations on the failure of the alienor’s family line. The family line might not perish (at least not before the alienee’s own), or it might take several generations and upwards from decades, if not centuries, to perish, but few buyers were willing to gamble their property on the continuation of a stranger’s progeny. Thomas Transome’s ‘lawyer-cousin Durfey,’ however, proves to be an exception, as he acquires the base fee, and changes his name to ‘Transome’ in order to trick others into believing that his title is more secure than it really is.

Featuring one of the most complicated settlements in fiction (or indeed fact), *Felix Holt* has attracted criticism from many readers and critics, who were frustrated by the excessive technicality of the novel’s inheritance plot. As F. R. Leavis famously wrote: the

¹⁵ George Eliot, *Felix Holt, the Radical*, ed. Fred C. Thomson (1866; Oxford: Oxford University Press, 1998), p.239.

¹⁶ Simpson, *A History of the Land Law*, p.91.

esoteric subtleties of the law of entail ... demand of the reader a strenuousness of attention that, if he is an admirer of George Eliot, he is unwilling to devote.¹⁷

While the base fee may have been rare in legal practice, its pivotal status in the plot led G. S. Venables in the *Edinburgh Review* to the insight that ‘the law supplies to modern novels the place of that supernatural machinery which was once thought indispensable in epic composition.’¹⁸ Venables saw the base fee as a modern *deus ex machina*, the improbable contrivance or contingency which hastens the characters to their tragic ends. The contingency that would deprive the Durfey-Transomes of their estate is eventually triggered by the death during an election riot of the last of the original Transomes, a déclassé Tommy ‘Trounsem’. This event makes Esther Lyon, who no one knows at first as the daughter of a Bycliffe, the rightful legal claimant.

Taking into account the literary context of *Felix Holt*, the effect of the base fee is comparable with the sudden twists of fate commonly found in sensation fiction of the 1860s, which had a tendency to wipe out a number of male issue and open the way for an unlikely candidate to inherit a landed estate. A realist novel with some notable sensational narrative elements—working-class riots, adultery, clandestine affairs—*Felix Holt* is elevated above the ‘low-brow’ sensation novel by the Aristotlean discourse of tragedy in which the Transome story is framed.¹⁹ As the narrator writes in the ‘Introduction’:

For there is seldom any wrong-doing which does not carry along with it some downfall of blindly-climbing hopes, some hard entail of suffering, some quickly-satiated desire that survives, with the life in death of old paralytic vice, to see itself cursed by its woeful progeny—some tragic mark of kinship in the one brief life to the far-stretching life that

¹⁷ F. R. Leavis, *The Great Tradition* (1948; rpt. Harmondsworth: Penguin, 1962), p.63.

¹⁸ [G. S. Venables], Review of *Felix Holt*, *Edinburgh Review* 124 (Oct. 1866): 435-49; rpt. in *George Eliot: The Critical Heritage*, ed. David Carroll (London: Routledge and Kegan Paul, 1971), p.280.

¹⁹ Eliot’s diary entry on 15 June 1865 indicates that she ‘read again Aristotle’s Poetics, with fresh admiration.’ See *The Journals of George Eliot*, ed. Margaret Harris and Judith Johnston (Cambridge: Cambridge University Press, 1998), p.124.

went before, and to the life that is to come after, such as has raised the pity and terror of men ever since they began to discern between will and destiny.²⁰

This passage blends the language of inheritance with the language of tragedy. ‘The hard entail of suffering,’ for example, is charged with both moral and legal connotations, meanings for the present and future. The phrase points to the sorrows of Mrs Transome which unfold from Chapter 1 onwards, and ‘entail’ suggests that her present woes are the tragic *consequences* of a guilty past, namely her secret adultery with the lawyer Matthew Jermyn, which resulted in the birth of an illegitimate son, Harold. However, ‘entail’ also points prophetically to the ill-fated ‘entailing’ of the Transome estates that comes to light belatedly in Chapter 29. In legal terms, ‘entail’ signifies the pursuit of unbroken patrilineage, the attempt to transmit property along an indefinite line of male successors.

Felix Holt is a story of broken transmission that suggests the futility of striving for a perpetual entail, and critiques the aristocratic attitude, adopted by decaying gentry like the Transomes, of applying customary primogeniture, without questioning its efficacy for family or society. Eliot’s diaries indicate that she read John Stuart Mill’s *Principles of Political Economy* (1848) and Henry Fawcett’s *The Economic Position of the British Labourer* (1865).²¹ In the former book, Mill argued that inheritance represented a duty of parents to their children, but stressed that

the good not only of society but of the individuals would be better consulted by bequeathing to them a moderate, [rather] than a large provision.

Primogeniture ensured not only inequitable division of property, but also that the eldest child, who inherited significantly more than his siblings, was likely to rely solely on his inheritance instead of ‘achieving by [his]

²⁰ Eliot, *Felix Holt*, p.11.

²¹ Eliot’s journals indicate that she read Mill’s book for a second time from May 28 to July 12, 1865. She also claimed to ‘have been reading Fawcett’s Economic condition of the Working Classes [*sic*]’ and ‘Mill’s [On] Liberty’ in a diary entry on November 15, 1865. *Felix Holt* was written between April 29, 1865 and May 31, 1866. See *The Journals of George Eliot*, ed. Margaret Harris and Judith Johnston (Cambridge: Cambridge University Press, 1998), pp.124-6.

own exertions a successful life.²² The imbecility of Harold's father and the dissolute life of his older brother support Mill's theory that primogeniture turns eldest sons and heirs into weaklings or idle spendthrifts. Focusing on the Transome's domestic life, *Felix Holt* is less attentive than Mill and Fawcett to the wider economic and social consequences of settlement and entailment, but its depiction of Transome Court's falling into a state of disrepair and stagnancy reflected actual conditions that land reformers like Fawcett blamed on the over-concentration of landownership in the hands of an elite, who had few incentives to expend capital on improving drainage and agricultural productivity in view of such expenditure enriching the eldest son at the expense of younger children whose provision needed to be raised by mortgages on the estate.²³ The critique that Eliot's novel advanced against customs of settlement, entail and primogeniture was situated therefore in contemporary debates about what economic policies would best promote sustainable and productive land practices that benefit wider society, rather than a small group of landowners.

According to land historians, the debates which came to be known as the 'Land Question' were 'particularly important at two points during the nineteenth century: during the 1840s and from the 1870s onwards.'²⁴ Both periods of agitation followed the passage of the First and Second Reform Bills, and therefore may signify 'post-Reform' rumblings. Although agitation was not as heated in the 1860s as it became during the agricultural depression of the 1870s, the Land Question remained a subject of intermittent interest, as demonstrated by Eliot's reading of Fawcett's book, one among a series of influential publications released by the Cobden Club, which sought to revive interest in land reform following Anti-Corn Law leader Richard Cobden's advocacy in 1864 for the creation of 'a League for free trade in Land.'²⁵ The catch-phrase, 'free trade in land,' became synonymous with calls among liberal and more radical reformers for the state to intervene to prevent landowners from

²² Mill, *Principles of Political Economy*, ed. J. M. Robson (1848; rpt. Toronto: University of Toronto Press, 1965), bk. II, ch. ii, s. 3, p.221.

