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## The Home of the Dispossessed

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## THE HOME OF THE DISPOSSESSED

Allison Anna Tait\*

### Abstract

*The objects that people interact with on a daily basis speak to and of these people who acquire, display, and handle them—the relationship is one of exchange. People living among household objects come to care for their things, identify with them, and think of them as a constituent part of themselves. A meaningful problem arises, however, when people who have deep connections to the objects that populate their lived spaces are not those who possess the legal rights of ownership. These individuals and groups—usually excluded from the realm of property ownership along lines of gender, race, and ethnicity—live on an axis of property precarity, persistently subject to the anxieties as well as the realities of dispossession. This Article’s launching point to explore these dispossessions is Henry James’ novel, *The Spoils of Poynton*, which involves a dispute about the settlement of a father’s estate and describes the battle between mother and son over the furnishings of the family home, Poynton. On a descriptive level, *The Spoils of Poynton* is a novel about a wife’s dispossession and the gendered nature of inheritance. The novel is also, however, about the exclusions built into property theories of labor and personhood. Accordingly, this Article explicates tactics of dispossession inherent in traditional theories of property ownership, explores the legal claims made to property ownership by those who have been dispossessed, and analyzes the ways in which the meaning of property for these individuals and communities is reconstituted within the political imaginary. The novel therefore tells the story not only of a property conflict between mother and son but also of how individuals who straddle the fragile boundary between personhood and objecthood both experience property as liminal fragments of the rightsholder*

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\* Allison Tait, Professor of Law, University of Richmond School of Law. My thanks to those who have helped me think through the themes in this Article, through conversation and comments, in particular Erez Aloni, Michael Boucai, Erin Collins, Bridget Crawford, Claudia Haupt, Linda McClain, Luke Norris, Carla Spivack, and Sarah Swan. My thanks go also to the editors of this journal who took interest in a law review article about Henry James and were invaluable partners in bringing this Article to publication.

*they could have been and perform their property ownership as a political declaration. In this way, the novel tells the story of what it is like to live in the home of the dispossessed.*

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I came into this world anxious to uncover the meaning of things, my soul desirous to be at the origin of the world and here I am an object among objects.

-Frantz Fanon, *Black Skins, White Masks*

### Introduction

As people read novels in their living rooms, make breakfast in their kitchens, and pay bills in their studies, they are not only surrounded by various sets of objects, but they are also in relationships with those objects, whether the objects happen to be collected china, floral wallpaper, leather notebooks, or canisters of tea. Objects speak to and of the people who acquire, display, and daily handle them—the relationship is one of exchange. Those living among the objects come to care for the things, identify with them, and think of them as some part, small or large, of themselves. A meaningful problem arises, however, when people who have deep connections to the objects that populate their lived spaces are not those who possess the legal right to own them. These individuals

and groups live along an axis of property precarity, persistently subject to the anxieties as well as the realities of dispossession.

This problem is made all the more acute because, as Patricia Williams tells us, the history of property rights is a history of literal entitlement for elite white men, polar bears living in a world in which “the primary object of creation was polar bears, and the rest of the living world was fashioned to serve polar bears.”<sup>1</sup> Property rights can be defined by “[a] lunacy of polar bears. A history of polar bears. A pride of polar bears. A consistency of polar bears. The brilliant bursts of exclusive territoriality.”<sup>2</sup> In a land of polar bears, those who are dispossessed are many. Numerous groups lack robust property rights and have not been historically considered natural property owners in classical formulations of rights. Moreover, certain groups of people have not only been historically dispossessed of the right to own property, but they have also been dispossessed of property rights in their own persons and their personhood-property has been expropriated in service of polar bears. Put differently, enslaved, minoritized, and marginalized populations have been erased from the legal category of property owners and have been transformed into property, sources from which to extract labor and sometimes even objects of sale and exchange. For these, multiple groups of people—people who are subject to various, capricious, and violent forms of dispossession—property is not just “a site of affect, sentiment, dreams and passions”<sup>3</sup> but also a site of “injustices, confusions and fantasies.”<sup>4</sup>

This Article is an inquiry into the question of the entwinement of property and identity and how the meaning of this entwinement shifts for those who have been dispossessed of property rights, personhood, or both. In other words, this Article presses on the question of what it means to straddle the boundary between personhood and objecthood and what property ownership means in that context. In service of this inquiry, this Article takes up and explicates tactics of dispossession that result from traditional theories of property ownership, the legal claims

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1. Patricia Williams, *On Being the Object of Property*, 14 SIGNS: J. WOMEN CULTURE & SOC'Y 5, 16 (1988).

2. *Id.* at 24. There are certainly other readings of the polar bears as well, and they are used throughout Williams' piece in various ways. The allegory of the polar bears in Williams' piece is multifaceted and, as Angela P. Harris writes, “seems both to invite and to confound interpretation.” Angela P. Harris, *Foreword: The Jurisprudence of Reconstruction*, 82 CALIF. L. REV. 741, 756 (1994).

3. DEBORAH WYNNE, WOMEN AND PERSONAL PROPERTY IN THE VICTORIAN NOVEL 16 (2010) [hereinafter WYNNE, WOMEN AND PERSONAL PROPERTY].

4. *Id.*

made to property ownership by those who have been dispossessed, and ways in which the meaning of property for these individuals is reconstituted within the political imaginary. What this Article ultimately reveals is that dispossessed individuals and groups may experience their relationship to property as both spectral substance and political performance.

The launching point for these explorations is Henry James' novel, *The Spoils of Poynton*.<sup>5</sup> *The Spoils* was first published in 1896 in the *Atlantic Monthly* under the title of *The Old Things*.<sup>6</sup> The novel is about a seemingly commonplace dispute over the correct settlement of a father's estate and a battle between mother and son over the furnishings of the family home, Poynton. The story also, however, provides a window into the nature of property ownership, raising questions about the link between ownership and identity and addressing what it means to be dispossessed of property when a deep connection exists between person and object. *The Spoils*, a meditation on what the relationship between people and their property signifies, is inflected with questions of acquisition and inheritance, as well as fetish and resistance. By centering the novel on a set of "splendid things," as one scholar has remarked, "[p]ossession is immediately established as the novel's salient concern, even as its meaning is made to seem increasingly unintelligible."<sup>7</sup>

And center on things is exactly what the novel does. In his Preface to the story, James designates Poynton's objects as the "core" and the "key" to the dramatic construct: "[T]he citadel of the interest . . . would have been the felt beauty and value of the prize of the battle, the Things, always the splendid Things, placed in the middle light, figured and constituted, with each identity made vivid."<sup>8</sup> The things are the prize and the drama consists of the competing claims made to these things by mother and son. The son, Owen Gereth, is vested with full legal rights since he has inherited the property from his father, through the male line of succession.<sup>9</sup> His mother, Adela Gereth, has other plans for the property and tries to establish her own line of female succession by ma-

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5. HENRY JAMES, *THE SPOILS OF POYNTON* (Bernard Richards ed., Oxford Univ. Press 2008) (1982).

6. ". . . [P]ublished in book form the following year . . . James toyed with the idea of 'The House Beautiful' as a title," but landed on *The Spoils*." Victoria Mills, 'A Long, Sunny Harvest of Taste and Curiosity': Collecting, Aesthetics and the Female Body in Henry James's *The Spoils of Poynton*, 18 *WOMEN'S HIST. REV.* 669, 670 (2009).

7. Lee Clark Mitchell, "To suffer like chopped limbs": *The Dispossession of The Spoils of Poynton*, 26 *HENRY JAMES REV.* 20, 24 (2005).

8. JAMES, *supra* note 5, at xlvi.

9. *Id.* at 7.

nipulating Owen's marriage prospects.<sup>10</sup> Adela wants to leave what she considers to be her property to her chosen heir, despite the legalities of the will.<sup>11</sup> To this end of reshaping inheritance lines, Adela puts forth claims to the property based both on labor and personal connection to the things.

The labor claim fails because she is not an authorized legal actor, entitled either to own her labor or reap its profits, according to a masculinist framework of property and inheritance rights—that is to say, according to traditional rules of property ownership, particularly those operative within marriage. The personhood claim fails because her relationship to the objects is negatively judged—by the forces of a privileged, masculinist authority—to be an inappropriate relationship of fetish. The strength of these two claims that Adela makes—as well as the uncertainty of their success—defines Adela's relationship with the objects throughout the novel.

In reading this family dispute over furniture and art objects, three threads are of particular importance. The first is the notion of inheritance or legacy. This Article explains how the novel is the recounting of a conflict not just between mother and son but between modes of inheritance. The novel posits questions about why certain inheritance practices prevail by troubling the lines between legal and moral ownership. At the same time, the novel is a sustained exploration of alternate inheritance patterns, pursuing generative possibilities for alternative, affinity-based genealogies and indulging in fantastical possibilities for the reshaping of lines of masculinist inheritance according to female entitlement.

The second thread that runs through the analysis is the concept of liminality. Adela Gereth sits along many borders or boundaries in her life. The novel introduces her as a woman in the midst of enormous life changes, from wife to widow, from caretaker of a large and lovely estate to dowager in a small, chintz-filled cottage.<sup>12</sup> She is also liminal in other, less obvious, senses and the novel is a prolonged contemplation of Adela's legacy, positioned as she is in the shadows of life, looking into the world of death, history, and heritage. Finally, because of her relationship with Poynton's objects, Adela is positioned between the states of personhood and objecthood, embodying a certain fluidity of being, materiality, and identity. These liminalities inform her relationship with the things at Poynton and, ultimately, define it.

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10. *Id.* at 10-13.

11. *Id.* at 20-21.

12. *Id.* at 1-10.

The third thread is that of performativity. Part of what ownership is for Adela Gereth is a performative act. That is to say, she acts out her ownership through a series of communications and exchanges with everyone around her, speaking her connection to the objects and “performing” her role of property owner despite her lack of legal ownership. For Adela, her identity is “constructed iteratively through complex citational processes,”<sup>13</sup> including conversations about the objects and her relation to them, constant comments about other people and their lack of taste and understanding, and her aggressive and pointed display of the objects to others with less aesthetic understanding.<sup>14</sup> This performativity takes a political turn as Adela is slowly but surely dispossessed of her things and this political performativity of property ownership ultimately becomes a defining quality of Adela’s relationship to the fine things she has collected and cherished.

Using *The Spoils of Poynton* as an imaginative touchstone for thinking about the relationship between people and things, a primary contribution of this Article is to offer a reading of Adela Gereth’s story as a property parable through which to better understand the fraught connections between personhood, objecthood, and the performance of property. The novel, used in this way, provides a window onto a greater landscape of dispossession and reclamation, and this Article is grounded in the notion that Adela’s predicament speaks to the condition, more generally, of people who have had their personhood commingled with or mediated through objecthood. Adela Gereth’s situation and surroundings are particular, both decorous and wealth-saturated, but the fact of her dispossession and legal objectification brings her character into association and conversation with multiple other groups of dispossessed people. In this sense, Adela is one of many possible representatives of the population of those who have been dispossessed of legal rights to property and, whether because of race, gender, or ethnicity, been turned into forms of property themselves. She does not and cannot speak to the particularity of other experiences—sitting as she does in the midst of wealth and resources in her dower house, lamenting the loss of her priceless objects and judging others for their lack of taste. Nor can her predicament take account of all the intricate and intimate forms of violence that are visited upon the dispossessed. Nevertheless, her story affords a highly individualistic and deeply psychological view into the collective experience of objecthood and dispossession.

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13. ANDREW PARKER & EVE SEDGWICK, PERFORMATIVITY AND PERFORMANCE 2 (1985).

14. See, e.g., JAMES, *supra* note 5, at 15-21 (describing Mona’s first visit to Poynton).

In pursuing this analysis, this Article engages with multiple literatures. Most obviously, the Article bridges scholarship on Henry James and property theory and puts in conversation these relatively discrete areas of research.<sup>15</sup> With respect to property theory, the Article takes up Lockean and other classic property theories<sup>16</sup> as well as more currently prevalent theories of property, in particular the property as personhood theory articulated by Margaret Radin,<sup>17</sup> in order to reveal biases inhering in both classical and modern theories of ownership. The biases that inhere in Locke will come as little surprise to any critical reader of his work, and *The Spoils* reveals how deeply entrenched the prohibition on “natural” female ownership is. More surprising, perhaps, is the degree to which personhood theories also fail Adela Gereth in her quest to bequeath property because these more modern theories mark her relationship as one of fetish and penalize it accordingly. This penalty reflects a misunderstanding of the nature of property ownership for those whose personhood is precarious and imposes a frame of privilege where none exists. In addition, the Article engages with legal history literature in order to better analyze the historical framework of inheritance as well as the legal dispossession of married women in James’ era. Finally, this Article engages with literary theory. Support for this Article’s arguments around dispossession, liminality, and the performance of property derives from work done by post-structuralist literary theorists, including Judith Butler and Athena Athanasiou,<sup>18</sup> as well as Eve Kosofsky Sedgwick.<sup>19</sup> These writers share a sensibility that informs this Article with respect to conditions of the precarity of personhood, the possibilities of dispossession, and the performance of objecthood.

This Article proceeds in three Parts. Part One is about inheritance. This Part describes the two forms of inheritance that organize the nov-

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15. For several other scholars who have taken up this theme, see Miranda Oshige McGowan, *Property’s Portrait of a Lady*, 85 MINN. L. REV. 1037 (2001); Jeanne Lorraine Schroeder, *Virgin Territory: Margaret Radin’s Imagery of Personal Property as the Inviolable Feminine Body*, 79 MINN. L. REV. 55 (1994).

16. JOHN LOCKE, *THE SECOND TREATISE OF GOVERNMENT* (Barnes & Noble Publishing, Inc. 2004) (1690).

17. See Margaret Jane Radin, *Property and Personhood*, 34 STAN. L. REV. 957 (1982).

18. See generally JUDITH BUTLER & ATHENA ATHANASIOU, *DISPOSSESSION: THE PERFORMATIVE IN THE POLITICAL* 158-63 (2013). For a small sampling of other work on property theory and dispossession, see ROBERT NICHOLS, *THEFT IS PROPERTY! DISPOSSESSION AND CRITICAL THEORY* (2020); BRENNA BHANDAR, *COLONIAL LIVES OF PROPERTY: LAW, LAND, AND RACIAL REGIMES OF OWNERSHIP* (2018); LISA LOWE, *THE INTIMACIES OF FOUR CONTINENTS* (2015); and AILEEN MORETON-ROBINSON, *THE WHITE POSSESSIVE: PROPERTY, POWER, AND INDIGENOUS SOVEREIGNTY* (2015).

19. See SEDGWICK & PARKER, *supra* note 13; see also EVE KOSOFSKY SEDGWICK, *TOUCHING FEELING: AFFECT, PEDAGOGY, PERFORMATIVITY* (2003).

el—legal and imaginative—grounded firmly in gendered concepts of marriage, generational wealth transfer, and property ownership. This Part situates the conflict between mother and son by explaining not only their personal feelings and motivations but also by describing the relevant legal history. This discussion of legal history delves into the disability of married women under coverture and the traditional modes of household wealth management as well as reforms that were taking place around the time of the novel, bringing new property rights to married women. Part Two is about Adela's claims to Poynton's spoils and why they uniformly fail. This Part describes in detail the legal mechanisms and doctrines by which Adela is dispossessed of her beautiful things, traveling through classic doctrines of labor and discovery to modern theories of personhood. On every front, law and property theory deprive Adela of rights and this Part chronicles that deprivation as Adela is repeatedly excluded from a masculine community of rightsholders and property owners. Part Three provides a way to understand the role of property and property rights for those who have been dispossessed and whose identities blur the boundary between personhood and objecthood. This Part explicates how Adela's relationship to Poynton's property should be, more properly, understood as a relationship of liminality, spectrality, and performativity. The story of property in this Part also expands to bring in a discussion of the ways in which Adela's situatedness with respect to property is in some ways translatable to others who have been dispossessed and objectified.