²³ Henry Fawcett, *The Economic Position of the British Labourer* (Cambridge and London: Macmillan Press, 1865), p.21.

²⁴ Matthew Cragoe and Paul Readman, 'Introduction,' *The Land Question in Britain, 1750-1950*, ed. Matthew Cragoe and Paul Readman (Basingstoke: Palgrave Macmillan, 2010), p.3.

²⁵ Anthony Howe, 'The 'Manchester School' and the Landlords: The Failure of Land Reform in Early Victorian Britain, *The Land Question in Britain*, p.87.

using strict settlement to keep their properties out of the free market indefinitely.

Appearing at the cusp of major agitation opposing the rights of landowners to continue transmitting their estates to eldest sons *ad infinitum*, the entail on the Transome estate is not only a contrivance that precipitates tragedy, but also a signifier of exclusive status, a symbol not of social progressivism, but of regression. The linking of Maine to the cause of land-law reform was first made in an article for the *Westminster Review* in July 1864.²⁶ Reviewing Mill's *Principles of Political Economy* with Francis Newman's *Lectures on Political Economy* (1851), Herbert Spencer's *Social Statics* (1851), and Maine's *Ancient Law* (1861), the article connected four texts which had developed historicised theories of social organisation. Maine's status-contract theory was used to support the contention that 'the tenure of land' should be grounded in 'relations of men to the State,' rather than in familial or tribal models of descent.²⁷ That contract had not taken over from status was indicated by the results of the 1861 census, which showed that, of the total British population of roughly 20 million, 'the whole number of landed proprietors [was] stated at only 30,766.'²⁸ In June 1866, T. E. Cliffe-Leslie conscripted Maine's ideas more explicitly by opening his article in the *Fortnightly Review* with a quotation from *Ancient Law*: 'The society of our day is mainly distinguished from that of preceding generations by the largeness of the sphere which is occupied in it by contract.'²⁹ He then remarked upon the tendency that 'the jurisprudence of our Courts and of the direct legislation of Parliament has been steadily in the opposite direction to that described by Mr. Maine.'³⁰ Both articles typified a trend of applying Maine's historical observations to contemporary political affairs that continued into the 1870s, provoking him to defend the right of private property in his 1875 Rede Lecture.³¹ As a staunch liberal-conservative, Maine neither

²⁶ 'The Tenure of Land,' *Westminster Review* 82 o.s, 26 n.s. (July 1864): 105-37.

²⁷ 'The Tenure of Land,' p.116.

²⁸ 'The Tenure of Land,' p.123.

²⁹ T. E. Cliffe-Leslie, 'Political economy and the tenure of land,' *Fortnightly Review* 5 (June 1, 1866): 220, quoting from Maine, *Ancient Law*, p.295.

³⁰ Cliffe-Leslie, 'Political economy and the tenure of land,' p.220.

³¹ 'Nobody is at liberty to attack several property [i.e. individual or private property] and to say at the same time that he valued civilisation.' Henry Sumner Maine, 'The Effects of Observation of India on Modern European Thought,' Rede Lecture 1875, delivered before the University of Cambridge, rpt. in *Village Communities in East and West*, 4th ed. (London: Murray, 1881), p.230.

sought nor desired the appropriation of his ideas for perceived socialistic purposes, and he rejected claims by the *Daily News* and the *Examiner* that he was ‘a prophet of agrarian radicalism’ as ‘quite groundless.’³²

The linking of Eliot to the Land Question was less overt, as lawyers and legal historians read the novel’s purpose as illustrative of how entails and base fees operated in practice. Among the legal practitioners who admired *Felix Holt* were Frederic Harrison, who famously assisted Eliot with drafting the legal plot,³³ and Frederick Pollock (incidentally a great admirer of Maine), who praised Eliot for using the base fee

with great effect and with perfect correctness, as part of the machinery of the plot; insomuch that conveyancers reading the novel have been known to lament seriously, as if the thing had happened to one of their own clients, that the parties did not take better advice.³⁴

Modern legal historians have also admired Eliot’s accurate deployment of the law of entail. Eileen Spring has suggested that ‘George Eliot had woven a good story’ around the base fee.³⁵ While lawyers have regarded the novel’s ‘legal plot’ more highly than literary critics, their tendency to limit the novel to an empirical portrait of ‘law-in-action’ neglected the wider *political* significance of the Transome entail, which appeared in a period in which the practices of primogeniture, entails, and strict settlements were under increasing scrutiny.

More importantly, they neglected the *aesthetic* realism of a ‘legal plot’ that generates sympathy with as much as criticism of the declining

³² Letter from Maine to John Murray, 12 April 1871, *John Murray Archives*, qtd. by George Feaver, *From Status to Contract: A Biography of Sir Henry Maine 1822-1888* (London and Harlow: Longmans, Green and Co., 1969), p.120.

³³ Eliot’s extensive consultation with Harrison can be traced in her letters from January 1866 to June 1866 when she completed the novel. See *The George Eliot Letters*, vol. 4, ed. Gordon S. Haight (London: Oxford University Press, 1956), pp.214-65. Critical commentary on their correspondence is found in Fred C. Thomson, ‘The Legal Plot in *Felix Holt*,’ *Studies in English Literature, 1500-1900* 7.4 (1967): 691-704.

³⁴ Frederick Pollock, *The Land Laws*, 2nd ed. (1883; rpt. London: Macmillan, 1887), p.110.

³⁵ Spring, *Law, Land and Family*, p.126. See also: See W. R. Cornish and G. de N. Clark, *Law and Society in England, 1750-1950* (London: Sweet and Maxwell, 1989), p.125.

gentry class to which the Transomes belong. By weaving the base fee into her narrative so that it appears a part of the ‘natural history’ of the landed classes, Eliot seems to advocate the notion that ‘Art,’ being the ‘nearest thing to life’ and ‘a mode of amplifying experience and extending our contact with our fellow-men beyond the bounds of our personal lot,’ should direct the reader’s sympathy to extend in all directions, with the English gentry as well as the peasant or artisan (whose interests were represented in her essay, ‘The Natural History of German Life’), or the industrialised working class (whose interests are depicted in *Felix Holt* as in conflict with those of the gentry). Workers appear more as a background to the central events which shape the Transome tragedy. With the exception of a charismatic, anonymous spokesman for working-class rights in Chapter 30, there are few individualised working-class characters in the novel, which features the climax of a rioting mass of workers, representing the kind of revolutionary anarchy both feared and deplored by Victorian middle-class intellectuals. That Eliot seems somewhat ‘out of her element’ when she portrays workers suggests that *Felix Holt* focuses less on Reform Bill discourses of universal suffrage, citizenship and representative government than on Land Question discourses of the responsibility of the landed classes, community and social stability.

However, *Felix Holt* does more than simply dramatise problems that confronted the landed gentry, who are partly responsible for their own decline by pandering to anachronistic customs of succession. The novel also adds another dimension to the land law debates by making Esther Lyon, the adopted daughter of a Dissenting minister, the unexpected but rightful legal claimant of Transome Court. Grounded in arguments for more equitable distribution of land, the Land Question gave little attention to primogeniture, entails, and strict settlements as instruments for facilitating and legitimating patriarchy. In contrast to marriage and divorce laws—which were more explicitly campaigned against for maintaining a sexual double standard that marginalised women—the primary objections to the land laws were oriented to interests of class, not gender.³⁶ The curious phenomenon in *Felix Holt* and Eliot’s later novels

³⁶ The gendered nature of the modern history of land law is a theme throughout Spring’s feminist-oriented study, *Law, Land, and Family*. While this article focuses on the issue of inheritance, there is extensive critical commentary on the agitation of Victorian marriage and divorce law. See, for example, Barbara Leckie, *Culture and Adultery: The Novel, the Newspaper, and the Law, 1856-1914* (Philadelphia: University of Pennsylvania Press, 1999); Mary Lyndon

whereby property winds its way circuitously but inevitably to women (irrespective of family preference and customary practice) turned readers' attention to gender, rather than class inequality.

Esther's legal claim reveals that social reality may be the reverse of legal assumption. According to Maine, the custom of Agnatic descent, which traced genealogy 'exclusively through males,' was the basis for 'a memorable legal maxim':

'Mulier est finis familiae'—a woman is the terminus of the family. A female name closes the branch or twig of the genealogy in which it occurs. None of the descendants of a female are included in the primitive notion of family relationship.³⁷

Contrary to this maxim and common perception, property in Eliot's novels tends to fall eventually to women, rather than men, a pattern seen in *Felix Holt* that is also repeated in *Middlemarch* and *Daniel Deronda*, where Dorothea Brooke and Gwendolen Harleth become heiresses to property that they subsequently reject. Whereas Maine presents patriarchal authority in the ancient world as the precedent for patriarchal inheritance practices in the nineteenth century, Eliot interrogated the politics of male succession, which concealed the necessity of female succession at crucial times to ensure familial survival.

Moving from the unprivileged status of a minister's daughter to the privileged one of heiress, Esther may appear to exemplify a Mainian rise from status to contract. Her immediate trajectory, however, is simply to move from one status to another. Her choices are still limited to marriage and inheritance: which man to marry—Harold or Felix; and whether or not to accept the estate. Furthermore, she occupies the unusual legal status of 'remainder-man', a suggestive term for 'heir of last resort' which raises for Harold the whimsical image of 'a mendicant sailor with a wooden leg.'³⁸ As Neil Hertz suggests, the irony inherent in the legal parlance is that 'a remainder-man may be the remains of a man both

Shanley, *Feminism, Marriage, and the Law in Victorian England* (Princeton: Princeton UP, 1989); and Lee Holcombe, *Wives and Property: Reform of the Married Women's Property Law in Nineteenth-Century England* (Toronto: University of Toronto Press, 1983).

³⁷ Maine, *Ancient Law*, p.143.

³⁸ Eliot, *Felix Holt*, p.285.

déclassé and dismembered.³⁹ While Esther possesses none of the features that might be associated with vestigial humanity, her position is uniquely that of ‘quasi-heiress,’ whose succession is more a strange, legal anomaly than a natural passage to inheritance.⁴⁰ Yet the survival and preservation of three patriline—*the Durfey, the Transome, and the Bycliffe*—seem to depend on Esther.

Instead of remaining at a genealogical terminus, Esther finds an escape from an identity forged around the elevated status of heiress by drawing upon the dual education she receives from her father Rufus Lyon and self-appointed tutor Felix Holt. Their respective spiritual and secular guidance offer alternative principles to property by which to define her identity. Neither provides flawless guidance. Esther learns to appreciate the truth of Felix’s lesson (designed to turn her from ‘idle fancy and selfish inclination’) that her ‘father’s principles are greater and worthier than what guides [her] life.’⁴¹ Yet, Lyon’s ‘theory of providential arrangement’ provides ‘no illumination’ for Esther on the question of whether to accept the Transome estate.⁴² Felix’s secular philosophy is also problematic, as, although he preaches renunciation as a natural course for those (like himself) who do not consider wealth as ‘any peculiar virtue,’ he does not realise that renouncing his love for Esther will prove more difficult than renouncing material goods. By marrying Esther in the end, he compromises his ideal of celibacy, and learns to strike a balance between worthy and needless sacrifice.

The fallibility of both religious and secular belief systems leads Esther to the realisation that she must forge her own principles. Finding her own alternative to complete renunciation, she leaves Transome Court and refuses the bulk of her inheritance, but marries Felix, claiming for herself and her husband only two pounds a week, plus ‘a little income’ for Felix’s mother, ‘enough for her to live as she had been used to live,’ and a similar income for her father, ‘to save him from being dependent

³⁹ Neil Hertz, *George Eliot’s Pulse* (Stanford: Stanford University Press, 2003), p.89.

⁴⁰ According to J. H. Baker, historically, ‘a remainder-man took by a form of succession unknown to the law; he had no prior seisin, he was no one’s heir, and it was not clear what remedy he had to recover his interest.’ Thus he was regarded by 13th-century legal writer Henry de Bracton as a kind of ‘quasi-heir.’ J. H. Baker, *An Introduction to English Legal History*, p.233.

⁴¹ Eliot, *Felix Holt*, p.104.

⁴² Eliot, *Felix Holt*, p.326.

when he is no longer able to preach' (396). The course she chooses allows her to fulfil her duties to family, but also to avoid the constraints on self-determination imposed by her legal status. Esther therefore accepts a qualified independence or individualism, not the full severance from family bonds and commitments that Maine regarded as indicative of contractual freedom and individual autonomy.

It appears at the conclusion of the novel that the reader is left in the double bind that characterises Victorian endings for its feminine characters, for whom 'there is no readier conduit for directing [their] desire [to do something important] than through marriage with already focused and determined men.'⁴³ The radicalism of *Felix Holt*, however, is that it depicts a woman rejecting the bulk of property to which she is entitled, accepting only the small amount needed to care for family. The striking of a balance between individual and family welfare is the measure of truly ethical behaviour in Eliot's late fiction. Although generally given lowest priority in the order of succession, daughters, rather than fathers and sons, are the ones who prove their worth by embracing an alternative to the status economy, in which landed inheritance is the basis of wealth, power, and social position.