On one level, *The Spoils of Poynton* is a novel about a family home and a mother's dispossession through inheritance. It is also, on a deeper level, about what it means to live in, desire, and fight for a home when that home belongs—and always has—to someone else. The novel is, accordingly, an exploration of what it means to live in, leave, and long for the home of the dispossessed.

### I. Poynton as Inheritance

The central drama of Henry James's *The Spoils of Poynton* is at once disarmingly simple and foreseeably ill-fated. Boiled down to its essence, the novel is about a mother, Adela Gereth, and her son, Owen, fighting over furnishings—the “spoils”—at Poynton, the family home, after the death of the husband and father.<sup>20</sup> As one scholar has remarked: “On the surface, the story of *The Spoils of Poynton* concerns a struggle over

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20. JAMES, *supra* note 5, at xliii.

the ownership of some fine furniture.”<sup>21</sup> It is an estate dispute, the kind that would not look misplaced in either society write-ups or probate court records. In fact, Henry James, in his Preface to the novel, remarks that the impetus for writing the novel arose during a Christmas Eve dinner conversation, when a friend recounted a story from the news of “an odd matter.”<sup>22</sup> This matter involved “a good lady in the north, always well looked on, [who] was at daggers drawn with her only son, ever hitherto exemplary, over the ownership of the valuable furniture of a fine old house just accruing to the young man by his father’s death.”<sup>23</sup> The novel is, then, “a story of cabinets and chairs and tables.”<sup>24</sup> It is also a story of a recently widowed woman trying to counter her son’s legal claims of ownership over the magnificent objects in her family and marital home in order to leave them to *her* chosen heir. It is, from this perspective, an exploration of inheritance rules and what it means to create a legacy through property transfer.

This Part explains the legal rules and customs around inheritance that give rise to the narrative’s central tension, explicating how these legalities are imbricated with the themes of male succession and gendered inheritance. This Part also explains Adela Gereth’s personal project of imaginatively rewriting her husband’s will in order to establish a female line of inheritance by choosing her own successor and heir to Poynton. From this perspective, the novel is the tale of two wills—one written and the other unwritten, one legal and the other affective, one imbued with paternal, patriarchal power and the other a feminist reimagining—and the drama that unfolds is a test to see which last will and testament prevails.

#### A. *The “Cruel English Custom”*

The unexamined driver of the story—the crucial document rarely discussed—in *The Spoils of Poynton* is a will.<sup>25</sup> It is the will that Adela

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21. Sean O’Toole, *Queer Properties: Passion and Possessions in THE SPOILS OF POYNTON*, 33 HENRY JAMES REV. 30, 36 (2012).

22. JAMES, *supra* note 5, at xli.

23. *Id.*

24. *Id.*

25. “...Mr. Gereth haunts the entire novel—how the struggle for control and possession of Poynton among the various parties in the novel is staged within the boundaries laid down by the absent father, in this case quite literally by the Name-of-the-Father, the signature of his will under the British law of primogeniture.” Fotios Sarris, *Fetishism in The Spoils of Poynton*, 51 NINETEENTH-CENTURY LITERATURE 53, 69 (1996).

Gereth's husband wrote, leaving Poynton and all its furnishings to their only son, Owen.<sup>26</sup> By the second chapter, the reader already knows the facts of the inheritance (or disinheritance)—“Poynton . . . was [Mrs. Gereth's] established, or rather her disestablished home, having recently passed into the possession of her son”<sup>27</sup>—and Adela Gereth's new status is underscored by a description of Adela rustling along the hallways in “her fresh widow's weeds.”<sup>28</sup> In line with customary inheritance practices, “[t]he house and its contents had been treated as a single splendid object; everything was to go straight to his son, and his widow was to have a maintenance and a cottage in another county.”<sup>29</sup> In other words, “despite Mr. Gereth's knowledge of his wife's passion for Poynton and the antiques she shaped into a ‘complete work of art,’ he based his will on the custom of primogeniture.”<sup>30</sup> Poynton, the couple's early Jacobean house, described as “exquisite,” and “supreme in every part,”<sup>31</sup> had been Mrs. Gereth's personal project and refuge for over two decades and yet Mr. Gereth bequeathed the house and its belongings without question to Owen, the son. Although Mr. Gereth's intentions are never mentioned or discussed, Mr. Gereth apparently assumed his wife and Owen would “settle” and “that he could depend on Owen's affection and Owen's fairness” if any problems or conflicts arose.<sup>32</sup>

It is worth noting, however, that while the tradition of passing all real property along with any titles to the oldest son was the custom and in previous centuries had been legally mandated,<sup>33</sup> at the time of Mr. Gereth's death, he was in no way obligated to leave his estate as he did. Published in 1896 and taking place around the same time, the Gereth estate dispute unfolds against a socio-legal backdrop of great change and upheaval with respect to the inheritance and property rights of married women. At issue, during the last half of the nineteenth century in England, was the question of a married woman's right to own, inherit, and control property, and debates about these rights overflowed from the

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26. JAMES, *supra* note 5, at 7.

27. *Id.*

28. *Id.* at 2.

29. *Id.* at 9.

30. WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 149.

31. JAMES, *supra* note 5, at 13.

32. Deborah Wynne, *The New Woman, Portable Property and The Spoils of Poynton*, 31 HENRY JAMES REV. 142, 145 (2010) [hereinafter Wynne, *The New Woman*].

33. See JOHN BAKER, AN INTRODUCTION TO ENGLISH LEGAL HISTORY, 279-96 (5th ed. 2019).

floors of Parliament into lecture halls, bookstores, and family sitting rooms.<sup>34</sup>

The traditional concept of coverture, which had held in England for centuries, dictated that married women had no need for property rights within marriage since they were “covered” by their husbands.<sup>35</sup> The conventional belief was that, “[i]f wives were autonomous property owners they would. . . assert their individuality, an idea which threatened the conservative view of marriage as a union of unequal partners, with wives as dependent on husbands and legally disabled for their own protection.”<sup>36</sup> These property rules also dictated that, at the death of the husband, the surviving spouse receive a small part of the estate—her dower, which often included both a small income and a dower house—to sustain her until death.<sup>37</sup> Because husbands were loath to diminish the amount of the estate going to the eldest son, dower entitled the surviving spouse to nothing more than the lifetime use and enjoyment of whatever assets were designated for her support.<sup>38</sup> The eldest son, then, took over the family home and grounds as well as all the personal property that was attached to the estate, while the widow was expected to tuck herself away in the dower house, a bother to no one.

Change brought about by feminist activists and social reformers at the end of the century, however, fundamentally changed these practices and the material condition of women as wives and widows. In a wave of reforms that took place between 1870 and 1893, the property rules of coverture were overturned by a series of Married Women’s Property Acts (MWPA) that enabled married women in England to inhabit roles

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34. See MARY LYNDON SHANLEY, *FEMINISM, MARRIAGE, AND THE LAW IN VICTORIAN ENGLAND, 1850-1895*, 15-19 (1989).

35. For good overviews of the traditional framework of the coverture rules that governed married women’s property, see AMY LOUISE ERICKSON, *WOMEN AND PROPERTY IN EARLY MODERN ENGLAND* 24-26 (1993). For a more detailed analysis of married women’s forms of separate property and the position of married women, see SUSAN STAVES, *MARRIED WOMEN’S SEPARATE PROPERTY IN ENGLAND, 1660-1833*, at 221-22 (1990); see also EILEEN SPRING, *LAW, LAND, AND FAMILY: ARISTOCRATIC INHERITANCE IN ENGLAND, 1300 TO 1800*, at 8-66 (1993); Allison Tait, *The Beginning of the End of Coverture: A Reappraisal of the Married Woman’s Separate Estate*, 26 *YALE J.L. & FEMINISM* 2, 2-6 (2014).

36. WYNNE, *WOMEN AND PERSONAL PROPERTY*, *supra* note 3, at 23.

37. See SPRING, *supra* note 35, at 40.

38. The widow did not possess the right to sell, gift, or devise any of the property. Widowhood meant receiving a maintenance allowance without any true rights of ownership. For an overview of dower rights, see Allison Tait, *Trusting Marriage*, 10 *U.C. IRVINE L.REV.* 199, 205-08, 216-17 (2019).

as property holders and economic actors.<sup>39</sup> The first MWPA was passed in 1870 and it extended a first set of protections to married women, allowing them to keep their earnings, control certain forms of personal property, and control the rent from any freehold and copyhold property left to them in wills.<sup>40</sup> Dissatisfied because many of their demands had been left out of the first Act,<sup>41</sup> feminist reformers pushed for additional legislation and in 1882 a second MWPA was enacted that protected property that women brought into marriage.<sup>42</sup> The 1882 Act provided property protection for all women, regardless of what assets they owned and their manner of wealth-holding, and the Act “was heralded by The Women’s Suffrage Journal as ‘the Magna Charta’ of women’s freedom.”<sup>43</sup> The third Act, passed in 1893, took property ownership for women to its logical conclusion (for creditors) and “made wives fully liable for their own debts.”<sup>44</sup> Moreover, as these reforms changed what women could own during marriage, they also changed patterns of inheritance after marriage by allowing widows to own and control more of the assets acquired during the marriage.

From this perspective, Adela Gereth, forced from her home and stripped of her position—forced into the traditional role of dowager rather than the modern role of property inheritor—is “trapped in the past” because “her old-fashioned husband makes a will which does not

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39. See generally SHANLEY, *supra* note 34. See also LEE HOLCOMBE, *WIVES AND PROPERTY: REFORM OF THE MARRIED WOMEN’S PROPERTY LAW IN NINETEENTH-CENTURY ENGLAND* (1983); Carole Shammas, *Re-Assessing the Married Women’s Property Acts*, 6 J. WOMEN’S HIST. 9 (1994); Ben Griffin, *Class, Gender, and Liberalism in Parliament, 1868-1882: The Case of the Married Women’s Property Acts*, 46 HIST. J. 59, 80 (2003).

40. Mary Beth Combs, *Cui Bono? The 1870 British Married Women’s Property Act, Bargaining Power, and The Distribution Of Resources Within Marriage*, 12 FEMINIST ECON. 51, 54 (2006). See also WYNNE, *WOMEN AND PERSONAL PROPERTY*, *supra* note 3, at 24. There is debate over how beneficial this legislation was to married women. Arguing that the legislation was relatively ineffective, see HOLCOMBE, *supra* note 39, at 166-183.

41. WYNNE, *WOMEN AND PERSONAL PROPERTY*, *supra* note 3, at 24. Other dissatisfactions: “In the first place, a string of judicial decisions showed that the 1870 act was not working as intended. . . . Secondly, creditors were lobbying intensively for changes in the law, as it was proving difficult to recover debts from married women.” Griffin, *supra* note 39, at 80.

42. Most scholars agree that the 1882 MWPA was not only a more fulsome, but a more effective mechanism for securing married women’s property rights. See HOLCOMBE, *supra* note 39, at 184-205 (“The Act of 1882 sought to embody the principles for which women and their supporters had striven so long – that married women should have the same rights over property as unmarried women, and that husbands and wives should have separate interests in their property.”).

43. WYNNE, *WOMEN AND PERSONAL PROPERTY*, *supra* note 3, at 25.

44. *Id.*

allow her to take advantage of the reformed property laws<sup>45</sup> and become an economic actor in her own right upon his death.<sup>46</sup> Her husband, firmly entrenched as a member of an older generation, chose custom over reform.<sup>47</sup> James may also be suggesting that Adela herself belongs to the older generation, thereby explaining the fact that she does not quibble with the legal form of property transfer that her husband chose. Adela was “young in the 1850s, when the feminist campaign for the reform of the married women’s property laws began in earnest,”<sup>48</sup> but she was not necessarily either part of or sympathetic to the social movements that sought increased property rights for married women. Underscoring this aversion to modernity and change, Adela is decidedly not sympathetic to Mona Brigstock, Owen’s fiancée, who is not only “intent on her rights” but also “at home in fin-de-siècle culture.”<sup>49</sup> In fact, Mona, rather than Adela’s husband, seems to bear the brunt of the furor that Adela feels due to the “injury” and “bitterness”<sup>50</sup> of her new status, dispossessed of both her objects as well as the respect due to her for curating them. Adela, then, may not be a feminist reformer or even a modern-facing woman, desirous of wholesale change with respect to gendered patterns of property ownership.

Nevertheless, when the customs of dower result in Adela losing not only her husband but also her home,<sup>51</sup> Adela feels the injury of property loss acutely. She is painfully sensitive to the “cruel English custom of the expropriation of the lonely mother”<sup>52</sup> and she repeatedly bemoans the

45. *Id.* at 146.

46. It is intriguing to think about what rights Adela would have had to the property if the MWPA had been in effect from the inception of her marriage. James does not, however, give the reader any clues about where their family money came from or how they came to purchase all the glorious spoils that adorned Poynton.

47. One scholar remarks, “Legal reforms, [James] suggests, do not by themselves have the power to change entrenched mental states or deep-rooted traditions.” WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 124.

48. WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 146.

49. *Id.*

50. JAMES, *supra* note 5, at 52.

51. For more of dower and the financial fate of the dowager, see SPRING, *supra* note 35, at 39-65. See also LLOYD BONFIELD, MARRIAGE SETTLEMENTS, 1601-1740: THE ADOPTION OF THE STRICT SETTLEMENT (1983).

52. JAMES, *supra* note 5, at 15. James refers to these inheritance customs both as cruel and, in his notebooks, “ugly”: “It presents a very fine case of the situation in which, in England, there has *always* seemed to me to be a story—the situation of the mother *deposed*, by the ugly English custom, turned out of the big house on the son’s marriage and relegated.” THE COMPLETE NOTEBOOKS OF HENRY JAMES 79 (Leon Edel & Lyall H. Powers eds., 1987). Entirely different in scope and style is the dower house, Ricks. Ricks is “the sweet little place offered to the mistress of Poynton as the refuge of her declining years.” JAMES, *supra* note 5, at 45.

reduced status of the widow when she is with Fleda, a kindred soul Adela meets at Waterbath, who becomes Adela's instant friend and protégée: "[Mrs. Gereth] hated the effacement to which English usage reduced the widowed mother: she had discoursed of it passionately to Fle-Fleda; contrasted it with the beautiful homage paid in other countries to women in that position."<sup>53</sup> James emphasizes the cruelty of Adela's becoming a dowager and the downgrading of her position in the contrast between Poynton, glorious in its refinement, and Ricks, the dower house that "had been left to the late Mr. Gereth. . . by an old maternal aunt, a good lady who had spent most of her life there."<sup>54</sup> Poynton and Ricks could not be more dissimilar—one exemplifying prestige, authority, and achievement, the other exile, financial modesty, and social erasure. Where Poynton is majestic, Ricks is dowdy; where Poynton is exquisitely tasteful, Ricks is cozy.<sup>55</sup> While Poynton is a place of aesthetic exaltation and material empowerment for Adela, Ricks is a site of female disempowerment and death, "crowded with objects of which the aggregation somehow made a thinness and the futility a grace,"<sup>56</sup> and redolent of a circumscribed and lonely life, led by the unmarried aunt.<sup>57</sup>

When Adela visits Ricks, with Fleda at her side, Fleda wonders "how a place in the deepest depths of Essex and three miles from a small station could contrive to look so suburban."<sup>58</sup> Owen himself admits that Ricks is certainly not on par with Poynton but, he remarks offhandedly, "what dower-house ever was?"<sup>59</sup> Ricks is a site of exile and Mrs. Gereth, as Fleda imagines her in residence at Ricks, is "Marie Antoinette in the Conciergerie, or perhaps the vision of some tropical bird, the creature of hot, dense forests, dropped on a frozen moor to pick up a living."<sup>60</sup> One scholar remarks that, "[t]ellingly, Mrs. Gereth's despair reaches its lowest point on the subject of doors."<sup>61</sup> Grating against Adela in a deep way, the narrator tells us that, "the thing in the world she most despised was the meanness of the undivided opening. From end to end, at Poynton, there were high double leaves. At Ricks the entrances to the rooms were like the holes of rabbit-hutches."<sup>62</sup> In other words, the doors

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53. JAMES, *supra* note 5, at 51.

54. *Id.* at 45.

55. *Id.* at 57.