Middlemarch

Although less fixated on legal technicalities than *Felix Holt*, *Middlemarch* features not just one, but three main inheritance plots. The detailed legal briefs laying out the whole history of the Transome settlement are replaced by Dorothea's ethical question in Chapter 37—'Was inheritance a question of liking or of responsibility?'—which occurs while she ponders the disinheritance of Casaubon's 'Aunt Julia' (the grandmother of Will Ladislaw), 'only because she had chosen [to marry] a man who was poor':

Dorothea ... had wrought herself into some independent clearness as to the historical, political reasons why eldest sons had superior rights, and why land should be entailed: those reasons, impressing her with a certain awe, might be weightier than she knew, but here was a question of ties

⁴³ Cathrine O. Frank, *Law, Literature, and the Transmission of Culture in England, 1837-1925* (Surrey: Ashgate, 2010), p.127.

which left them uninfringed. Here was a daughter [Julia] whose child—even according to the ordinary aping of aristocratic institutions by people who are no more aristocratic than retired grocers, and who have no more land to ‘keep together’ than a lawn and a paddock—would have a prior claim. Was inheritance a question of liking or of responsibility? All the energy of Dorothea’s nature went on the side of responsibility—the fulfilment of claims founded on our own deeds, such as marriage and parentage.⁴⁴

Dorothea’s weighing up of individual ‘liking’ and familial ‘responsibility’ seems to be an attempt to determine whether status or contract ought to prevail. On one hand, her belief that ‘the fulfilment of claims’ should be ‘founded on ... marriage and parentage’ suggests her preference for a status-based view of inheritance that privileges the claims of legal ties and biological kinship. On the other hand, the claim of Aunt Julia that Dorothea believes ought to have been fulfilled is founded on personal ‘deeds,’ and therefore, decisions about inheritance should rest on integrity of character, rather than on concerns about decline in class status, resulting from a socially disadvantageous marriage. Like Esther Lyon, Dorothea’s ethical judgement seems to be suspended between status and contract.

Dorothea’s interrogation of primogeniture is commensurate with her passion for land reform, which is evident from the beginning of the novel in her ‘impatience of her uncle’s talk or his way of ‘letting things be’ on his estate’ and her longing ‘for the time when she would be of age and have some command of money for generous schemes.’⁴⁵ Her sympathy with impoverished tenants echoes the sentiments of reformers, like Henry Fawcett, who drew attention to the plight of tenants and labourers. ‘I think we deserve to be beaten out of our beautiful houses with a scourge of small cords—all of us who let tenants live in such sties as we see round us,’ she says to James Chettam, the baronet who courts her. The inconsistency in Dorothea’s character, however, is suggested by her decision not to marry Chettam, who shows a willingness to indulge her passion for land reform, but Casaubon, a scholar and clergyman who does ‘not care about building cottages’ for the poor or ‘about the philanthropic side of things.’⁴⁶

⁴⁴ Eliot, *Middlemarch*, p.333.

⁴⁵ Eliot, *Middlemarch*, p.8.

⁴⁶ Eliot, *Middlemarch*, pp.30, 48.

Dorothea also misjudges Casaubon's 'sense of right,'⁴⁷ which she thinks would make him amenable to changing his will in favour of his cousin Ladislaw, whose grandmother's disinheritance keeps him poor. Instead of agreeing with her concerns for Ladislaw, Casaubon's 'power of suspicious construction' is agitated 'into exasperated activity,' as he imagines his cousin making 'an easy conquest' and 'entering into [his] nest' by marrying Dorothea after his death.⁴⁸ His last will and testament reflects his jealousy, as it bequeaths not only the fruitless task of completing his life's work, the 'Key to all Mythologies,' but also contains a codicil that gives all his property to Dorothea on condition that she does not marry Ladislaw. Thus he take advantage of Dorothea's dutiful nature towards him and his work, and, as James Chettam observes, 'most unfairly compromise[s]' her by provoking rumours of an affair between her and Will, and exploiting provincial gossip and public scandal to prevent their marriage.⁴⁹ Casaubon's will exemplifies the power of 'the dead hand' (the title of Book V), an instrument used both to defend his *status* and reputation as husband, and to assert his control over the living from beyond the grave by putting them under *contractual* obligation to his testamentary desires.

The abuse of testamentary power is demonstrated not only by Casaubon but also by the wealthy Peter Featherstone, who enjoys tormenting his siblings and nephew Fred Vincy by making tantalising references to the unlikelihood of their receiving anything in his will. However, unlike Casaubon, whose 'dead hand' is not rendered powerless until the end of the novel, Featherstone's impotence over his family is literally and symbolically represented immediately upon his decease:

Peter Featherstone was dead, with his right hand clasping the keys [to the iron chest containing his wills], and his left hand lying on the heap of notes and gold.⁵⁰

Mary Garth's refusal to accede to Featherstone's request for her to burn one of his wills results in her friend Fred Vincy losing a ten-thousand-pound bequest, and the disappointment of a testator, whose power to control the destiny of his property is removed when he cannot prevail upon his carer to carry out his intentions. Featherstone's posthumous

⁴⁷ Eliot, *Middlemarch*, p. 334.

⁴⁸ Eliot, *Middlemarch*, p.375.

⁴⁹ Eliot, *Middlemarch*, p.434.

⁵⁰ Eliot, *Middlemarch*, p.285.

authority over his affairs is dealt a further blow later in the novel when his illegitimate son and heir Joshua Rigg sells his father's property, Stone Court, to Nicholas Bulstrode, a banker he despises. In labyrinthine fashion, however, Featherstone's property eventually makes its way to Fred, who becomes manager of Stone Court through an unusual act of kindness by Bulstrode.

Although not introduced until Book VI, the novel's third inheritance plot provides for the resolution of the first two plots. Whereas Casaubon attempts to deny Will the inheritance of his paternal grandmother Julia, Bulstrode is responsible for denying him the inheritance of his maternal grandmother Mrs Dunkirk, whom he deceived by keeping secret the whereabouts of her run-away daughter Sarah. The deception allowed Bulstrode to inherit the widowed Mrs Dunkirk's fortune when they married, as the latter was prevented from benefiting the grandchild she never knew she had. However, after his purchase of Stone Court from Joshua Rigg, the past threatens to engulf him, as Raffles, the unscrupulous spy who was hired to find Sarah, reappears to demand money as the price of secrecy. Casaubon refuses to recognise Will's claim and in fact hinders it by a testamentary clause, but in order to save his reputation, Bulstrode admits: 'you have a claim on me, Mr Ladislaw: as I said before, not a legal claim, but one which my conscience recognises.'⁵¹ His offer to Will of a five hundred pound annuity during his life and 'a proportional capital' at his death arrives hot on the heels of Raffles' queries about his mother, and it is rejected on the same basis that his mother had run away to avoid enjoying any part of the 'profits' which her father's pawnbroking business 'made out of lost souls.'⁵² 'My unblemished honour is important to me,' he tells Bulstrode.

'It is important to me to have no stain on my birth and connections. And now I find there is a stain which I can't help. My mother felt it, and tried to keep as clear of it as she could, and so will I.'⁵³

By rejecting an income from Bulstrode, Will becomes the representative of 'three successive generations of disinheritance.'⁵⁴

⁵¹ Eliot, *Middlemarch*, p.557.

⁵² Eliot, *Middlemarch*, p.551.

⁵³ Eliot, *Middlemarch*, p.559.

⁵⁴ Henry Staten, 'Is *Middlemarch* Ahistorical?' *PMLA* 115 (2000): 1003.

Will's renunciation of wealth prepares the reader for Dorothea's even more momentous renunciation of her husband's money. The sudden onset of a thunderstorm creates an apocalyptic setting for the two lovers to acknowledge to each other for the first time the forces which divide them. The image of Dorothea and Will,

their hands clasped, like two children, looking out on the storm, while the thunder gave a tremendous crack and roll above them, and the rain began to pour down,⁵⁵

evokes the last scene of *The Mill on the Floss*, where the siblings Tom and Maggie Tulliver are joined together before the river sweeps them to their deaths. Similar apocalyptic language is noticeable in the scene of Deronda's parting from Gwendolen in George Eliot's last novel, *Daniel Deronda*. Whereas Gwendolen's liberation from an egotistical world-view coincides with her parting from Deronda, Dorothea's 'soul' is 'liberated from its terrible conflict' before her meeting with Will, which opens as a scene of parting but ends as a scene of reunion (704). Dorothea's act of renouncing Casaubon's money takes place during an uncharacteristic outburst, in which the emotions repressed to silence while she was married to Casaubon and by his will, are finally let out:

'Oh, I cannot bear it—my heart will break,' said Dorothea, starting from her seat, the flood of her young passion bearing down all the obstructions which had kept her silent—the great tears rising and falling in an instant: 'I don't mind about poverty—I hate my wealth.'⁵⁶

Instead of freeing Will from the poverty which was his portion from his female forebears, Dorothea joins his grandmother Julia's and mother Sarah's legacy of marital recklessness by marrying Ladislaw outside legal, domestic and social propriety. Despite the adverse effect of her decision to her economic circumstances, particularly from her family's perspective, Dorothea condemns herself only to genteel poverty—she still has her own income of seven hundred a year—while she gains the man she loves and a happy home life. Her marriage to Casaubon had been sterile, and it seemed as though her sister Celia, who had married James Chettam and given birth to a baby son, would become the mother of the

⁵⁵ Eliot, *Middlemarch*, p.724.

⁵⁶ Eliot, *Middlemarch*, p.725.

heir to the Brooke family's estate. With Ladislav, Dorothea has a son of her own.

Before the novel concludes, it returns briefly to the problem of the entail, as Mr Brooke suggests half-heartedly to Chettam that he could 'cut off the entail' as a sign of disapproval of Dorothea's second marriage. Although hostile to Ladislav and realising that Brooke's proposal would unite Tipton Grange and his own estate (a 'prospect that flattered him for his son and heir'), Chettam's honour prevents him from encouraging Brooke to take such drastic action as disinheriting Dorothea's son.⁵⁷ (730). The decision of Chettam and Brooke not to take punitive action against Dorothea for the mere sake of propriety ends a family history of disinheritances. The withholding or conferring of inheritances on the basis of individual 'liking' is finally replaced by the choosing of an heir on the basis of family 'responsibility.'

Daniel Deronda

Whereas *Felix Holt* and *Middlemarch* explore questions of inheritance and succession as they present themselves in English law, Eliot's last novel considers alternative principles of inheritance in Jewish law and culture. The one major difference between English and Jewish law was that the latter allowed inheritance through the maternal line. Daniel Deronda is adopted by Sir Hugo Mallinger, but the money for his education and upbringing derives from his grandfather's fortune, which is transmitted to him through his mother Leonora Charisi. As in Eliot's earlier fiction, matrilineal inheritance is as much a feature of the narrative as patrilineal. However, it is important to recognise that Eliot does not present the Jewish conception of inheritance as ideal in comparison with the English. The dominance of patriarchy is as entrenched in Hebrew as in Gentile tradition. Only a young male 'Jew, intellectually cultured, morally fervid' can qualify as the ideal type to whom Mordecai yearns to transplant his spiritual life.⁵⁸ Deronda's grandfather, a strict orthodox Jew, cared for his daughter Leonora only 'as a makeshift link' between himself and an unborn grandson to whom he hoped to transmit his spiritual legacy.⁵⁹

⁵⁷ Eliot, *Middlemarch*, p.730.

⁵⁸ Eliot, *Daniel Deronda*, ed. Terence Cave (1876; rpt. London: Penguin, 1995), p.472.

⁵⁹ Eliot, *Daniel Deronda*, 631.

Deronda's final parting from Gwendolen suggests that the novel does not ultimately provide for an ideal union between English and Jewish cultures. Eliot appears to have wanted her story to be 'something new,' rather than 'merely another installment of the same old thing, the English novel of marriage and inheritance.'⁶⁰ As in *Felix Holt*, she consulted Frederic Harrison for advice about the law of settlement while writing *Daniel Deronda*. Her letters to Harrison suggest that she may have considered legitimisation by act of Parliament as a course by which Deronda, who is suspected of being Sir Hugo Mallinger's illegitimate son, could succeed to the Mallinger estates, and perhaps also a peerage.⁶¹ Eliot's departure from this early plan by giving Deronda a Jewish parentage ensured that he is not set up simply as a rival to Grandcourt's heirship (as Esther was to Harold in *Felix Holt*, or Ladislav to Casaubon in *Middlemarch*), but that his future would lie beyond the materialism of landed estates, and even beyond English shores.

Deronda's departure from the conventional English inheritance plot, however, does not free him completely from the burden of being perhaps the last surviving male of several Jewish families. The failure of the male line is a very real prospect for the English Mallingers, whose estates have run 'together into the single heirship of a mealy-complexioned male,' Henleigh Mallinger Grandcourt.⁶² But like their English counterparts, Deronda's ancestors have also struggled to perpetuate the patriline. At Genoa, his mother tells him that his real name is Daniel Charisi. Before his adoption by Sir Hugo, she changed his name to 'Deronda,' a 'branch of the family' which her 'father had lost sight of.'⁶³ The Charisi, Deronda tells Mordecai, were a 'strain that has ardently maintained the fellowship of our race—a line of Spanish Jews that has borne many students and men of practical power.'⁶⁴ In his second interview with his mother, he learns that his maternal grandmother 'was a Morteira,'⁶⁵ a family of Portuguese Jews of Sephardic (Iberian) origin, who 'were regarded as a

⁶⁰ Catherine Gallagher, *The Body Economic: Life, Death, and Sensation in Political Economy and the Victorian Novel* (Princeton: Princeton University Press, 2006), p.130.

⁶¹ See Eliot's letters to Harrison on 30 Dec. 1874, and 1 Jan. 1875, *The George Eliot Letters*, vol. 6, pp.100 and 105.

⁶² Eliot, *Daniel Deronda*, p.442.

⁶³ Eliot, *Daniel Deronda*, p.637.