56. *Id.*

57. *Id.*

58. *Id.* at 56.

59. *Id.* at 29.

60. *Id.* at 99-100.

61. O'Toole, *supra* note 21, at 41.

62. JAMES, *supra* note 5, at 36.

of Ricks conjure in her mind feelings of confinement, debasement, and the impotence of a caged animal. Ricks is, in this way, a powerful reminder of the small, ineffectual status of the widowed woman, the single woman, the woman without the power to either acquire, manage, and bequeath objects on a grand, masculine scale. It is “dower-house-as-convent.”<sup>63</sup>

Exiled to this small, musty, chintz-filled house, Adela ultimately cannot bear the thought of being parted from her things, from the majesties of Poynton; nor can she endure the thought of her spoils going into the hands of Mona Brigstock, by right as Owen’s intended spouse.<sup>64</sup> Finally, then, Adela does for herself what the law could not do for her: she boxes up all of Poynton’s treasures and sends them to Ricks, to decorate the dower house.<sup>65</sup> “This time,” one critic states, “the appellation ‘spoils’ seems doubly appropriate. She has already plundered foreign antique stores and workshops, accumulating her collection through patient seeking and careful selection. Now, faced with losing that collection under English inheritance law, she takes what she feels is rightfully hers.”<sup>66</sup> Adela Gereth does not quarrel with the law, she simply “refuses to recognize the legal system and its definitions of property ownership that control her relationship to the objets d’art.”<sup>67</sup> She puts forth her own, alternate claims to Poynton’s objects and takes control of the line of inheritance, forcing the central conflict of the novel.

With the furnishings removed from Poynton and his inheritance disrupted, Owen complains, “[N]aturally I want my own house, you know . . . and my father made every arrangement for me to have it.”<sup>68</sup> And Owen has the right of law of his side, embodying the male right and the right of legal title-holder. Accordingly, Owen mentions that he might be called upon to “set the lawyers at [my mother]” and threatens courtroom drama, saying “I’ll leave it all to my solicitor. *He* won’t let her off, by Jove.”<sup>69</sup> Owen, in his frustration, also claims “I’ve got a perfect case – I could have her up. The Brigstocks say it is simply stealing.”<sup>70</sup> At a certain point Owen even goes so far as to wonder whether

63. O’Toole, *supra* note 21, at 46.

64. JAMES, *supra* note 5, at 27-29.

65. *Id.* at 47.

66. O’Toole, *supra* note 21, at 46.

67. WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 147.

68. JAMES, *supra* note 5, at 28. The narrator explains, if somewhat facetiously, “[I]f [Owen] hadn’t a sense of beauty he had after all a sense of justice.” *Id.* at 31.

69. *Id.* at 61.

70. *Id.* at 66.

or not he “*must* send down the police.”<sup>71</sup> Ultimately, Owen never does take legal action against his mother. Nevertheless, as the legal heir and beneficiary of his father’s will, his interests align with law and its force because and, in this way, legal justice—the enforcement of the will—is thereby set up as contrasting with moral justice, or the right of Adela to keep the beautiful things that she has collected, curated, and cared for so assiduously.

“Cruel English custom,”<sup>72</sup> then, forces Adela Gereth from her home, vesting all legal right in her son Owen through masculinist customs of inheritance. Adela, dispossessed by this legal flow of inheritance, has other ideas about the disposition of Poynton’s property and is driven to create her own form of legacy. In this way, while “the power of civil authority always hovers at the margins of *The Spoils of Poynton* . . . there is a different order of power at play in the novel,”<sup>73</sup> an order associated not with legal rules but rather with identarian forms of authority.

#### B. *The Fraught Line of Female Inheritance*

Mr. Gereth’s will, leaving Poynton to his only son, represents the dictates, customs, and ideals of masculine succession. This transfer of property and wealth, done through legal modes and by legal documents, instantiates a conventional masculinist inheritance—the passing down of wealth from one generation of males to the next. There is, however, another last will and testament in the novel—the imaginative and impassioned will that Adela Gereth is in the process of writing in her mind as the novel progresses.<sup>74</sup> Adela, dissatisfied with Poynton going not just to Owen but to his chosen bride, Mona Brigstock, tries to script a new ending for her beautiful things and tries to effectuate her own intergenerational transfer, to her protégée Fleda Vetch.<sup>75</sup> To write this fantastical will, a will that will supersede her husband’s, Adela has no opportunity to make any real or outright transfer of Poynton’s things to Fleda, her chosen heir.<sup>76</sup> Instead, Adela must manipulate Owen’s marriage, substitute Fleda for Mona in Owen’s affection, and garner a marriage pro-

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71. *Id.* at 109. Adela, ready for the challenge, proclaims that she will happily “be dragged out of the house by constables.” *Id.* at 32.

72. *Id.* at 9.

73. NANCY BENTLEY, *THE ETHNOGRAPHY OF MANNERS: HAWTHORNE, JAMES, WHARTON* 137 (1995).

74. Mrs. Gereth wishes Poynton to serve as a compensation for her death, a piece of herself that will survive her own extinction. Sarris, *supra* note 25, at 70.

75. JAMES, *supra* note 5, at 20-21.

76. *Id.*

posal for Fleda.<sup>77</sup> (Ultimately, Adela succeeds in the first ambition but fails in the second.)<sup>78</sup>

In strategic terms, Adela must move hearts and minds in order to write out the provisions of her will (which, had the undertaking been successful, would have been written in between the lines of Fleda's and Owen's marriage contract).<sup>79</sup> In practical terms, Adela must literally move rooms full of furniture in her attempt to rewrite the will, transferring the furnishings from Poynton to Ricks when the threat of Owen marrying Mona first arises, then sending them back from Ricks to Poynton when she is sure that Owen and Fleda love one another and (mistakenly) assumes that they will marry.<sup>80</sup> Adela's large-scale goal, effectuated through these strategic moves and machinations with respect to the spoils, is to reclaim the right to not only possess but also transfer personal property, creating a female line of material influence and legacy.

That Mona Brigstock, Owen's intended (and ultimate) wife, is the wrong woman to inherit Poynton, at least in Adela's estimation, is made clear from the very beginning of the novel. When the reader first encounters Adela, she is staying at the Brigstock family home, Waterbath, and already pushing back against the notion of Mona as the future mistress of Poynton.<sup>81</sup> Waterbath is brimming with offensive ornamentation and "esthetic misery,"<sup>82</sup> and Adela has been "kept awake for hours by the wall-paper in her room."<sup>83</sup> Wherever she goes in the house, she seems to encounter "trumpery ornament," "scrapbook art," and "strange excrescences" that all seem to fit in a category of "prizes for the blind."<sup>84</sup> The carpets and curtains indicate a decorative sense that is "almost tragic"<sup>85</sup> and, when Mrs. Gereth meets her partner-in-crime, Fleda, she confides that "she had given way to tears"<sup>86</sup> in her room on account of the innumerable and distasteful objects surrounding her.

Waterbath (like Ricks) is the opposite of Poynton. One scholar remarks: "[Waterbath's] very dreariness establishes a contrast with an implied antithesis, a place assumed so casually that it first appears in the

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77. *Id.* at 25, 150-56.

78. *See id.* at 164.

79. *See id.* at 20-21, 140-45.

80. *Id.* at 46-51, 159-61.

81. *Id.* at 9-13.

82. *Id.* at 1.

83. *Id.*

84. *Id.* at 3.

85. *Id.* at 4.

86. *Id.*

novel as pronoun before the proper name Poynton is given.”<sup>87</sup> Waterbath is a home decorated with ready-made objects and steeped in fad-dish notions of taste driven by the “bourgeois marketplace.”<sup>88</sup> Unlike at Poynton, where the objects express the care of craftsmanship and the intense uniqueness of their possessor,<sup>89</sup> the furnishings at Waterbath are mass-produced and lacking in positive individuality.<sup>90</sup> The thought, then, that “[Adela] would have to give up Poynton, and give it up to a product of Waterbath—that was the wrong that rankled.”<sup>91</sup> Mona, as both Mrs. Gereth and Fleda know, does not appreciate the refinement of taste that produced such an exquisite, domestic composition as Poynton.<sup>92</sup> Quite to the contrary, Mona will, as one scholar remarks, “destroy [Poynton’s] dedication to the pre-industrial past by bringing in the ‘maddening relics of Waterbath, the little brackets and pink vases, the sweepings of bazaars.’”<sup>93</sup>

This fear of Poynton’s cheapening is confirmed when Mona first visits Poynton, on what Adela recognizes to be an inspection visit, with Owen.<sup>94</sup> Adela asks Owen what Mona makes of Poynton’s treasures, only for Owen to respond: “Oh she thinks they’re all right!”<sup>95</sup> When Adela presses on the issue, asking Owen: “Has she any sort of feeling for nice old things?” Owen adds, “Oh of course she likes everything that’s nice.”<sup>96</sup> But Mona gives the “nice old things” at Poynton a second thought only once they are removed from the house and in Adela’s possession at Ricks.<sup>97</sup> At that point, Owen confesses that Mona “[m]isses

87. Mitchell, *supra* note 7, at 24.

88. WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 146. Victoria Mills notes: “The Brigstocks’ collection constructs them as unsophisticated bourgeois consumers, thus furthering the association of women with low-quality objects and tawdry mass production.” Mills, *supra* note 6, at 672.

89. As Thomas Otten says, “The handmade object simultaneously embodies the physical actions of its maker and the physical characteristics of its user; it reaches backward and forward, forming a physical link between the hand of the artisan and the hand of the connoisseur.” THOMAS OTTEN, A SUPERFICIAL READING OF HENRY JAMES: PREOCCUPATIONS WITH THE MATERIAL WORLD 42-43 (2006).

90. See JAMES, *supra* note 5, at 3-4, 21-23.

91. *Id.* at 9.

92. *See id.*

93. WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 153. Fotios Sarris states: “While Poynton may distinguish itself by adhering to principles and values that rise above the crass materialism of Waterbath, the Brigstocks’ residence, its transcendence is constantly and forever threatened by such materialism.” Sarris, *supra* note 25, at 55.

94. JAMES, *supra* note 5, at 15.

95. *Id.* at 19.

96. *Id.* at 20.

97. *Id.*

them – rather! She was awfully sweet on them.”<sup>98</sup> Over the course of these events, Adela’s undisturbed judgment of Mona is that she is lacking in taste and superficial, with a grating “voice like the squeeze of a doll’s stomach”<sup>99</sup> and a talent for “putting down that wonderful patent-leather foot.”<sup>100</sup>

Adela’s feeling for Fleda is markedly different. In fact, as soon as they meet, Fleda and Mrs. Gereth bond over the atrocities of Waterbath (“Isn’t it too dreadful?”<sup>101</sup>) and, complicit in their critique of Mona, they unite in a “community of taste” that “makes Fleda and Mrs. Gereth ‘of the same family.’”<sup>102</sup> Although Fleda comes from a family of no social consequence and is at Waterbath because Mona’s mother has “taken her up” after their meeting through work on a woman’s committee, Adela notices that “Fleda Vetch was dressed with an idea”<sup>103</sup> and immediately decides that Fleda has “*flair*.”<sup>104</sup> This aesthetic kinship impels Adela to invite Fleda to Poynton to witness what a house can and should be and, once they are at Poynton, their kinship—as well as Fleda’s status as rightful heir—is cemented.<sup>105</sup>

When the two women, the “wiseheads,” travel down to Poynton, Fleda (“the palpitating girl”) has “the full revelation” of the place, gasping with pleasure and “rapture” from the moment of her “first walk through the house.”<sup>106</sup> Fleda’s introduction to the house is replete with

98. JAMES, *supra* note 5, at 97. Owen himself readily admits that Mona has a vested interest in the return of the objects: “She wants them herself . . . she wants to feel they’re hers; she doesn’t care whether I have them or not. And if she can’t get them she doesn’t want me.” Wynne, *The New Woman*, *supra* note 32, at 142. Mona will not consent to proceed with marriage plans until Owen is in “possession exclusive” of the objects. *Id.* at 214.

99. JAMES, *supra* note 5, at 11.

100. *Id.* at 62.

101. *Id.* at 3.

102. BENTLEY, *supra* note 73, at 133. Bentley is here citing to James’s notebooks. Fleda and Adela also share names that resonate with one another, close in sound and structure.

103. JAMES, *supra* note 5, at 2.

104. *Id.* at 8.

105. *Id.*

106. *Id.* at 13. In *Queer Properties*, O’Toole comments on the overtly sexualized language that characterizes the relationship between Fleda and Adela, as mediated through the objects at Poynton: “The erotic charge effected in and by Fleda and Mrs. Gereth’s love of things is as complicated as it is palpable throughout the novel. In addition to the (self-)touching, passionate embraces, gasps, tears, and knowing looks between Fleda and Mrs. Gereth, Fleda becomes caught up in both Mrs. Gereth’s attempt to prevent her son Owen’s marriage to Mona Brigstock and Owen’s attempt to get his mother to . . . return the ‘stolen’ things to Poynton. The traditional English marriage plot is thus implicated in, and frequently eclipsed by, the property story, character-

emotion, longing, physical response, and exhilaration; and this response is exactly what Adela has been waiting for:

[T]he two women embraced with tears over the tightening of their bond—tears which on the younger one’s part were the natural and usual sign of her submission to perfect beauty . . . [Adela] exulted in it; it quickened her own tears; she assured her companion that such an occasion made the poor old place fresh to her again and more precious than ever.<sup>107</sup>

This visit to Poynton confirms “Fleda’s fitness as an inheritor by showing her imaginative grasp of Poynton’s meaning.”<sup>108</sup> Fleda quickly becomes, in Adela’s mind, the appropriate marital choice for Owen because, as Adela tells Fleda: “I could give up everything without a pang, I think, to a person I could trust, I could respect.”<sup>109</sup> One scholar notes: “Fleda’s ecstatic response mirrors Mrs. Gereth’s feelings about Poynton exactly, in language that suggests both psychic-spiritual and physical union. They are feelings that derive not from mere ownership of individual objects but rather from the aesthetic *appreciation* of the total effect that Mrs. Gereth has created with them.”<sup>110</sup> Subsequent to this visit, after Fleda has demonstrated her kinship with Adela through the mediation of the objects, Adela decides to perform what is effectively the recitation and execution of her imagined will.<sup>111</sup> In front of Owen and Fleda both, speaking her last wishes in the mode of testamentary gift and in the context of her own death, Adela symbolically bequeaths what rights and investment she has in the objects to Fleda, saying: “*You* would replace me, *you* would watch over them, *you* would keep the place right . . . with you, I believe that I might rest at last in my grave.”<sup>112</sup>

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ized by a passionate same-sex bond between two women mediated by the material world of objects.” O’Toole, *supra* note 21, at 37.

107. JAMES, *supra* note 5, at 13.

108. Richard S. Lyons, *The Social Vision of The Spoils of Poynton*, 61 AM. LITERATURE 59, 72 (1989).

109. JAMES, *supra* note 5, at 20.

110. O’Toole, *supra* note 21, at 37. O’Toole also remarks that “things broker an eroticism that is not fully accounted for by the heterosexual romance/marriage plot and that is not reducible to James’s late stylistic eccentricities alone. Indeed, the distinctly queer valence of the novel is a function or extension precisely of its anti-Enlightenment association of furniture and feeling.” *Id.* at 39-40

111. JAMES, *supra* note 5, at 21.

112. *Id.*

One James scholar notes that, at this point, Fleda is the “true inheritor of Poynton.”<sup>113</sup> Adela, however, still has to manage the marriage between Fleda and Owen in order to effectively transfer her belongings to Fleda. Accordingly, she throws them together as much as chance will allow, counting on Fleda’s “flair”<sup>114</sup> to win the day. And just as she moved Poynton’s spoils from place to place, Adela must now move Fleda from house to house, like one more piece of furniture,<sup>115</sup> in her quest to prevail over Mona, the Brigstocks, and the common taste that built Waterbath.<sup>116</sup> When it is clear that Owen loves Fleda as much as Fleda loves Owen, only then does Adela move the things back from Ricks to Poynton, in anticipation of Fleda’s becoming their mistress.<sup>117</sup> Moving the objects back, “[Adela] thought solely and incorruptibly of what was best for the objects themselves; she had surrendered them to the presumptive care of the one person of her acquaintance who felt about them as she felt herself.”<sup>118</sup> Tragically, for Adela, Owen does not have the strength to break off his engagement with Mona and, consequently Mona holds him to his duty, the legal obligation of an engagement, in order to become the new Mrs. Gereth.<sup>119</sup> The social norms of engagement and the legal rules of love and marriage prevail—and Adela’s imaginative law of both property and passion fails.

At the end of the novel, then, Adela fails to secure the proper heir for her treasures, and she returns the things to Poynton only for Mona to take possession of them.<sup>120</sup> Nevertheless, the end holds some redemption for Adela and her things because Poynton is ultimately destroyed.<sup>121</sup> As a porter at the Poynton train station tells Fleda, a fire started by “[s]ome rotten chimney or one of them portable lamps set down in the wrong place”<sup>122</sup> has consumed the house, feeding greedily

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113. Lyons, *supra* note 108, at 70 (“If there were to be a true inheritor of Poynton, it could only be Fleda. She alone approaches to a completeness of being that is the counterpart of the cultural ideal Poynton represents.”).

114. JAMES, *supra* note 5, at 8.

115. *Id.* at 13, 46, 74, 135.

116. That Adela views Fleda as one more piece of furniture is clear later in the book when Adela states that Fleda is a “bit of furniture.” Further discussion of this statement is in Part II.2. In addition, there is Owen’s role as a pawn as well. “Although Owen on his father’s death inherits a position as the new patriarch of Poynton, this is nullified by the strength of his mother’s fighting spirit and his forceful fiancée’s tendency to render him a passive object.” Wynne, *The New Woman*, *supra* note 32, at 146.

117. JAMES, *supra* note 5, at 145.

118. *Id.* at 147.

119. *Id.* at 135-37, 163-69.

120. *Id.* at 159-61.

121. *Id.* at 182-84.

122. *Id.* at 183.

on Adela's precious objects and choking the entire neighborhood in smoke.<sup>123</sup> Adela's possessions are irreparably lost, past the point of recovery, but Adela can take solace in the fact that Mona will never enjoy possession of the Poynton's delights either. All inheritance is lost to flames.

## II. Poynton as Dispossession

Blackstone, writing over a century before James and the creation of Adela Gereth, remarked in his *Commentaries* that “[t]here is nothing which so generally strikes the imagination, and engages the affections of mankind, as the right of property.”<sup>124</sup> At the same time, Blackstone posed the question of how to locate the origin of property rights:

We think it enough that our title is derived by the grant of the former proprietor, by descent from our ancestors, or by the last will and testament of the dying owner; not caring to reflect that (accurately and strictly speaking) there is no foundation in nature or in natural law, why a set of words upon parchment should convey the dominion of land.<sup>125</sup>

James' novel presses on this same question: why does a last will and testament convey property ownership when it is no more than “a set of words upon parchment”?<sup>126</sup> Owen has gained his property rights through parchment, and the novel analyzes the question of his entitlement to the property, looking at it from multiple angles. In fact, one of the overriding preoccupations of the novel is the fact that “a lack of property rights does not automatically preclude a sense of ownership” because property “is as much about hopes and dreams as it is about legal rights.”<sup>127</sup> Adela Gereth exemplifies this latter position since, despite her lack of legal ownership, she feels an immeasurable sense of connection to Poynton's objects that to her represent a profusion of lived moments, victories, joys, and creative undertakings.

This Part explores the relationship between Adela and her things and explicates her claims to the property, explaining both the sound and

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123. *Id.* at 183-84.

124. 1 WILLIAM BLACKSTONE, COMMENTARIES ON THE LAWS OF ENGLAND IN FOUR BOOKS \*2 (Philadelphia: J.B. Lippincott Co. 1893).

125. *Id.*

126. *Id.*

127. WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 15.

scope of her arguments. This Part also explains why Adela's claims to Poynton ultimately fail. Traditional theories of property, based on labor, fail for Adela because women are excluded from the citizenry of those who labor, earn, and claim ownership rights. Adela's claims fail, however, even within the more modern and capacious framework of theories that posit personhood as a means to acquiring property rights. Adela's claims in this context fail because her relationship to the objects is negatively judged through a masculinist lens as fetishistic and obsessive. Ultimately, then, this Part explicates how married women in Adela's historical moment were excluded from the realm of rightsholding, and then broadens the lens to see not only how this gendered exclusion continues into modern property doctrines but also how exclusionary exceptions apply equally if differently to other populations of historically marginalized and objectified property aspirants.

#### A. *Adela Gereth's Labor and Skill as Collector*

Despite the fact that Adela Gereth has no legal claim to Poynton's things—conventional inheritance law having stripped her of her home and its furnishings—she nevertheless has, in theory, a classic and deeply entrenched property claim to the objects: her labor. She has strenuously but joyfully labored to curate the dazzling collection of things that adorn Poynton and the property is unmistakably a product of her energy and attention. Her claim to ownership through labor nevertheless fails because she is not the model, masculine laborer who has an automatic and protected right to the labor of one's mind and body.

##### 1. A "Harvest of Taste and Curiosity"

One of the foundational, classic theories of property rights, articulated by John Locke, allocates rights to property based on an individual's labor.<sup>128</sup> Locke famously described the relationship between person and property in this way:

Though the earth, and all inferior creatures, be common to all men, yet every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath

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128. LOCKE, *supra* note 16.

provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property.<sup>129</sup>

It is through labor—through sweat, exertion, and aptitude—that individuals appropriate goods from the commons and lay a personal claim to them, transforming public goods into private property. This is “the story of the man who quite naturally has property in his person, who has self-ownership, and hence who has the right to his capacities and to the products of his labours.”<sup>130</sup>

Property ownership was, for Locke, the key not only to a well-ordered democratic society but also to the self-actualization of citizens. Locke was one of the original proponents of a theory of property in which “individuality . . . can only be fully realized in accumulating property.”<sup>131</sup> Both in his time and subsequently, his writings gave rise to the work of other philosophers who emphasized the role of property ownership as a cornerstone of both civic and economic citizenship.<sup>132</sup> A leading Locke theorist, C.B. Macpherson, coined the term “possessive individualism” to describe this Lockean framework of property, stating that this time period gave rise to a society in which “equal individuals related to each other as proprietors of their own capacities and of what they have acquired by their exercise.”<sup>133</sup>

Within this framework of Lockean labor, Adela has a stronger claim than any other character in the novel. Adela Gereth is a collector who has engaged in tremendous labor to build her collection, the “work involved in the accumulation of knowledge, the painstaking hunt for objects, their classification and arrangement.”<sup>134</sup> Over the duration of their marriage, the Gereths took great pleasure in their collecting trips

129. *Id.* at 17.

130. Ngaire Naffine, *The Legal Structure of Self-Ownership: Or the Self-Possessed Man and the Woman Possessed*, 25 J. L. & SOC’Y, 171, 197 (1998).

131. C. B. MACPHERSON, *THE POLITICAL THEORY OF POSSESSIVE INDIVIDUALISM: HOBBS TO LOCKE* 255 (3d. ed. 2011).

132. For an excellent overview of Locke’s contributions to property theory, see Chapter 2 in GREGORY S. ALEXANDER & EDUARDO M. PEÑALVER, *AN INTRODUCTION TO PROPERTY THEORY* (2012) (“No single person has had more of an impact of property thought in the English-speaking world than John Locke.” *Id.* at 36).

133. *Id.*; see also BUTLER & ATHANASIOU, *supra* note 18, at 160 (“When property is linked ontologically with individualism, inequality is implied.”).

134. Mills, *supra* note 6, at 671; (“indeed William James, psychologist brother of Henry, describes collections as being ‘saturated with our labor’”).

across Europe<sup>135</sup> and Adela Gereth approached acquisition with strategy and energy:

[S]he never denied there had been her personal gift, the genius, the passion, the patience of the collector—a patience, an almost infernal cunning, that had enabled her to do it all with a limited command of money . . . [S]he was herself the craftiest stalker who had ever tracked big game.<sup>136</sup>

As she informs Fleda, “there are things in this house that we almost starved for!”<sup>137</sup> And Fleda, at multiple points, reaffirms this talent: “your admirable, your infallible hand. It’s your extraordinary genius; you make things ‘compose’ in spite of yourself.”<sup>138</sup> Adela, then, dedicated decades of her life to the sport and art of collecting and to building Poynton’s collection: “twenty-six years of planning and seeking, a long, sunny harvest of taste and curiosity.”<sup>139</sup>

Adela Gereth is “a collector on a grand scale.”<sup>140</sup> She takes to the role of collector with great seriousness and on a level of sophistication and expertise usually associated, at the time, primarily with men. As a collector, “[h]er Louis Quinze furniture, Venetian velvets and oriental china link her to the eighteenth-century amateur and man of taste.”<sup>141</sup> This collection has been built with the idea of perfect civilization and completeness in mind: “The image, therefore, of all France and Italy held in the wide embrace of English nature is a powerful suggestion of a complete culture and makes appropriate Mrs. Gereth’s assertion that she had sought always completeness and perfection.”<sup>142</sup> Her dedication results in a virtuoso collection of material delight that goes beyond conventional categories of collecting: “[u]nlike Waterbath and Ricks, Poynton embodies an aesthetics of consumption and skillful production

135. JAMES, *supra* note 5, at 7-8.

136. *Id.* at 8.

137. *Id.* at 20.

138. JAMES, *supra* note 5, at 172. The extent to which these acquisition adventures were a joint, marital enterprise as opposed to Adela flexing her skill and talent alone, is unclear. James never provides any details of the marriage and whether or not they viewed their collection building as a partnership. The conversations between Adela and Fleda, however, emphasize Adela’s personal gift, genius, and flair for collecting over any contributions from Mr. Gereth.

139. JAMES, *supra* note 5, at 7-8.

140. *Id.*

141. *Id.*

142. Lyons, *supra* note 108, at 68.

which locates it across and between the traditional spheres of male and female collecting.”<sup>143</sup>

While Adela’s collecting could be construed as feminine in the sense that she is a woman doing the collecting and it is for the purposes of decorating domestic space, Adela plainly eschews what might have been more typical items for female collecting, such as “china cats,”<sup>144</sup> “miniature thimbles,”<sup>145</sup> “[e]ggcups,”<sup>146</sup> or “lace bobbins.”<sup>147</sup> Instead, what attracts Adela are items like rare porcelain, historic tapestries, and furniture crafted for kings. Moreover, Adela blends the masculine into her collecting because of her strength of purpose and capacious vision. As one scholar had stated: “Women were consumers of objects; men were collectors. Women bought to decorate and for the sheer joy of buying, but men had a vision for their collections, and viewed their collections as an ensemble with a philosophy behind it.”<sup>148</sup> Her dedication planning, and ambition, consequently, result in an unparallel gathering of objects: “What Mrs. Gereth had achieved was indeed a supreme result; and in such an art of the treasure-hunter, in selection and comparison refined to that point, there was an element of creation, of personality.”<sup>149</sup>

The idea that the collection is a living whole, a composite work of greatness is emphasized by the fact that there are no individualized descriptions of the “splendid [t]hings”<sup>150</sup> since they are never lavishly described or even itemized. One scholar comments: “Poynton’s value is meant as testament to the highest taste, the finest cultural values, of objects deliberately stripped of any labor or past beyond Mrs. Gereth’s own, and thus made to stand vibrantly as a sign of culture itself.”<sup>151</sup> There is only one object that received individual notice, the Maltese Cross, which is one of the “morceaux de musée, the individual gems.”<sup>152</sup>

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143. *Id.*

144. SUSAN M. PEARCE, ON COLLECTING: AN INVESTIGATION INTO COLLECTING IN THE EUROPEAN TRADITION 205 (1995).

145. *Id.* at 205.

146. *Id.* at 207.

147. *Id.*

148. RÉMY G. SAISSÉLIN, BRICABRACOMANIA: THE BOURGEOIS AND THE BIBELOT 68 (1984).

149. JAMES, *supra* note 5, at 13-14.

150. *Id.* at xlvi.

151. Mitchell, *supra* note 7, at 25. Richard Lyons states: “The first thing to notice is that Poynton is not reducible to its furnishings. It is only as a whole that Poynton carries its full meaning, hence the force of the idea of despoliation.” Lyons, *supra* note 108, at 68.

152. *Id.* at 49.

Critics regularly remark on this strange silence around the objects, and one scholar has observed: “Indeed, it is a work that is marked by a *refusal* to describe the objects.”<sup>153</sup> But what Adela has done—the work of her collecting genius—has been to create a collection, a grand whole composed of individual objects that express their grandeur by a “general glittering presence.”<sup>154</sup> Rather than existing as unique and valuable pieces, “the individual parts are seen to construct a whole which is meaningful and satisfying, a whole which is more than its parts.”<sup>155</sup> Even without a catalogue or summary descriptions, the reader is given to understand that the objects are not only valuable but also examples of high and discriminating taste. Accordingly, this declination to describe the objects singly is a testament to Adela’s talent as a collector; her genius in gathering objects that connect with one another, as if in a web of gossamer, existing not singularly but only as a collection.

The whole of the collection at Poynton, lovingly and painstakingly constructed, forms a material delight for Adela, providing her solace, refuge, pleasure, and inspiration. For Adela, Poynton is a womb, a second skin, an erotic interlude.<sup>156</sup> For her to leave Poynton is not only to suffer the absence of her objects to but subject herself to the inferior taste of others:

[T]hanks to the rare perfection of Poynton, she was condemned to wince wherever she turned. She had lived for a quarter of a century in such warm closeness with the beautiful that, as she frankly admitted, life had become for her a kind of fool’s paradise. She couldn’t leave her own house without peril of exposure.<sup>157</sup>

In this way, Adela not only distinguishes herself among collectors but also differentiates herself from all the other characters in the novel. Owen, the narrator tells us, is defined by “his monstrous lack of taste,”<sup>158</sup> and Mona, who has been reared at Waterbath, cannot shake

153. O’Toole, *supra* note 21, at 35; *see also* Eric Savoy, *The Jamesian Thing*, 22 HENRY JAMES REV. 268, 270–71 (2001).

154. JAMES, *supra* note 5.

155. Sandra Corse, *Henry James and Theodor Adorno on the Aesthetic Whole: The Spoils of Poynton and the Fetish-Character of Art*, 2 PHIL. & LITERATURE 117, 119 (1994).

156. Mills, *supra* note 6, at 677 (“Poynton becomes a womb-like sanctuary for Mrs. Gereth, its ‘warm closeness’ protecting her from the direness of such places as Waterbath.”).

157. JAMES, *supra* note 5, at 7.

158. *Id.* at 4.

off that home's "ugliness fundamental and systematic."<sup>159</sup> For Adela, who has been a collector and caretaker for over two decades, the taste, knowledge, and skill embodied by beautiful objects represent the highest calling: "Things' were of course the sum of the world; only, for Mrs. Gereth, the sum of the world was rare French furniture and Oriental china. She could at a stretch imagine people's not 'having', but she couldn't imagine their not wanting and not missing."<sup>160</sup>

Adela is, in all these ways, the classic figure of the collector, investing ceaseless labor into finding and acquiring objects that all fit together in a perfect whole. Moreover, she has cared for the objects over time, paying special attention to their maintenance and preservation like the most dedicated and punctilious of trustees, and has become so attached to them that they have become an important part of her identity. Nevertheless, female labor does not, in the end, prevail over male inheritance.

## 2. The Expropriation of Female Labor

Despite Adela's unceasing labor on behalf of her home and the collection of art objects and home furnishings, her claim to the ownership of Poynton's things on account of her labor fails. Mr. Gereth's estate plan takes "[n]o account whatever . . . of [Adela's] relation to her treasures, of the passion with which she had waited for them, worked for them, picked them over, made them worthy of each other and the house, watched them, loved them, lived with them."<sup>161</sup> Everything becomes Owen's property; Owen, who has never been involved in the collection and who has shown little if any interest in the objects over the years.<sup>162</sup> Owen, who, "from a boy never cared, had never had the least pride or pleasure in his home."<sup>163</sup> Adela has invested bodily labor over a protracted length of time, expertly pulling items into her domestic orbit; Owen has put forth no labor other than being born an only son.