⁶⁴ Eliot, *Daniel Deronda*, p.748.

⁶⁵ Eliot, *Daniel Deronda*, p.660.

kind of aristocratic stock.⁶⁶ Despite the aristocratic blood from both maternal and paternal sides of his family, Deronda is not very dissimilar to Grandcourt, as he may be the terminus of two, possibly even three, Jewish patrines—the Charisi, the Morteira, and the Deronda.

Instead of attempting to deny his Jewish heritage, Deronda seeks to confirm his status and racial identity, without allowing it to burden him as it burdened his mother. For a lengthy period of the novel, his status is an imposition on his freedom, as he feels that Mordecai's will for him to be his spiritual heir is as constrictive as the 'grasp of [a] dying hand.'⁶⁷ Known by his friends as virtually incapable of withholding his sympathy from anyone, Deronda's wide-ranging sympathy is tested to its limits by Mordecai's will for him to become not simply an amanuensis for transcribing a spiritual vision, but to identify with Mordecai completely. Mordecai insists that Deronda 'be not only a hand to [him], but a soul,—believing my belief ... seeing the vision I point to—beholding a glory where I behold it!'⁶⁸ He desires the preservation of his consumptive, dying self and the transmission of his ideals to a 'more beautiful... stronger... executive self,' and expects Deronda to fulfil his Cabbalistic desire for a union between their two souls.⁶⁹

'You will be my life: it will be planted afresh; it will grow. You shall take the inheritance; it has been gathering for ages ... you will take the sacred inheritance of the Jew.'⁷⁰

This is a far more radical form of succession than is provided for under any settlement, will, or entail in English law.

Like Esther and Dorothea in Eliot's earlier novels, Deronda finds a way of reconciling himself with his inheritance, without allowing his newfound status as a Jew to determine his life completely. After his mother confirms his Jewish blood, he travels to Mainz to collect a chest that his grandfather had left in trust for him. But when the trustee of the chest, Joseph Kalonymos, asks him whether he will call himself 'a Jew and profess the faith of [his] fathers,' Deronda resists unqualified

⁶⁶ Terence Cave, Notes to *Daniel Deronda*, by George Eliot (London: Penguin, 1995), p.842.

⁶⁷ Eliot, *Daniel Deronda*, p.564.

⁶⁸ Eliot, *Daniel Deronda*, p.499.

⁶⁹ Eliot, *Daniel Deronda*, p.473.

⁷⁰ Eliot, *Daniel Deronda*, p.500.

commitment to the nationalistic aims which Mordecai and Kalonymos wish him to fulfil, as he says:

‘I shall call myself a Jew. But I will not say that I shall profess to believe exactly as my fathers have believed. Our fathers themselves changed the horizon of their belief and learned of other races. But I think I can maintain my grandfather’s notion of separateness with communication. I hold that my first duty is toward my own people, and if there is anything to be done towards restoring or perfecting their common life, I shall make that my vocation.’⁷¹

Deronda is perhaps too aware of the dangers of cultural insularity, which turned his mother against her racial and spiritual heritage, and therefore

at no point, crucially, does [he] explicitly embrace Mordecai’s conception of guaranteed cultural transmission, or his vision of an ignited race consciousness that will automatically enact Israel’s destiny.⁷²

Deronda also suggests that ‘separateness with communication’ or dialogical interaction between Jewish and other races is the path forward. Deronda’s Jewish inheritance offers him a way out of the conventional marriage and inheritance plot, but he must negotiate the extent to which he allows his Jewish inheritance to determine his actions. To turn the ‘dead hand’ of the past into a living and worthwhile vocation, he reserves for himself the contractual freedom to support the Zionist cause on his own terms, a freedom he otherwise would be denied if he submitted completely to the wishes of Mordecai.

Deronda’s unique journey is depicted alongside the more conventional marriage and inheritance plot in which Gwendolen Harleth is entangled. Whereas Deronda struggles at first with his new Jewish status, Gwendolen Harleth struggles under her husband Grandcourt’s despotic authority. Grandcourt, whose ‘importance as a subject of this realm was of the grandly passive kind which consists in the inheritance of land,’⁷³ is entirely a creature of status, which he owes to his uncle Sir

⁷¹ Eliot, *Daniel Deronda*, p.725.

⁷² Amanda Anderson, *The Powers of Distance: Cosmopolitanism and the Cultivation of Detachment* (Princeton: Princeton University Press, 2001), p.135.

⁷³ Eliot, *Daniel Deronda*, p.584.

Hugo Mallinger's misfortune of failing to father a son. Like Transome Court in *Felix Holt* and Tipton Grange in *Middlemarch*, the estates of the aristocratic Mallingers in *Daniel Deronda* are entailed strictly to males as a consequence of an 'ill-devised settlement which [Sir Hugo's] father, Sir Francis, had chosen to make by will.'⁷⁴ Sir Hugo is the life tenant of three estates—the oldest, King's Topping, granted to 'a certain Hugues le Malingre, who came in with the Conqueror,' Monk's Topping, granted to the Mallingers 'under Henry the Eighth,' and Diplow Hall, 'a comparatively landless place which had come into the family from a rich lawyer on the female side who wore the perruque of the Restoration.'⁷⁵ Under the settlement, all three properties are entailed to male heirs. Sir Hugo is particularly disappointed that 'Diplow with its modicum of land had been left under the same conditions as the ancient and wide inheritance of the two Toppings,' as he regards it as a place 'where his wife and daughters ought to have been able to retire after his death.'⁷⁶ Grandcourt views Diplow as simply one (and certainly not the most impressive) estate among five which he expects to own in future, as in addition to the Mallinger estates, he has already inherited Ryelands and Gadsmeere from his father, who died early. Whereas Grandcourt does not value Diplow highly, his uncle anxiously hopes that 'Grandcourt might consent to a transaction by which he would get a good sum of ready money' in exchange for Diplow.⁷⁷

Sir Hugo's plans for Diplow, which 'fretted him rather more than if it had concerned Church discipline or the ballot,' are an integral part of the socio-legal fabric of the novel.⁷⁸ The desired property transaction does not occupy as intrusive a place in the narrative as the base fee in *Felix Holt*, but is deftly used by Eliot to reveal the kind of tension between life tenant and heir, which can easily arise between 'men in that relation.' Eliot requested advice from Harrison on how to create '

certain conditions ... which would make them [life tenant and heir] wish to suppress any show of dislike and would give them a mutual sense of self-interest in being friendly.'⁷⁹

⁷⁴ Eliot, *Daniel Deronda*, p.158-9.

⁷⁵ Eliot, *Daniel Deronda*, p.165.

⁷⁶ Eliot, *Daniel Deronda*, p.159.

⁷⁷ Eliot, *Daniel Deronda*, p.159.

⁷⁸ Eliot, *Daniel Deronda*, p.158.

⁷⁹ Eliot letter to Frederic Harrison, 19 Feb. 1875, *George Eliot Letters*, vol. 6, p.126.