Nevertheless, the inheritance claim prevails over the claim of labor made by Adela, and this is because of the way in which Locke construct-

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159. *Id.* at 3.

160. *Id.* at 16.

161. *Id.* at 9.

162. *Id.* at 10.

163. *Id.* Owen, whose most relevant remark about the objects is a question: "they're awfully valuable, aren't they?" JAMES, *supra* note 5, at 59. He does also say to Fleda at one point: "Mother thinks I never took any notice, but I assure you I was awfully proud of everything." *Id.*

ed the relationship between labor, acquisition of property, and subjecthood. Adela's claim to the property fails because she—as a woman and especially a married woman—falls outside of the property-labor paradigm envisioned by Locke. That is to say, when Locke wrote in 1689 that “every man has a property in his own person: this no body has any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his,”<sup>164</sup> those included in the proper scope of labor and acquisition were only free, white men. Locke's liberal theory of property ownership, and its subsequent iterations over time, placed clear limits on who could be considered a “proprietor” and therefore participate in political and exchange economies. Consequently, when Macpherson proclaimed: “Society consists of exchange between proprietors,”<sup>165</sup> the society being invoked was a highly circumscribed one, grounded in multiple forms of inequality and oppression.

In Locke's own time, this property-based individualism gave great privilege to free, white men as authentic laborers and owners at the expense of others, undergirding for example colonial expansion and territorial violence.<sup>166</sup> Locke himself was interested in the American colonial project for his entire lifetime and “was a member of the English company that settled the Carolina colony and the presumed author of its *Fundamental Constitutions*.”<sup>167</sup> Moreover, the idea of citizenship through proprietorship was fully embraced by American founding fathers as “a founding moment of liberalism.”<sup>168</sup> These “liberal” theories of settler power subsequently informed American perspectives on colonization and “[t]he Founders, for instance, so thoroughly embraced Lockean labor theory as the basis for a right of acquisition because it affirmed the right of the New World settlers to settle on and acquire the frontier. It confirmed and ratified their experience.”<sup>169</sup> Barred from entry into the

164. LOCKE, *supra* note 16, at 17.

165. MACPHERSON, *supra* note 131, at 3.

166. For a sampling of works discussing Locke's philosophical relationship to colonialism, see Herman Lebovics, *The Uses of America in Locke's Second Treatise of Government*, 47 J. HIST. IDEAS, 529, 567 (1986); JAMES TULLY, AN APPROACH TO POLITICAL PHILOSOPHY: LOCKE IN CONTEXTS 137-76 (1995); BARBARA ARNEIL, JOHN LOCKE AND AMERICA: THE DEFENCE OF ENGLISH COLONIALISM (1995); and David Armitage, *John Locke, Carolina, and the Two Treatises of Government*, 32 POL. THEORY 602 (2004).

167. LOWE, *supra* note 18, at 9. Locke also served as Treasurer for the English Council for Trade and Foreign Plantations.

168. BUTLER & ATHANASIOU, *supra* note 18, at 12-13. “The definition of the ownership of one's body as property is the founding moment of liberalism. However, certain bodies — paradigmatically so the bodies of slaves — are excluded from this classic definition of the biopolitical.” *Id.* at 12-13.

169. Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707, 1728 (1993).

society of proprietors, indigenous bodies—both individual and communal—were not included in the group of those who had property in their labor and bodies.

Theories of possessive individualism, grounded in Lockean concepts of ownership of one's self and labor, also provided the foundation for other, continuing systems of dispossession. A fulsome understanding of dispossession would not have been possible, as Judith Butler has remarked, "were not for the historical conditions of slavery and those forms of possessive individualism that belong to capitalism."<sup>170</sup> In Locke's time and beyond, enslaved men and women in England and America were not only excluded from the imagined community of property holders but were also violently caged in the legal category of property. The 1783 *Zong* case in England was a turning point in bringing abolition to the forefront of public debate and also underscoring the extent to which slaves had been stripped of personhood.<sup>171</sup> The case involved the "jettison" or massacre of enslaved men traveling on a slave ship, the *Zong*, to Jamaica when the conditions became rough and the ship full of disease.<sup>172</sup> The lawsuit was principally a battle between the shipping company and the insurance company, with the shipping company wanting the insurance company to pay for the lost "goods"—or the enslaved people who had been cast overboard.<sup>173</sup> Lord Mansfield recounted the findings of the first jury trial, which ended with a verdict in favor of the shipping company, saying that the men of the jury "had no doubt (though it shocks one very much) that the Case of Slaves was the same as if Horses had been thrown over board."<sup>174</sup>

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170. BUTLER & ATHANASIOU, *supra* note 18, at 7.

171. *Gregson v. Gilbert* (1783) 99 Eng. Rep. 629, 629 (KB).

172. *Gregson*, 99 Eng. Rep. at 629-30.

173. *Gregson*, 99 Eng. Rep. at 630. "It has been decided, whether wisely or unwisely is not now the question, that a portion of our fellow-creatures may become the subject of property. This, therefore, was a throwing overboard of goods, and of part to save the residue." *Id.* at 629-30.

174. Jeremy Krikler, *The Zong and the Lord Chief Justice*, HIST. WORKSHOP J., No. 64, Autumn 2007, at 29, 36 (citing National Maritime Museum, *Zong* materials, Voucher No. 2, A Copy of the Proceedings in the Court of K.B 1-3). Ultimately the insurance company prevailed because Lord Mansfield determined that the shipping company could have mitigated the bad conditions. After this case and public recounting of the *Zong* massacre, awareness around abolition increased and in 1807 the Slave Trade Act was passed by an Act of Parliament. By Adela Gereth's time, formerly enslaved men could legally own property in England and were therefore, technically, able to own their labor and make property claims through labor. Nevertheless, the relationship between those who had suffered conditions of enslavement and property ownership was both fraught and continually defined by the "subordination and vulnerability they experienced." Dylan C. Penningroth, *The Claims of Slaves and Ex-*

Finally, women—white, wealthy women in addition to enslaved and indigenous women who lived their daily lives along multiple axes of exclusion and deprivation—were also positioned at the social and legal margins, written out of rightsholding with respect to property by Lockean theory. Interestingly enough, Locke was writing against the global and cascading form of patriarchy famously espoused in England at the time by Robert Filmer.<sup>175</sup> And Locke’s intention was to break “the bounds of Filmer’s world of biblical politics by introducing rationalist arguments” in order to “effectively remove[] males from the sway of the patriarchal monarch.”<sup>176</sup> Nevertheless, as critics have pointed out: “Clearly all forms of patriarchalism did not die with Filmer. . . . [Locke’s] subjection of women is not based on Genesis, but on natural qualifications.”<sup>177</sup> Women were, according to Locke, still subordinate in the conjugal relationship which was of primary importance for its facilitation of both procreation and property transfer.<sup>178</sup> That is to say, the conjugal relationship was paramount because it produced both a seemingly natural order within the household as well as children who would inherit the family wealth, thereby effectuating proper social relations through wealth transfer.

By the end of the nineteenth century, white women, especially those with wealth, benefitted from many privileges that other men and women lacked;<sup>179</sup> nevertheless, Locke’s rightsholding equation, on plain

*Slaves to Family and Property: A Transatlantic Comparison*, 112 AM. HIST. REV. 1039, 1039 (2007).

175. Melissa A. Butler, *Early Liberal Roots of Feminism: John Locke and the Attack on Patriarchy*, 72 AM. POL. SCI. REV. 135, 142 (1978).

176. *Id.*

177. *Id.* at 145-6 (“Locke was willing to concede the historical or anthropological case for patriarchalism. He was not ready to concede the moral case, however. Filmer had tied his moral and historical arguments together by using the Book of Genesis as the source of both. Locke split the two cases apart.”).

178. *Id.* at 144 (“Though the conjugal relationship began for the sake of procreation, it continued for the sake of property.”).

179. The relationship of white women, especially those with wealth, to slavery and oppression was complex. Wealthy white women were involved in the abolition movement and were pivotal in forming and sustaining certain social movements. *See, e.g.*, VRON WARE, *BEYOND THE PALE: WHITE WOMEN, RACISM, AND HISTORY* (1992); WOMEN, DISSENT AND ANTI-SLAVERY IN BRITAIN AND AMERICA: 1790-1865 (Elizabeth J. Clapp & Julie Roy Jeffrey eds., 2011). They were also, however, sometimes complicit in the capitalist systems and social structures that enabled and furthered colonialism, the slave trade, and race-based oppression. *See, e.g.*, SLAVERY AND THE BRITISH COUNTRY HOUSE (Madge Dresser & Andrew Hann eds., 2013). For inquiries into the role of white women in the context of American slaveholding, see generally THAVOLIA GLYMPH, *OUT OF THE HOUSE OF BONDAGE: THE TRANSFORMATION OF THE PLANTATION HOUSEHOLD* (2003); STEPHANIE E. JONES-ROGERS, *THEY*

reading, included only men—“the labour of *his* body.”<sup>180</sup> Moreover, an implicit exclusion nests within the text because Locke posits “control of one’s body by one’s will” as “the basis for appropriation of private property.”<sup>181</sup> By vesting the possibility of ownership solely in persons with full control of their bodies, Locke excluded all women at the time from the possibility of being natural property owners. This is “the crucial move . . . by which women were excluded from their place in the polity”<sup>182</sup> because women, in general, were not owners of their bodies nor were they owners of much else.<sup>183</sup> In this way, as one James scholar notes with respect to *The Spoils of Poynton*, “it is the prospect of *dispossession* that fascinates—of being disinherited, but also of being stripped of the Enlightenment identity of an autonomous, unitary self.”<sup>184</sup>

Married women, in particular, held attenuated rights—certainly at the time of Locke and also at the time of Adela Gereth—to both property and personal autonomy because they were subsumed into the patriarchal household, under the cover of the male head of household, be it father or husband.<sup>185</sup> Married women lost almost all property rights when they entered marriage and they had no rights to the use or enjoyment of property that they brought into marriage, other than through their husbands, although reforms were afoot by the end of the nineteenth century.<sup>186</sup> Before these reforms,<sup>187</sup> married women had no right to their earnings, made either through direct labor, land rents, or investment, and the only real right that they possessed was to a subsistence

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WERE HER PROPERTY: WHITE WOMEN AS SLAVE OWNERS IN THE AMERICAN SOUTH (2019).

180. LOCKE, *supra* note 16, at 17.

181. Elizabeth Mayes, *Private Property, the Private Subject, and Women: Can Women Truly Be Owners of Capital*, in FEMINISM CONFRONTS HOMO ECONOMICUS: GENDER, LAW, AND SOCIETY 118-119 (Martha Albertson Fineman & Terence Dougherty eds., 2005).

182. *Id.* at 119. “The ownership of slaves and women contradicts the notion put forward by Locke that property was a natural right based upon the ownership of one’s own body.” WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 59.

183. Ruth Perry, *Mary Astell and the Feminist Critique of Possessive Individualism*, 23 EIGHTEENTH CENTURY STUD. 375, 452 (1990).

184. O’Toole, *supra* note 21, at 48.

185. “[H]e clearly endorsed the view that patriarchal control of family property ought to continue in civil society, and he consistently . . . held private property under the exclusive control of male ‘heads of households.’” Lorene M. G. Clark, *Women and John Locke; Or, Who Owns the Apples in the Garden of Eden?*, 7 CAN. J. PHIL. 699, 721 (1977). “Significantly, Locke nowhere in his scheme considers the anomalous political status of single adult women.” Perry, *supra* note 183, at 452.

186. See discussion of married women’s property rights in Part I, *infra* pages 109-23.

187. See discussion in Part I, *infra* pages 109-23.

level of support both during marriage and upon the death of a husband.<sup>188</sup> Locke's insistence on the right of ownership as the right to pass down property through a male line of inheritance emphasizes this exclusion of women from the realm of authorized property holders.<sup>189</sup> Locke ascribed a primary and fundamental importance to the right of the male head of household to "pass his rightful property on to his legitimate heirs."<sup>190</sup> Women, therefore, "could not be regarded as independent persons with full property rights if the exclusive right of the male to dispose of property [was] to be maintained."<sup>191</sup>

In addition, women (again, especially married women) were dispossessed of full control not just over the labor of their bodies but over the bodies themselves. Single girls in their fathers' homes and married women in their husbands' homes were "understood to be the property of their fathers, husbands, or masters" and they had no absolute right to "dispose of their time, energy, or sexual urges—whether we speak of their reproductive or sexual services or their productive labors."<sup>192</sup> That is to say, women's labor and women's bodies—no matter how much effort expended or skill deployed—were traditionally understood to be the property of others and "at the disposal of their families."<sup>193</sup> Feminist writers and activists, from Mary Astell in Locke's time to American Antebellum feminists, recognized the blow dealt to women by the "possessive" theories of Locke and his followers.<sup>194</sup> These women understood

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188. While the Married Women's Property Acts gave women rights to property and income that they earned or otherwise acquired during marriage, the spousal right to marital property division and equitable distribution at divorce did not come for another century. Had Adela been living one hundred years later, she would have had—at divorce—a right to approximately half the value of Poynton because of her contributions. Clark, *supra* note 185, at 714-15.

189. Clark, *supra* note 185, at 716. "Property passed through blood lines and blood lines were determined by the father. Thus, the authority of the father is essential in order to facilitate the regulation of property distribution within the framework Locke envisions." *Id.*

190. *Id.* at 719. On the other hand, the primary role of women was to marry and "the major function of marriage [was] to provide the mechanism for the transfer of property across generations." *Id.* at 712.

191. *Id.* at 718.

192. Perry, *supra* note 183, at 452.

193. *Id.*

194. "When Frances Gage insisted, 'Let us assert our right to be free. Let us get out of our prison-house of law. Let us own ourselves, our earnings, our genius . . .,' she was demanding freedom for wives, seeking an end to legally sanctioned coercion in matters of sex and motherhood, as well as to legally enforced dependency in marriage." Reva B. Siegel, *Howe as Work: The First Woman's Rights Claims Concerning Wives' Household Labor, 1850-1880*, 103 YALE L.J. 1073, 1104 (1994). "Antebellum feminists thus gave new sense to Locke's claim that 'every man has a property in his own

acutely that “Locke’s often-cited justification of private property, which has served as a touchstone for two centuries[,] reveals that the notion of private ownership depends on a particular kind of subject construct that intrinsically . . . disadvantages women.”<sup>195</sup>

On this battlefield, then, Adela Gereth’s claim to Poynton’s brilliant things through her skill and labor is destined to fail. Labor does not yield ownership of the brilliant collection of things where Adela is concerned because her labor was never hers to begin with. Her unmistakable labor and talent have been expropriated in accordance with a legal system built to profit heads of household and patriarchs, in this case Mr. Gereth, who takes her labor and passes down the fruits of that labor to the male heir. As one scholar has said, “a Marxist reading is applicable to the novel in the sense that the labourers, the widow and the spinster, do most of the work and receive the fewest rewards.”<sup>196</sup> Adela’s years of studying, searching, and bargaining were ultimately household labor, owned by her husband and done in service of the great, masculine line of ownership and succession.<sup>197</sup>

### B. *Adela Gereth Around Her House*

To some, it will come as no surprise that classic, liberal property theories made no accommodation for ownership by women (especially married women) or others situated on the legal margins. What may be surprising, however, is that even under a more modern theory of personhood as property, Adela’s claims to Poynton and its things fail. The second claim that Adela Gereth has to the Poynton property is grounded in the powerful relationship between Adela and her things and the way in which she identifies with them. According to this argument, Adela has a legitimate claim to the objects because they constitute a form of

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person,” making it speak to women and to questions that mattered in women’s family lives.” *Id.* at 1106.

195. Mayes, *supra* note 181, at 118.

196. WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 155.

197. It may be worth noting that even with the Married Women’s Property reforms, Adela would have had no legal claim to the objects in Poynton, purchased as they were with Mr. Gereth’s earnings, although the reforms would have made it more likely that she would inherit at his death. Even under current rules, Adela could have been stripped of her rights to much of the Poynton property at her husband’s death, left with only an elective share. Her strongest claim to the property would arise under divorce and equitable distribution rules, designed to compensate spouses who make significant non-monetary contributions to the marriage but have no ownership rights through earning or purchase.

her personhood. To her, the objects are not fungible, exchange commodities but instead important pieces of her identity and personality. This argument, made through G.W.F. Hegel and Margaret Radin, might be considered more friendly to feminized forms of property ownership—less reliant on male labor authorized by Lockean theories and more reliant on affect, love, and connection—but once again Adela's claim fails. This time the female claim fails because male anxiety over property fetish and a misrecognition of the relationship between dispossession and property ownership act as gatekeepers in the context of personhood theory.

### 1. Things and the People Who Love Them

The claim of rightsholding based on personal identification and connection with pieces of property is grounded in the Hegelian concept of property that Margaret Jane Radin explicated and amplified in her generative article, *Property and Personhood*.<sup>198</sup> In that article, Radin begins with a very simple proposition: “Most people possess certain objects they feel are almost part of themselves. These objects are closely bound up with personhood because they are part of the way we constitute ourselves as continuing personal entities in the world.”<sup>199</sup> Building on Hegel, Radin observes that “a person cannot come to exist without both differentiating itself from the physical environment and yet maintaining relationships with portions of that environment.”<sup>200</sup> Radin remarks that “people and things have ongoing relationships which have their own ebb and flow, and that these relationships can be very close to a person's center and sanity.”<sup>201</sup>

Not all of these relationships between people and property are the same, however, and Radin suggests that different forms of property generate different levels of connection. She therefore constructs a continuum, placing items that are “wholly interchangeable with money” on one end and objects that are “indispensable to someone's being” on the other.<sup>202</sup> Radin proposes that stronger property rights be accorded to people with respect to the things that they particularly cherish, things that have distinct personal meaning such as a home, a wedding ring, a family heir-

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198. Radin, *supra* note 17.

199. *Id.* at 959.

200. *Id.* at 977.

201. *Id.*

202. *Id.* at 987.

loom.<sup>203</sup> Radin describes it this way: “Once we admit that a person can be bound up with an external ‘thing’ in some constitutive sense, we can argue that by virtue of this connection the person should be accorded broad liberty with respect to control over that ‘thing.’”<sup>204</sup> And, “the more closely connected with personhood, the stronger the entitlement.”<sup>205</sup>

Radin’s embrace of consequential relationships between people and their possessions—and her willingness to extend rights based on the quality of these relationships—is highly resonant in James’ work as a whole and in *The Spoils of Poynton* in particular. Objects find themselves at the literal heart of many of James’ works—*The Golden Bowl* and *The Aspern Papers* as well as *The Spoils of Poynton*—and the characters themselves hold sophisticated views on the centrality of objects to the project of individual self-definition. As Madame Merle claims in *The Portrait of a Lady*:

[E]very human being has his shell and . . . you must take the shell into account. . . . There’s no such thing as an isolated man or woman; we’re each of us made up of some cluster of appurtenances. What shall we call our self? Where does it begin? Where does it end? It overflows into everything that belongs to us—and then it flows back again. I know a large part of myself is in the clothes I choose to wear. I’ve a great respect for THINGS! . . . one’s house, one’s furniture, one’s garments, the books one reads, the company one keeps—these things are all very expressive.<sup>206</sup>

Pressing on the idea of a “shell,” one scholar reiterates the importance of “things” by observing that the Jamesian character is “a mask or a shell or collaborative manufacture that solidifies with every representation.”<sup>207</sup> In a similar vein, another James scholar remarks: “Objects in James are always more than things. They cluster and grasp at the reader’s attention like objects in a Sargent painting, often confusing foreground and background by equating human subjects with the deco-

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203. *Id.* at 959.

204. *Id.* at 960.

205. *Id.* at 986.

206. HENRY JAMES, *THE PORTRAIT OF A LADY* 222-23 (Oxford World’s Classics 1998).

207. Jean-Christophe Agnew, *The Consuming Vision of Henry James*, in *THE CULTURE OF CONSUMPTION: CRITICAL ESSAYS IN AMERICAN HISTORY, 1880-1980* 85 (Richard Wightman Fox & T. J. Jackson Lears eds., 1983).

rative objects that surround, identify, and enclose them.”<sup>208</sup> In this framework, Adela Gereth is the paragon and feels a deep connection with the objects that adorn Poynton. For her the objects are personally meaningful, communicative, and—at times—alive. As one scholar points out: “In *The Spoils of Poynton*, James is committed to making palpable the intimate relation of the individual self to its inanimate everyday surroundings . . . [R]eflecting a growing awareness of . . . ‘peripersonal’ identity, the novel represents material things as active—and vital to human self-perception and social identity.”<sup>209</sup>

At the outset, Poynton and its desirable objects automatically fit into Radin’s category of personhood property since Poynton is a family home—a place of personal meaning and memory—and the things that grace its interior are all parts of a highly personalized and cherished collection.<sup>210</sup> Of homes, Radin says: “Our reverence for the sanctity of the home is rooted in the understanding that the home is inextricably part of the individual, the family, and the fabric of society.”<sup>211</sup> And Poynton’s things are, fundamentally, a biographical token, “the record of a life”<sup>212</sup> in which Adela’s personal history is “written in great syllables of colour and form, the tongues of other countries and the hands of rare artists.”<sup>213</sup> Poynton has been, for Adela, the site of family creation, sociality, and intimacy and the stage for her marriage and personal development. In addition, Poynton represents part of the “social fabric” for Adela because it is the roots as well as the location of her social status and position. Poynton telegraphs Adela’s positioning in social and cultural hierarchies and renders her legible to all those who know of, hear of, or visit Poynton. These features alone justify property ownership in Radin’s schema.

Poynton, however, also signifies more than family formation, personal elaboration, and social marker. On another, deeper level, the “splendid things”<sup>214</sup> actually, physically constitute identity. Adela tells Fleda: “They were our religion, they were our life, they were us!”<sup>215</sup> For Adela, Poynton’s furnishings are a bodily and intimate part of her life. The things serve as an extension of Adela’s person; they represent the embodied form of her labor, her taste, her perspective on life and incur-

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208. O’Toole, *supra* note 21, at 32.

209. *Id.* at 39.

210. JAMES, *supra* note 5, at 7-10.

211. Radin, *supra* note 17, at 987.

212. JAMES, *supra* note 5, at 14.

213. *Id.*

214. *Id.* at xlvi.

215. *Id.* at 20.

sions into Poynton's sanctuary become incursions into Adela's bodily integrity. In this sense, Adela aligns with Radin's theory along another axis: "[Radin's] theory of property for personhood disrupts market alienations and allows the feminine self to enjoy herself as object as means to her own ends. Her implicit image of personal property is the female body, which must chastely be protected from violation in market intercourse."<sup>216</sup> Adela and her things constitute one inviolable and inalienable being, one that should be (according to both Adela and Radin) protected and preserved intact.<sup>217</sup> Fleda instinctively understands this at once when she remarks that Adela Gereth must have all the things or none since "what she 'required' was simply every object that surrounded them."<sup>218</sup>

Bearing down on this hyper-physical connection between Adela and her things, the objects at Poynton also have a life of their own and communicate with Adela. Adela tells Fleda, "[t]hey're living things to me; they know me, they return the touch of my hand,"<sup>219</sup> and she claims that "[b]lindfold[ed], in the dark, with the brush of a finger, I could tell one from another."<sup>220</sup> One scholar points out, emphasizing the notion of touch, that Adela's is a heavily tactile universe and her connection with her objects is deeply tactile.<sup>221</sup> She knows the unique and artisanal body of her objects as she knows her own body, through touch in the dark. The bodily connection is most evident, however, when Adela imagines the loss of her things. As Radin points out, "[o]ne may gauge the strength or significance of a person's relationship with an object by the kind of pain that would be occasioned by its loss"—if an object is closely related to one's personhood, its loss causes pain that cannot be relieved by the object's replacement.<sup>222</sup> Adela, demonstrating this point in vivid terms, equates the loss of Poynton with "an amputation." As she prepares to move to Ricks, she describes feeling as if "[h]er leg had come off—she had now begun to stump along with the lovely wooden substitute; she would stump for life."<sup>223</sup> The male line of inheritance, little by little, attacks, enters, and erases Adela and her composite

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216. Schroeder, *supra* note 15, at 57.

217. *Id.* at 64 ("Radin seeks to protect and dignify the feminine side of personhood as object. She argues that those objects that literally constitute the female body should be inalienable.").

218. JAMES, *supra* note 5, at 30.

219. *Id.*

220. *Id.*

221. OTTEN, *supra* note 89, at 40-41.

222. Radin, *supra* note 17, at 959.

223. JAMES, *supra* note 5, at 46.

body as the process of dispossession progresses, rendering her limbless and lifeless.

According to personhood as property theories, Adela Gereth has an almost unassailable right to things at Poynton. She has cherished them to the point of merging identities with them, to the point of losing clear boundary lines between herself and the objects around her. These objects reflect who she is, help define how she sees the world, and embody the particularities of her tastes and distastes—they speak her truths. Nevertheless, this property claim, like the claim of property as labor, fails when confronted with the power of masculinist judgment and values.

## 2. Fetish, Misrecognition, and Privilege

The reason why Adela's claims to the property made through personhood fail is more complicated and more subtle than the reason that the labor claim fails. Nevertheless, the failure stems from a similar source—the theoretical impulse to critique female ownership and to dispossess women of their property by branding them as improper and illegitimate proprietors. In the personhood as property context, female dispossession is driven not by the idea of discounted labor but rather by the impulse to misunderstand and negatively characterize certain kinds of female attachment to property as unhealthy fetish, based on the judgement and authority of privileged men. James' comments in his Preface to the novel reflect this concern when he states that Adela is “at the best a ‘false’ character, floundering as she does in the dusk of a disproportionate passion.”<sup>224</sup> Taking up this thread of judgment, a later critic of the novel similarly suggests that “Mrs. Gereth's obsession has warped her human nature.”<sup>225</sup> Widening the scope of concern from individual to ethnographic, another scholar has remarked that “James shared contemporary apprehensions about a ‘disproportionate passion’ for things.”<sup>226</sup> What all these concerns reveal is the troubled sense of a negative fetish relationship between Adela and her objects, and this anxiety both infects Adela's property claims and undoes her attempt to possess and transfer property.

The negative valence that characterizes and ultimately condemns Adela's connection to Poynton's objects as improper fetish stems from

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224. *Id.* at xlix.

225. DAVID LODGE, *The Art of Ambiguity*, in AFTER BAKHTIN: ESSAYS ON FICTION AND CRITICISM 129, 151 (Routledge 1990).

226. BENTLEY, *supra* note 73, at 117.

two key sources. From the perspective of Marxist critique, this apprehension about the relationship between commodities and their owners is justified because the connection between all people and things is perpetually slipping into a fetish grounded in exploitation and subjugation.<sup>227</sup> Adela's class positioning means that her "valorization of Poynton and her own high standards of taste are fetishistic in the Marxian sense insofar as both Poynton and her taste are isolated from the socioeconomic conditions that have made them possible."<sup>228</sup> Following this thread even further into the territory of alienation and isolation, one critic remarks that James' novel is "a document of reification, a narrative which traces the process by which people lose their self-awareness, identity, through their association with objects and, indeed, come to think of themselves as objects."<sup>229</sup> From this Marxist perspective on fetish, Adela's claims range from vaguely disturbing, because her self-awareness is unwittingly commingled with that of a commodity object, to politically unconscionable, because her status is quite literally built on the extracted labor of workers who cannot access or even imagine the material conditions of wealth that surround Adela.

Similarly, from a Freudian perspective, Adela's fetish represents a potentially destructive relationship between people and objects. This time, the fetish relationship expresses and enacts a desperate attempt to locate and reclaim that which is absent, most prominently the female phallus.<sup>230</sup> Using the Freudian construct of fetish, one scholar has remarked that Adela's "fervid determination to preserve the integrity of Poynton can be interpreted, at one level, as a defense against this greatest 'horror of castration.'"<sup>231</sup> The loss of Poynton is accordingly a loss of being (Lacan's primordial post-mirror-stage castration) and therefore "Mrs. Gereth's 'amputation' is an image of the corps morcelé, Lacan's

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227. Sarris, *supra* note 25, at 56. "For Marx, as hardly needs repeating now, the fetish is a product of man's labor that detaches itself from and conceals its material and social provenance, masquerading as an autonomous entity independent of the social totality that produces it." *Id.*

228. *Id.* Sarris also notes that, "[i]n this instance one would have to agree with Terry Eagleton's charge that both James and his characters remain 'finely oblivious' of the material, economic base of consciousness." *Id.* at 57.

229. WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 154. See also Wendy Graham, *A Narrative History of Class Consciousness*, 15 BOUNDARY 2, 42 (1986); Sarris, *supra* note 25.

230. Sarris, *supra* note 25, at 56, 61.

231. *Id.* at 64. "Indeed, without the possession of full social rights, Victorian women were metaphorically castrated when they married. In the context of wives' lack of legal (and thus public) existence, women's fetishism has a specific and understandable logic." WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 46-47.

expression for the bodily fragmentation an infant feels as a result of its chaotic desires . . . , echoes and memories of which return to the adult in dreams of dismemberment.”<sup>232</sup>

This anxiety about fetish—a lingering fear of material overinvestment whether Marxist or Freudian—also colors property as personhood theories and emerges as a distinct concern in Radin’s schema. Radin observes: “If there is a traditional understanding that a well-developed person must invest herself to some extent in external objects, there is no less a traditional understanding that one should not invest oneself in the wrong way or to too great an extent in external objects.”<sup>233</sup> The possibility of overinvestment is so great and so dangerous that Radin characterizes it as illness, mutation, and infection, saying: “We can tell the difference between personal property and fetishism the same way we can tell the difference between a healthy person and a sick person, or between a sane person and an insane person.”<sup>234</sup> Radin hesitates to draw bright lines with respect to the identification of fetish, saying only that the “moral cut-off point, beyond which one is attached too much or in the wrong way to property” is unclear.<sup>235</sup> Nevertheless, it most certainly exists, a moving target that represents the point at which possession “is destroying personhood rather than fostering it.”<sup>236</sup>

With Adela Gereth, the line between appropriate and destructive object-identification is continually in flux and it is not difficult to construct a diagnosis of fetish, if a reader is so inclined. Adela, at multiple points, is described as someone who has reached a fever pitch of emotion where the fate and future of her treasures are concerned, and Fleda notices at a certain point that “[Adela’s] handsome high-nosed excited face might have been that of Don Quixote tilting at a windmill.”<sup>237</sup> Adela exposes the extremity of her feelings about the things when she proclaims: “I’d kidnap—to save them, to convert them—the children of heretics. When I know I am right, I go to the stake. Oh [Owen] may burn me alive!”<sup>238</sup> Similarly, speaking of her things, Adela tells Fleda that “[r]ather than make them over to a woman ignorant and vulgar I think I’d deface them with my own hands.”<sup>239</sup> At times, James attributes nothing less than obsession and fanaticism to Adela: “To give up the

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232. Sarris, *supra* note 25, at 64.

233. Radin, *supra* note 17, at 961.

234. *Id.* at 969.

235. *Id.* at 970.

236. *Id.*

237. JAMES, *supra* note 5, at 21.

238. *Id.* at 77.