Thus we see Sir Hugo suppressing his dislike of Grandcourt for the sake of his wife and daughters. Grandcourt considers 'his uncle a superfluity and a bore,' but tolerates Sir Hugo because he is 'gratified to have the alternative of the money in his mind,' and is 'flattered' by the prospect of 'being able to refuse what Sir Hugo desire[s].'⁸⁰ Neither can act without the other's consent, and until they can reach contractual agreement, they are both powerless. However, Sir Hugo the life tenant is rendered more powerless than his heir, as he knows that, after his death, Grandcourt will become the absolute 'master over [his] estates, present or future,' and will have the right to choose his own heir.⁸¹ The settlement gives Sir Hugo limited bargaining power with Grandcourt, and with a family of four to provide for, he is burdened by greater responsibilities than his bachelor nephew, who is eventually prevailed upon to sell Diplow only after he marries Gwendolen.

In the context of the whole novel, the Diplow transaction is a relatively minor incident. But the symbolic significance of Diplow outweighs its narrative importance. Despite the Mallingers' adherence to primogeniture, the property ironically comes from 'a rich lawyer on the female side,' and is therefore a matrilineal inheritance.⁸² Not only does Diplow come to Grandcourt from the female side, but his father's properties also belonged originally to his mother's side of the family. Upon marrying a Miss Grandcourt, his father had

taken her name along with her estates, thus making a junction between two equally old families, impaling the three Saracens' heads proper and three bezants of the one with the tower and falcons *argent* of the other...⁸³

While, on the symbolic level, it is the feminine coat-of-arms (the Grandcourt family's tower and falcons) that impales the symbols on the

⁸⁰ Eliot, *Daniel Deronda*, p.160.

⁸¹ Eliot, *Daniel Deronda*, p.284.

⁸² Eliot, *Daniel Deronda*, p.165.

⁸³ Eliot, *Daniel Deronda*, p.166. The 'three Saracens' heads' and 'three bezants' are symbols on the coat-of-arms of the Mallinger family. In his cursory exploration of the Mallinger family tree, Daniel admits to being interested 'only about that ancestor who had killed three Saracens in one encounter' (p.171). The early Mallingers' pride in their military success in the Crusades against Muslim Saracens is an ancient precedent of the conflict between Western and Eastern culture explored in the novel.

masculine coat-of-arms (the Mallingers' Saracens' heads and bezants), it is the male side of the family which takes the estates of the female. In addition to giving her son Ryelands and Gadsmere, Mrs Mallinger (née Grandcourt) also transmits

a baronial streak to his blood, so that if certain intervening persons slightly painted in the middle distance died, he would become a baron and peer of this realm.⁸⁴

From his uncle, Grandcourt will inherit only a baronetcy, an inferior title to the barony from his mother. Although his full name is 'Henleigh Mallinger Grandcourt,' he is known and addressed by all as 'Grandcourt,' a patronym which is underwritten by maternal authority.

Grandcourt relies passively on his status, but he is a masterful exploiter of contract as a means of extending his dominion over others. His choice of Gwendolen as his bride (and rejection of the wealthier Catherine Arrowpoint) is motivated by a powerful, spontaneous wish 'to be completely master of this creature—this combination of maidenliness and mischief.'⁸⁵ In fact Gwendolen's financial plight improves her marital prospects, as Grandcourt knows that his economic status will only enhance his authority as a husband. In Chapter 27, the scene of Grandcourt's proposal, he adopts the pose of an ardent lover to a girl playing hard-to-get, but in hindsight, Gwendolen realises that the scene had been the enactment of a contract, the terms of which were framed entirely by Grandcourt, although she had thought at the time that 'there had been a tacit part of the contract on her side—namely, that she meant to rule and have her own way.'⁸⁶ Her status as a wife is undermined by the fact that she accepted Grandcourt, despite having promised his mistress Lydia Glasher that she would not marry him and therefore become an obstacle to the inheritance of Lydia's son. Grandcourt knows about Gwendolen's meeting with Lydia at Cardell Chase through Mr Lush, the man responsible for its arrangement, but is ignorant about his wife's sense of contractual obligation to his mistress.

Grandcourt's incomplete knowledge about his wife's conscience renders his mastery over her 'imperfect.'⁸⁷ Ironically, this imperfection is

⁸⁴ Eliot, *Daniel Deronda*, p.91.

⁸⁵ Eliot, *Daniel Deronda*, p.301.

⁸⁶ Eliot, *Daniel Deronda*, p.669.

⁸⁷ Eliot, *Daniel Deronda*, p.352.

revealed by the narrator at a point in which Grandcourt's power appears supreme—his confronting Gwendolen with the contents of his will. In the event that Gwendolen bears 'no son an issue of her marriage,' Lydia's son, young Henleigh, would be Grandcourt's heir.⁸⁸ Like Casaubon in *Middlemarch*, Grandcourt uses his will as a 'dead hand' to burden and disgrace his wife. Gwendolen is given residence in Gadsmere, a secluded house in a coal-mining district, and an annual provision of two thousand pounds, moderately wealthy by middle-class standards, but meagre in relation to the vastness of Grandcourt's wealth. Whereas Lydia, unsuccessful during Grandcourt's life in claiming the position of his wife, is dignified after his death by the will which makes her son an heir to all his father's estates, Gwendolen is forced to take the place of her husband's mistress, and occupy Gadsmere, which signifies a kind of Dantesque purgatory for the discarded, unloved woman, seeking but never achieving the status of a wife. As if forcing his wife to exchange positions with Lydia is insufficient punishment, Grandcourt intensifies Gwendolen's humiliation by forcing her to hear the terms of his will delivered by his former secretary Lush, who had been sent away at Gwendolen's request before she agreed to marry Grandcourt. The act of re-employing Lush as his spokesman represents a breach of their marital contract, and it further consigns Gwendolen to a status lower than that of a secretary, whose services are required and terminated at Grandcourt's pleasure.

There is a vengeful aspect to Grandcourt's will, which is related to jealousy of Gwendolen as his exclusive possession. Unlike Casaubon, whose codicil exposes his jealousy of Dorothea and Ladislav, Grandcourt does not make Gwendolen's inheritance of Gadsmere conditional on her not marrying Deronda. As he considers Deronda to be far beneath him in status, the omission is unsurprising, but his consignment of Gwendolen to Gadsmere is perhaps intended to divide her from Deronda. After witnessing Gwendolen's attempt to attract Deronda's notice by wearing her father's necklace as a wrist bracelet, he rebukes her harshly for acting in a 'damnable vulgar' way, but asserts confidently that Deronda 'is not going to take [his] place.'⁸⁹ When he makes his will, his 'state of mind' is again described as not one of 'jealousy,' but the narrator's equivocations suggest otherwise: 'his behaviour in some respects was as like jealousy as yellow is to yellow,

⁸⁸ Eliot, *Daniel Deronda*, p.601.

⁸⁹ Eliot, *Daniel Deronda*, p.447.

which colour we know may be the effect of very different causes.⁹⁰ By keeping his wife as far as possible from Deronda and the social circles which befit her rank, Grandcourt's will is a defensive ploy designed to safeguard his public reputation, even at the expense of his wife's dignity.

Eliot further undermines Grandcourt's assurance in his psychological power by revealing the partiality of his knowledge about his wife's psyche:

He had correctly divined one half of Gwendolen's dread—all that related to her personal pride, and her perception that his will must conquer hers; but the remorseful half, even if he had known of her broken promise [to Lydia], was as much out of his imagination as the other side of the moon. ... There is no escaping the fact that want of sympathy condemns us to a corresponding stupidity. Mephistopheles thrown upon real life, and obliged to manage his own plots, would inevitably make blunders.⁹¹

Although Mephistophelian in his ability to abuse the fears and weaknesses of others (particularly women), Grandcourt's perceptions are rendered 'stupid' by his lack of 'sympathy' with those he oppresses. He can fathom the idea that Gwendolen might hate the prospect of becoming a mother because she despises him, but he cannot perceive that she does not want a son because of a guilty conscience. 'Gwendolen felt that to desire a child for herself would have been consenting to the completion of the injury she had been guilty of.'⁹² Her husband fails to attribute her dread to the fear of bearing a son who would override the claim of young Henleigh to Grandcourt's estates. Even Gwendolen herself does not seem to realise at the time that her guilt about having a child with Grandcourt was a sign that she had put Deronda's advice into practice by using her fear as a safeguard against moral compromise and as a catalyst for her moral redemption.

The Mediterranean yachting trip, which Grandcourt intended as an opportunity for him 'to feel more securely that [Gwendolen] was his to do as he liked with,' ends in his drowning at the Bay of Genoa.⁹³ By

⁹⁰ Eliot, *Daniel Deronda*, p.585.

⁹¹ Eliot, *Daniel Deronda*, p.596.

⁹² Eliot, *Daniel Deronda*, p.672.

⁹³ Eliot, *Daniel Deronda*, p.668.

imposing his ‘will like that of a crab or a boa-constrictor,’ Grandcourt had been ‘pinching’ and ‘crushing’ Gwendolen to the point of paralysis.⁹⁴ Gwendolen views his death as a *willed* murder—by failing to cast out a line to save him, she feels that she had intentionally ‘resisted his will’ and thus ‘kill[ed] him in [her] thoughts.’⁹⁵ The ‘white hand of his’ which she feared ‘was capable ... of clinging round her neck and threatening to throttle her’ is now a dead hand,⁹⁶ but it is just as capable of strangling her as it was when alive. Her burden of guilt enhances the prospect of strangulation. But Gwendolen’s liberation is signified not by her release from the grasp of her husband’s psychological tyranny, but by her decision partially to accept the terms of Grandcourt’s will. While she is at first hesitant towards claiming any provision, Deronda comforts her by saying that she ought not to feel as though taking the money were ‘a crime towards one who is dead.’⁹⁷ Following his advice, Gwendolen also decides not to limit the amount she accepts to eight hundred a-year, the amount which had been given to her mother while Grandcourt lived, but accepts the full two thousand pounds for her mother’s and her own use.

What Gwendolen rejects is residence at Gadsmer. She is assisted to achieve this end by Sir Hugo, who, on hearing about Grandcourt’s will and the disgrace which it inflicted on Gwendolen by its ‘conspicuous publishing of her husband’s relation to Mrs Glasher,’ is moved to suggest an alternative.⁹⁸ He offers to help Gwendolen to lease Gadsmer ‘on capital terms’ to a man engaged in the coal-mining industry.⁹⁹ After her mother reveals that Offendene, the house she lived in before her marriage, is empty, she finds her own alternative to the life which her husband had planned for her. Gwendolen’s resolution to live at Offendene with her mother and sisters marks a crucial turning-point in her movement from egotism. At the beginning of the novel, no home seemed adequate to her queenly desires and needs. Chapter 3 opens with the narrator’s declaration:

Pity that Offendene was not the home of Miss Harleth’s childhood, or endeared to her by family memories! A human life, I think, should be well rooted in some spot of a native

⁹⁴ Eliot, *Daniel Deronda*, p.423.

⁹⁵ Eliot, *Daniel Deronda*, pp. 693 and 695.

⁹⁶ Eliot, *Daniel Deronda*, p.427.

⁹⁷ Eliot, *Daniel Deronda*, p.767.

⁹⁸ Eliot, *Daniel Deronda*, p.758.

⁹⁹ Eliot, *Daniel Deronda*, p.761.

land, where it may get the love of tender kinship for the face of earth ... a spot where the definiteness of early memories may be inwrought with affection, and kindly acquaintance with all neighbours, even to the dogs and donkeys, may spread not by sentimental effort and reflection, but as a sweet habit of the blood.¹⁰⁰

No longer 'a quiet home which had once seemed a dullness to be fled from,' Offendene promises to be a 'spot of ... native land' with which Gwendolen can learn to achieve a 'tender kinship.'¹⁰¹ She may still be far from achieving this kinship, but she is as close as any of the English characters in the novel to such achievement. Although Deronda seems to face more significant geographical and political barriers before he can succeed in 'restoring a political existence to [his] people, making them a nation again, giving them a national centre,' his quest is not presented as more difficult than Gwendolen's.¹⁰² Her final moral resolution to 'live' and 'be better' will be as challenging as the nationalistic task which he has accepted from Mordecai.¹⁰³

Conclusion

The law becomes progressively less prominent as we move from *Felix Holt* to *Middlemarch* and *Daniel Deronda*, but its subtle and elliptical presence suggests how Victorian anxieties about inheritance and succession were related to their attempts to reform social arrangements without losing touch with their cultural traditions. Inheritance is presented by Eliot as an enervating possession in the hands of those, like Casaubon and Grandcourt, who covet and exploit only the status it confers, but an opportunity for those, like Esther, Dorothea, Gwendolen, and Daniel, who accept a portion of their inheritances without surrendering their personal independence or right to decide their course apart from familial responsibilities. Reaching a pragmatic compromise between status and contract, rather than a complete movement from one condition to the other, is the preferred course of action—inheritance in moderation, a practice supported by land law reformers, political economists, and novelists. By reading Maine in dialogue with Eliot, and

¹⁰⁰ Eliot, *Daniel Deronda*, p.22.

¹⁰¹ Eliot, *Daniel Deronda*, p.762.

¹⁰² Eliot, *Daniel Deronda*, p.803.

¹⁰³ Eliot, *Daniel Deronda*, p.807.

using the former's status-contract theory as a conceptual model with which to illuminate the contradictory emphasis in social discourse on both family and individual rights, it is possible to show how the interconnections between jurisprudence and literature contributed to the formation of a juridical imaginary, the contours of which are seen most clearly in the inheritance plots of Victorian fiction.

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