239. *Id.* at 20.

ship was to flinch from her duty; there was something in her eyes that declared she would die at her post . . . Her fanaticism gave her a new distinction.”<sup>240</sup> Even Fleda, Adela’s strongest supporter, questions Adela’s tactics and morals when Fleda visits Ricks after it has been adorned at the expense of Poynton, saying of the newly rehomed objects: “[T]here was a wrong about them all that turned them to ugliness.”<sup>241</sup>

Consequently, this suspicion that Adela has fallen into a relationship of fetish with her things provides the grounds for her failure in the quest to possess the spoils of Poynton, no matter the strength of her attachment. There is a critical question, however, that the novel never directly poses: namely, what is the proper relationship between Adela and her things? The question of Adela’s possible fetish is always studied from an external perspective of judgment and never suitably examined from her perspective, as a natural subject of both dispossession and disinheritance. Furthermore, the question is never considered from a standpoint of understanding female status as property status. That is to say, the diagnosis of Adela’s fetish constitutes a misrecognition of the intimate relationship between women as both forms of property and unnatural property owners. The construction of female fetish over property and Adela’s relationship to the things at Poynton must be placed in the historical context of women’s legal status and rights. In other words, the socio-legal positioning of married women as property is indispensable to gaining a better understanding of Adela’s relationship to her objects. One scholar explains it in this way: “Victorian women’s attachment to portable property has often been misrecognized as an insatiable desire for commodities, a view which fails to address the fact that nineteenth-century women’s relationships with the material world were particularly complex, indeed, precarious because of the arbitrariness of marriage custom and the law.”<sup>242</sup>

Women, as discussed in Part One, were traditionally subject to the disabilities of coverture within marriage and had been excised by not only by political theorists but also by lawmakers from the republics of property and personal autonomy. Not only had married women not been allowed to own most forms of property, they had also been treated like property and subject to commodification, appraisal, purchase, and exchange—metaphorically on the ubiquitous marriage market and quite

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240. *Id.* at 21.

241. *Id.* at 53. Fleda, James’ moral center of the story, is unhappy at being complicit in this “theft” and cannot enjoy the things as she had enjoyed them at Poynton. *Id.*

242. WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 15.

literally in less common wife sales.<sup>243</sup> Even accounting for the historic reforms that were taking place during Adela Gereth's lifetime, the power of women to be legal, political, or economic actors in their own right was tenuous. Certainly, by the time of *The Spoils of Poynton*, married women were beginning to gain property rights, consequently fracturing marital unity and coming into force as purchasers and possessors.<sup>244</sup> Nevertheless, their rights to property were still in nascent stages of development.

Analyzing female object fetish from this perspective, what is striking is not the inappropriateness of intimate relationships between women and things but rather the compassionate relationship of shared attributes and common uses between women and things. Guy Davidson writes that James, approaching female identity from this direction, "emphasiz[es] the connection of femininity to the commodity form" and that "[t]his tendency is most apparent in James's work in his various rehearsals of the nineteenth-century novelistic trope in which the marriage market is likened to the market in luxury goods."<sup>245</sup> Fleda, moved about by Adela Gereth in her attempt to manipulate Owen's marital fate, is no more than a piece of furniture—a fact that Adela admits, stating "with nothing else but my four walls, you'll at any rate be a bit of furniture. For that, a little, you know, I've always taken you—quite one of my best finds."<sup>246</sup> Adela understands the commodification principle inherent in the marriage market, and nevertheless valiantly attempts to usurp the male prerogative to move markets on her own, a female trader.

Once married, women like Adela were subsequently "placed in the category of will-vacant object, open to being appropriated and controlled by the penetrating will of a male owner-subject."<sup>247</sup> Wives, sited in the home and subject to the authority of male heads of household,

243. *Id.* For more on wife sales, see Julie Suk, *The Moral and Legal Consequences of Wife Selling in The Mayor of Casterbridge*, in *SUBVERSION AND SYMPATHY: GENDER, LAW, AND THE BRITISH NOVEL* (Martha C. Nussbaum and Alison L. LaCroix, eds. 2013).

244. See discussion in Part I, *infra* pages 109-23.

245. Guy Davidson, *Ornamental Identity: Commodity Fetishism, Masculinity, and Sexuality in The Golden Bowl*, 28 *HENRY JAMES REV.* 26 (2007). Otten also highlights the use of objects in James to ascribe and represent sexuality for characters, especially female ones, see OTTEN, *supra* note 89, at 48 ("Objects don't just imply a body, then; rather, they imply a specific body, one that has been trained to match itself to their own specifications and attributes.").

246. JAMES, *supra* note 5, at 169.

247. Mayes, *supra* note 181, at 120. Once again, James provides no details about the Gereth marriage, how they interacted, or what type of relationship they had. Nevertheless, Adela certainly had to take her turn on the marriage market and then, once married, lost many legal rights including the rights to her own labor and the products of her labor.

lived in and among objects as if among friends and sympathizers. The narrator, as if to underscore this point, directly states that Adela is “the great piece in the gallery” and that, in a house full of “splendid pieces,” Adela is the most “effective ... ornament.”<sup>248</sup> And yet, at the death of a husband, Adela and women like her, with means and life left to live, were relegated to the role of dowager—living on a reduced income, relegated to a small house on the estate, if there was one, and no longer a controlling force in the family or manager of the household. In this vein, one scholar has mentioned that James’ “contemptuous” reference to English customs with respect to dower and dowagers “suggests a sympathy with women who could find consolation and a sense of identity in the material world through those items of personal property they *believed* they owned.”<sup>249</sup> Unsure of their status as property owners, wives like Adela may have invested deeply in the home furnishings around them and imbued these belongings with deep importance as subtle markers of their identity and autonomy in a world marked by patriarchal property rules and norms. These married women, existing in tandem with glittering ornaments, were not indulging in an impulse to avid and inappropriate acquisition; rather, they embraced and cherished the household objects surrounding them as emblems of female situatedness within marriage markets and household governance.

Ultimately, then, both objects and the women who resided alongside them were messengers—domestic oracles speaking to the instability of category and the thinness of the line between person and object, material and immaterial. To misunderstand this relationship as one of fetish is to view the relationship through a filter of privilege: the privilege of not being perilously close to objecthood. To brand Adela’s possessiveness as inappropriate is to misunderstand that Adela’s “fetishism then is not only a compensation for her prospective extinction in death but also, and far more urgently, a disavowal of her dispossession in life.”<sup>250</sup> Adela’s relationship to her things is not, however, understood in this light—neither by those who surround her in the novel nor by many of her critics—and the relationship is consequently subject to a denigrating gaze.

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248. JAMES, *supra* note 5, at 30-31.

249. WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 129 (emphasis added). “Victorian novelists on the other hand, living through a period of extensive reforms of the laws on marriage and property, produced property narratives which imaginatively recreate experiences of property ownership and dispossession which neither the law nor the historian can fully account for.” *Id.* at 47.

250. Sarris, *supra* note 25, at 70.

Adela is condemned by a male gaze, which takes no account of either the privilege of judgment or the precarity of personhood. In this way, Adela's claim to property fails because it is discarded as fetish and disparaged as overinvestment in a world of feminized objects and objectified females.

### III. Poynton as Reclamation

Adela Gereth's property claims fail because she is not the paradigmatic property owner according to the masculinist framework of labor and, at the same time, she is misunderstood and classified as a fetishist by the same masculinist system. In this way, Adela Gereth and her purportedly problematic relationship with the objects at Poynton demonstrate the perils and ultimate impossibility of legitimate female-owned property in that particular historical time and space. Adela's story also offers a broader mode of analysis for examining the relationship between a more expansive class of dispossessed people and the things they love. That is to say, Adela's story provides a small window through which to view the intimate, sometimes tense, relationship between people who have experienced objecthood and the objects around them. Her story offers two particular lessons, which are explored in this Part. First, that people who inhabit the borderlands between personhood and objecthood—a space in which the category of human is called into question—may treasure objects not for their exchange value but rather for their worth as mementoes of ghostly past. Second, that in valuing objects in such a way, those who have been dispossessed may treat their relationship with objects not as a mode of profit or fetish, as masculinist misapprehension might have it, but rather as a mode of political performance.

#### A. *Occupying the House of Spirits*

Reorienting our understanding of possession, the first point of analysis is that individuals experiencing personhood precarity may cherish objects for something other than their market or exchange value. Peter Stallybrass has suggested that members of the dominant cohort—male, white, and European—consider themselves to be “unhampered by a fixation upon objects, aware only of the market value of exchangeable

commodities, rather than [the ... ] emotional need for them.”<sup>251</sup> On the other hand, “[w]omen, working-class people and so-called primitive people who fetishize things because of the ‘possibility that history, memory, and desire might be materialized in objects that are touched and loved and worn,’ offer examples of good fetishism, for the objects they possess have a meaning beyond mere exchange value.”<sup>252</sup>

Moving past commodification and exchange value, Adela defiantly values the splendid art objects at Poynton for what they mean to her rather than their market value. Adela goes so far as to tell Fleeta, her chosen successor: “But I could let them all go, since I have to, so strangely, to another affection, another conscience. There’s a care they want, there’s a sympathy that draws out their beauty.”<sup>253</sup> Adela’s contemplated gesture of gifting her property to the right person embodies this non-market response to objects, the cultivation of a deep attachment to objects not as commodities but rather as ampules of spirit, emotion, and psychology. Put differently, the true value of these objects for Adela does not reside in their economic worth but rather resides in their value as memories of an imaginary world and physical traces of a person that Adela Gereth could have been. Like many of James’ female protagonists, when an important undertaking fails, Adela is “left cherishing [her] portable property as salvage, *disjecta membra*, usually melancholy memorials to an idea of settlement [she] will never attain.”<sup>254</sup> Poynton, from the beginning of the novel, is constructed as a mythical site, already lost to its rightful owner despite its solid and continuing existence in the South of England, just a train ride away from London.<sup>255</sup> The things are shimmering, ghost-like ideals of a desired life and an assertion of personal identity within a mausoleum of rights. To Adela, in her capacity as one of the dispossessed, the objects are both *figurae* of her possibilities and spectral souvenirs of the rightsholder she never became. Poynton’s objects, accordingly, both embody and press upon the question of Adela’s institutionalized marginality and her lack of socio-legal identity, first as a wife and then as a dowager.

Adela, then, is in essence a ghost—a legal ghost, a political ghost—floating amongst the objects, tethered to them by affection and sympathy. One scholar has remarked: “The novel itself evokes this ‘memorial’ aspect ... —that is, the trace or the survival of ‘reality,’ or what one

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251. Peter Stallybrass, *Marx’s Coat*, in BORDER FETISHISMS: MATERIAL OBJECTS IN UNSTABLE SPACES 186 (1998).

252. WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 50.

253. JAMES, *supra* note 5, at 20.

254. WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 123.

255. JAMES, *supra* note 5, at 7.

might prefer in this instance to call history—through the figure of ghosts. Ghosts are present in one form or another throughout the novel.<sup>256</sup> This same scholar notes that the ghost most central to the drama—Mr. Gereth, haunting the novel as “the absent father”<sup>257</sup>—is almost never mentioned by either the characters or the critics.<sup>258</sup> This omission may stem from the fact that Mr. Gereth is not, perhaps, ghostly in the novel’s true sense. The real ghosts that populate the novel are the ghosts of those women who have been relegated to genteel forms of social death, living in the dower house, living unmarried, living without any true resources or authority. Fleda—herself certainly a ghost of a woman at the end of the novel, having lost her love and faced with few appealing prospects—perceives the ghost of the maiden aunt at Ricks on several occasions, remarking on this “dim presence” the very first time she visits the dower house.<sup>259</sup> As the novel winds to its final scenes of dispossession, Fleda even tries to endear the dower house to Adela by embracing this maiden aunt’s ghost:

Fleda ingeniously and triumphantly worked it out. “Ah, there’s something here that will never be in the inventory . . . . It’s a kind of fourth dimension. It’s a presence, a perfume, a touch. It’s a soul, a story, a life. There’s ever so much more here than you and I. We’re in fact just three!”

“Oh, if you count the ghosts!”

“Of course I count the ghosts...! It seems to me ghosts count double—for what they were and for what they are. Somehow there were no ghosts at Poynton,” Fleda went on. “That was the only fault.”<sup>260</sup>

Adela considers the idea that Poynton had no ghosts and suggests that there were no ghosts because “Poynton was too splendidly happy.”<sup>261</sup> But, Adela remarks, “henceforth there’ll be a ghost or two,”<sup>262</sup>

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256. Sarris, *supra* note 25, at 67.

257. *Id.* at 69.

258. *Id.*

259. JAMES, *supra* note 5, at 36.

260. *Id.* at 172.

261. *Id.* at 173.

262. *Id.*

recognizing and admitting her own transition from negated property owner into ghostly presence.<sup>263</sup>

Adela's relationship to her objects—this ghostly connection—shares certain correspondences with the various experiences of marginalized and enslaved groups of people in relationship to their property, experiencing property simultaneously as dispossession and imaginative possibility. Between Adela and the dispossessed others there is, in many respects, an ocean of difference because of her situatedness among the accoutrements of privilege; moreover, each marginalized group, each dispossessed person, has a highly individualized and uniquely textured experience of loss. Nevertheless, the connection of experiencing some form of both social and legal death is a common thread that embroiders these narratives of dispossession.

In his classic work on social death, Orlando Patterson has described social death in the context of slavery, across centuries and continents: “If the slave no longer belonged to a community, if he had no social existence outside his master, then what was he? The initial response in almost all slaveholding societies was to define the slave as a socially dead person.”<sup>264</sup> The socially dead person is taken from or otherwise deprived of community status and that person is also legally dead in the sense that the person can no longer exercise any of the rights that a socially alive person could.<sup>265</sup> In this sense, traditional, patriarchal rightsholding frameworks create social death for some members of the community because they are “symbolic paradigms that 1) inscribe ‘ethnicity’ as a scene of negation and 2) confirm the human body as a metonymic figure for an entire repertoire of human and social arrangements.”<sup>266</sup>

In the first paradigm, gender, race, ethnicity, and even poverty, are all qualities that can render the person a form of negation rather than the affirmation of a norm.<sup>267</sup> That is to say, these qualities render the

263. Otten remarks “[G]hosts and poltergeists manifest themselves by clattering crockery, moving furniture, and bringing objects to the séance table (one discriminating spirit produced a pair of Sevres tongs).” OTTEN, *supra* note 89, at 51. Adela may, then, also be pegged as a ghost as she moves furniture between Ricks and Poynton, rattling the objects and reorganizing them.

264. ORLANDO PATTERSON, *SLAVERY AND SOCIAL DEATH: A COMPARATIVE STUDY* 38 (1982). Patterson identifies two kinds of social death, intrusive (recruitment of slaves from outside the state, “symbolic of the defeated enemy”) and extrusive (insider who has fallen). *Id.*

265. *Id.*

266. Hortense J. Spillers, *Mama's Baby, Papa's Maybe: An American Grammar Book*, 17 *DIACRITICS* 64, 66 (1987).

267. This is certainly the case with Freudian constructs of gender in which the melancholy of femininity is the lack of maleness. “The girl is assimilated to a male model, male

person a ghostly reminder of what lies beyond the norm: a palimpsest written beneath the text of legal codes and social norms, a ghostly being that signals simultaneous presence and absence. This liminality is expressed poetically by Frantz Fanon, writing about the difference between the attitudes of white and black men with respect to property—the attitudes of the colonizer versus the colonized:

The white man wants the world; he wants it for himself. He discovers he is the predestined master of the world. He enslaves it. His relationship with the world is one of appropriation. But there are values that can be served only with my sauce. As a magician I stole from the white man a “certain world,” lost to him and his kind . . . . The reason was that above the objective world of plantations and banana and rubber trees, I had subtly established the real world. The essence of the world was my property.<sup>268</sup>

Property for Fanon, for the magician, inheres in the spirit of the place and the poetry of the world as embodied by each object on the plantation. Denied legal ownership of both property in the self and in objects from a vast and varied landscape, Fanon reclaims a deep relationship with the property of the world, recast as both stolen and enchanted. Property ownership is enacted in the shadows, in exchanges where the currency is spectral and the coin of the realm is an ability to both recognize and navigate interstitial spaces and exchanges.

In the second paradigm, the paradigm of the manipulated body, the forced characterization of certain peoples and groups as socially dead compels individuals from certain categories of personhood into objecthood. More precisely, as the socially marginalized and legally enslaved lose various forms of both rights and status—as the ghosts and shadows are dispossessed of what the ideal citizen has—these various deaths place the dispossessed in the precarious position of straddling personhood and objecthood, corporeal and ghostly being. In the context of colonization, Aimé Césaire did the math: “My turn to state an equation: colonization = ‘thingification.’”<sup>269</sup> This precarity of relationship between subject and object, between personhood and objecthood, operates across a range of possibilities and produces myriad results for those placed in social rela-

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history, and ‘naturally’ found lacking.” JANE GALLOP, *THE DAUGHTER’S SEDUCTION: FEMINISM AND PSYCHOANALYSIS* 69 (1984). *See also* JUDITH BUTLER, *GENDER TROUBLE: FEMINISM AND THE SUBVERSION OF IDENTITY* (2006).

268. FRANTZ FANON, *BLACK SKINS, WHITE MASKS* 107 (Richard Philcox trans., 2008).

269. AIMÉ CÉSAIRE, *DISCOURSE ON COLONIALISM* 42 (trans. Joan Pinkham, 1972).

tions of subjection and incapacity. But in all instances, people inhabiting the liminal space between these worlds forcibly disrupt “the binary traditional opposition between persons/things”<sup>270</sup> and their relationships to objects takes on a different valence.<sup>271</sup>

Anne Cheng proposes as an example the ways in which the Asian or “yellow” woman has been a “ghost in the machine”: “Neither mere flesh nor mere thing, the yellow woman, straddling the person-thing divide, applies tremendous pressures on politically treasured notions of agency, feminist enfleshment, and human ontology.”<sup>272</sup> In this baroque structure of subjugation—the transformation of women into spectacular ornament—objectification both encrusts and uncovers power relations. Orientalism and ornamentalism, Cheng tells us, work in tandem to uncover the depths of the racial imaginary and how it constructs the politics of both being human and being property: “It is at the site of the unexpected entanglement with, or the inconvenient animation of, the ornament during intense moments of pain and privation that we begin to discern how the ornament as aesthetic decoration marks a political problematic about personhood.”<sup>273</sup> The woman as ghost and as ornament, in this context, “encompasses an expansive discourse of racial difference that animates major strains of modernist thinking about gender, nationhood, the human, and the inhuman.”<sup>274</sup>

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270. Alexis Alvarez-Nakagawa, *Law as Magic. Some Thoughts on Ghosts, Non-Humans, and Shamans*, 18 GERMAN L.J. 1247, 1257 (2017).

271. As Anne Cheng remarks, “In the invidious history of race and gender, we have spoken much about how people have been turned into things, but we should also attend to how things have been turned into people and how that very conflation impacts our understanding of what constitutes things and people.” ANNE ANLIN CHENG, ORNAMENTALISM xii (2019). This also implicates a post-humanist perspective by calling “into question the givenness of the differential categories of ‘human’ and ‘nonhuman,’ examining the practices through which these differential boundaries are stabilized and destabilized.” Karen Barad, *Posthumanist Performativity: Toward an Understanding of How Matter Comes to Matter*, 28 SIGNS 755, 808 (2003).

272. CHENG, *supra* note 271, at 19. Cheng comments: “Like the proverbial Ming vase, she is at once ethereal and base, an object of value and a hackneyed trope. Like the black woman, she has suffered a long and painful denigration; she too has been enslaved, abused, mummified, spectacularized, and sold.” *Id.* at 6.

273. CHENG, *supra* note 271, at 23.

274. *Id.* at 16; “What does it mean to unbecome human by becoming an object? Or what does it mean to reveal the already existing overlap between object beings and human beings that conditions our daily experiences? The neoliberal self-containment of families is reserved only for self-regulating and self-sustaining individuals; in contrast, disabled people, queer youth, older people, and laborers are driven outside their homes.” Eunjung Kim, *Unbecoming Human: An Ethics of Objects*, 21 GLQ: J. LESBIAN AND GAY STUD. 295, 314 (2015).

In the home of the dispossessed, then, objects become significant for the fractured truths they reflect and for the complicated comfort they give. Objects are not available for exclusive possession but rather exist as guides, markers, and mediators in a world of shadows and blurred boundaries. Likewise, the act of possession becomes complicated because it is fraught with not only impotence but also love and transcendence. In this way, property is liminal in itself as well as an indicator of the possessor's liminality.

### B. *Performing the Politics of Property*

Possession can no longer be a simple act for those whose personhood is conflated and intermingled with objecthood. Possession transmutes into something new, an act of wishing, aspiration, regret, and sometimes even affirmation. Possession can also, under these circumstances, transmute into a political act of resistance, an act of magic and an act of protest. Adela Gereth's politics, legible only through social status and class belonging, are not likely revolutionary. Her push to claim Poynton, is a specific and circumscribed project; as one scholar has remarked, Adela "addresses female dispossession strictly at the individual and personal level."<sup>275</sup> Nevertheless, Adela shares with other marginalized and dispossessed people the condition of having her "desires more often thwarted than fulfilled by the Symbolic order."<sup>276</sup> Moreover, her predicament instantiates "a perennial struggle and conflict between the social order, the law, and language on the one hand, and the individual Imaginary on the other."<sup>277</sup> Grounded in these understandings of Adela as existing and acting counter to the social order of conventional law and male inheritance—and living instead within her personal imaginary of affective inheritance—Adela's attachment to and relationship with the things at Poynton becomes more clearly a form of political performance.

Adela's attachment to Poynton's things and her mode of ownership can be described as performative in several ways. Adela's possession of Poynton is performative in that "categories, identities, and fantasies are reconstituted and reinvented in unforeseen ways as the law 'strives' . . . to produce, affirm, consolidate, thwart, commodify, or render them proper."<sup>278</sup> Adela Gereth performs the politics of property and inher-

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275. Sarris, *supra* note 25, at 71.

276. *Id.* at 72.

277. *Id.*

278. BUTLER & ATHANSIOU, *supra* note 18, at 46.

itance in just such a way, by constituting Poynton and her role as owner “in unforeseen ways” while the law works against her.<sup>279</sup> That is to say, she performs ownership by replicating all the conventional appearances of proprietorship reconstituting herself as the male possessor, and going against the grain of conventional inheritance law. Moreover, Adela’s possession is performative in the sense that, as the story unfolds, her identity is “constructed iteratively through complex citational processes.”<sup>280</sup> On the stage of Poynton’s grand drawing rooms and the cozy rooms at Ricks, Adela speaks her wishes and proclaims her right to create an inheritance, building a line of heirs based on her own particularized, matriarchal criteria. Adela performs property as resistance when she shows Mona Brigstock around Poynton, watching her every move and speaking in an offhand but calculating way about the objects; when she moves the splendid things from Poynton to Ricks and back again; and when she sets up special rooms for Fleda, decorated with her favorite ornaments and furniture.<sup>281</sup>

Finally, Adela’s possession of Poynton is performative in an indirect but spectacular way at the end of the novel when Poynton and all of the things inside the house burn to a cinder. While the cause of the fire is unknown, perhaps a “rotten chimley” or a toppled lamp,<sup>282</sup> it is impossible to not make a connection between the raging fire and Adela’s internal rage and grief. The fire, started unexpectedly while no one is in the house,<sup>283</sup> seems remarkably like an external manifestation of Adela’s internal whirlwind of consuming emotion. And it is for this reason, perhaps, that Fleda—who is traveling down to Poynton to pick out a final souvenir from the house—can sense the disaster before even arriving.<sup>284</sup> On the train down to Poynton: “[Fleda] had, in her anxious sense of the elements, her wonder at what might happen ... [s]omething, in a dire degree, at this last hour, had begun to press on her heart: it was the sudden imagination of a disaster.”<sup>285</sup> This sense of dread is fulfilled when she speaks to the station master and learns that the house is burning with no owner present to take control of the circumstances and act decisively to save the house.<sup>286</sup> Poynton goes up in flames, its fate “simply the final manifestation of the fact that Poynton

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279. *Id.* at 45.

280. PARKER & SEDGWICK, *supra* note 13, at 2.

281. JAMES, *supra* note 5, at 17-19, 46-49, 52-53.

282. *Id.* at 183.

283. *Id.*

284. *Id.* at 181.

285. *Id.*

286. *Id.* at 183.

has no place in this social world . . . [fixing] Poynton irrevocably as an imaginative construct. . . .”<sup>287</sup> This final act, as one scholar mentions, also “demonstrates a queer kind of performativity . . . [t]he fire that consumes Poynton represents the destruction of an estate, a family tradition, and a line of succession. [I]t also enacts the unconscious thoughts of both Fleda and Mrs. Gereth.”<sup>288</sup>

Through all these performances, Adela “shift[s] the naive female reader/consumer into the realms of political engagement.”<sup>289</sup> Performing decedent, proprietor, and Medean mother, Adela’s actions help to illuminate a path of both critique and resistance using her “desire for the consolations of the object world as a ‘utopian revolt’ or a need to ‘take cover’ against the hostile forces of patriarchy.”<sup>290</sup> Adela’s sophisticated and imaginative mode of property ownership embodies resistance politics by taking up, refracting, and skillfully reimagining the politics of dominance embedded in legal structures of ownership. At the same time, Adela’s complicated performance of gender stakes her claim to being head of the household by arrogating the male role of entitled proprietor. In these ways, Adela’s ownership of Poynton underscores that, “[e]ven though norms performatively produce and shape us by default, the possibility of critical invocation and resignification of the normalized order remains open.”<sup>291</sup>

Writing about dispossession, Judith Butler and Athena Athanasiou have asked: “When striving to come to terms with the relation of performativity to precarious politics, one is persistently confronted with the question: To what extent is the performative determined by the burden of its sedimented histories?”<sup>292</sup> The sedimentation of various histories continually surrounds and frames the questions of dispossession, what it looks like, and what intricate and intimate harms result. Nevertheless, between and among the histories, striated layers of substance may correspond in productive and sometimes unexpected ways. From this perspective, it is possible to use Adela’s performance of property and proprietorship as a generative model of destabilization and subversion and

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287. Lyons, *supra* note 108, at 75.

288. O’Toole, *supra* note 21, at 48.

289. WYNNE, WOMEN AND PERSONAL PROPERTY, *supra* note 3, at 51.

290. *Id.*

291. BUTLER & ATHANASIOU, *supra* note 18, at 127.

292. *Id.* at 126. In discussing the politics and performance of dispossession, Judith Butler and Athena Athanasiou also give a range of examples, from Women in Black in who undermine and complicate nationalism by performing gendered grief and familial loss to hunger strikers using bodily dispossession to mimic property dispossession.

seek out correspondences with other layered historical examples in which dispossessed individuals perform their property in related ways.

At the same historical moment as Adela but in a wholly different context, the performative relationship of certain enslaved men and women in the American South to property and inheritance provides a notable and unanticipated correspondence. American slavery, as we know, “produced a peculiar, mixed category of property and humanity—a hybrid possessing inherent instabilities that were reflected in its treatment and ratification by the law.”<sup>293</sup> Enslaved men and women were stripped of any and all rights to property ownership just as they were regularly displayed and sold as objects in the public marketplace.<sup>294</sup> Dispossession was written across their lives by law and enslaved people literally embodied the tension between person and object. What is more, enslaved men and women were not just dispossessed of rights in their own person; they were also dispossessed of the legal right to family formation, having no ability to form legally recognized family relationships through marriage or parentage.<sup>295</sup> In this way, one of the many harms suffered by enslaved men and women was the incapacity to benefit from the conventional systems of family property ownership and inheritance taken for granted by white families. As Jessica Dixon Weaver writes, it is hard to understate the “significance of race to the development of the concept of the family as a social institution designed to pass down certain rights to the next generation—primarily citizenship, inheritance, and property—all seeds of power in our country that perpetuate white privilege.”<sup>296</sup>

Enslaved men and women nevertheless acquired, preserved, and cherished property that they owned extra-legally, clinging to it when such attachments proved cumbersome, dangerous, or even fatal.<sup>297</sup> As Dylan Penningroth has explicated, these forms of property had strong value and meaning for the enslaved people who cared for it: “[P]roperty

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293. Harris, *supra* note 169, at 1718.

294. For a sampling of the many excellent histories of enslavement in the American South, the workings of commodification, and how property laws changed to serve multiple purposes, see WALTER JOHNSON, *SOUL BY SOUL: LIFE INSIDE THE ANTEBELLUM SLAVE MARKET* (1999), *NEW STUDIES IN THE HISTORY OF AMERICAN SLAVERY* (Edward E. Baptist, Stephanie M. H. Camp, eds., 2006), and DAINA RAMEY BERRY, *THE PRICE FOR THEIR POUND OF FLESH: THE VALUE OF THE ENSLAVED, FROM WOMB TO GRAVE, IN THE BUILDING OF A NATION* (2017).

295. Jessica Dixon Weaver, *Uncovering Race in Family Law* at 15 (draft on file with author) (stating “[m]arriage and slavery were in fact antithetical to one another”).

296. *Id.* at 13.

297. DYLAN C. PENNINGROTH, *THE CLAIMS OF KINFOLK: AFRICAN AMERICAN PROPERTY AND COMMUNITY IN THE NINETEENTH-CENTURY SOUTH* 79 (2003).

ownership and the special efforts that it demanded from slaves put an unmistakable dynamism into their social ties . . . throughout the 1800s, black people were constantly negotiating with one another over family and community—who belonged and what it meant to belong.”<sup>298</sup> The ability to secure and maintain various forms of personal property as well as the ability to pass these objects between generations, despite the absence of legal ownership or family ties, was a glimmering prospect that signified the construction of extra-legal and imaginative families through the consolidation of kinship connections.

Accordingly, as Penningroth notes: “Part of property’s value for slaves, apart from its capacity to be used or consumed, lay in the social relationships that it embodied, ready to be called into action . . . By bequeathing property, slaves over and over again defined not only *what* belonged to them but also *who*.”<sup>299</sup> Seizing the right to create and control inheritances was both political performance as well as the enactment of family belonging. Put differently, the creation and performance of both property ownership and inheritance constituted the act of remapping the legal family tree in order to construct family trees rooted in kin relations and community ties. Property, even if liminal and sometimes fleeting, was a means for constituting affective ties, building chosen family, and reenacting the rites and power of inheritance.

Taking place across geographies and socio-legal environments, these imaginative and powerful moves made to remap family connections and inheritance lines resonate strongly in a number of ways with Adela Gereth’s personal project. Performing property, then, is a political act of resistance and an objection to legal erasure. These performances also, however, represent more; they constitute a reimagining of family, of lineage, of legacy and birthright.

### Conclusion

Adela Gereth, a limited and flawed protagonist in her own particular ways, is an exceptional embodiment of both the problems and the possibilities of property ownership. Adela feels an immensely deep connection to the collection of art objects that she acquired, cared for, and curated over the life of her marriage. Nevertheless, she has no legal claim to these objects; she is dispossessed by a single piece of paper—her husband’s will. Adela is not a part of the central line of male inheritance

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298. *Id.* at 10.

299. *Id.* at 90-91.

and therefore she must exile herself from her home and the objects she cherishes.

In her exile, despondent among the mediocre furnishings of her dower house, Adela exemplifies the limits of property theory. Adela has no claim to Poynton's splendid furnishings through classic property theories, which create rights based on labor. She is a married woman, and her labor has been extracted and expropriated by her husband. She also has no claim to the objects based on more modern theories of property as personhood. Personhood theories penalize her for sustaining what is inaccurately, or at the very least unfairly, framed as a fetish relationship with her things. Instead of granting recognition to the sympathetic and symbiotic relationship between Adela and her objects, personhood theories overlook the curious position of individuals whose personhood is commingled with objecthood and how that porosity might shape the relationship between dispossessed people and the things around them.

Excluded at every turn from the masculine society of owners and inheritors, Adela takes matters into her own hands, attempting to recreate and reroute inheritance patterns and practices. And in so doing, she tells the lived story of how individuals who straddle this fragile boundary between personhood and objecthood both experience property as liminal fragments of the rightsholder they could have been and perform their property ownership as political declaration. Ultimately, then, Adela and her exclusion narrate the condition of dispossession—its root causes and its effects—and teach the reader what it means to live and dream in the home of the dispossessed. ❀

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