Language as the 'Pretty Woman' of Law: Properties of Longing and desire in legal interpretation and popular culture.


by Judith Grbich

Question of law's authority are usually approached by enquiries into legal documents, such as legislation and judicial judgments. Within modern jurisprudential traditions these questions of law's authority are usually debated and discussed by a focus upon texts already having authoritative legal status, and upon readers and interpreters credentialed already in law. Unacknowledged within these practices is the contingency of law's authority upon interpretive conventions used by the common man and woman in their engagements with numerous forms of popular culture - novels, newspapers, films and television. In a western culture it is the common man and woman's enjoyment of these popular forms of culture which maintain the interpretive conventions upon which the legal professional draws for producing certainty about the meaning of legal texts. The forms of enjoyment of popular culture provide a resource for lawyers in their practise of the legal hermeneutics of finding authoritative meanings to all the language based texts of legal practice. The 1990's film Pretty Woman provides one form of popular culture in which questions of law's authority and its contingency upon the pleasures and desires of the common man and woman can be pursued.

Pretty Woman opens with several women and a magician. We are watching some women watching a magician and also watching his trick of the appearance and disappearance of coins. He has 3 coins in his hand and finds another behind a woman's ear - as we look towards his gesturing the 3 other coins have disappeared. We are asked to ponder his phrase 'a penny from the ear, how much for the rest'? Or was it a penny from the air? Is it 'the ear' or 'the air', it is hard to hear the difference, and our image of the performance does not seem to assist. Image and text coincide in meaning if we see him taking the coin from her ear, but perhaps he took it from out of thin air? How the viewer decides upon what is heard will influence what one sees, and what one sees will influence how one decides upon which word was spoken. Sound and 'sight' oscillate as the viewer tries to make some sense from the wider narrative itself, from the magician's whole performance. As the magician continues his party tricks, his performance of the sensory qualities of speech opens onto a meta-narrative of the dilemmas of modern banking, and the picturing of the magical sequences by which hearing of words can transform the meanings which written language presents to the eye. The strolling magician - who reappears throughout the film - tells us that 'no matter what they say, it is all about money', and 'imagine ladies that you are a savings and loan officer. You have it all and we have nothing'. With these words of the magician the viewer of the movie is drawn into the tale of the romance - the longing which impels a quest for an unknown, a longing for a consummation which always remains out of reach despite having found the girl in the end.

As the magical performance within the film continues it is 'we who have nothing' in one sense who are brought into the magical sequencing of the human senses - of how coins can appear and then disappear and leave us wondering how much are worth the ones we cannot see in our hands. How much is the money we cannot see worth? When some of these coins have been transformed into paper-money or other forms of incorporeal property, what are the practices of recognition whereby practices of writing, human aspiration and a code of entitlement bring to cognition a new thing of value? What are these sensory contexts of human longing? and desire by which a pictured absence - a posted negative - can confirm an incorporeal presence, a thing of value and not simply 'words on parchment'? How are one's desires, and images of young women in movies, used as forms of pleasure upon which law's authority remains contingent?

My paper is at heart a historiography of the idea of property in general, of the narrative of feudal tenurial relations which passes for a code for property in general, and the enplotment of that ideoscape of entitlement felt as citizenship in western modernity. Tales of feudal tenurial relations have passed as a code for property in general

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1 See Stewart,1993.
at least since the time of Blackstone's treatment of the rights of things, and his narrative of the carving out of the private rights of dominion over a thing from something previously held in common. Even in Blackstone's narrative in 1766 of the coming into being of modern tenures in real property law, the tale of ancient tenures is barely disguised as a code or plot of a mythical nature. At the centre of his tale is writing, the writing of conveyances, and the possibility of the displacement of the rights of sons by the process of enculturation. Modernity for Blackstone is the right of fathers to devise their property to persons other than the eldest son. Modernity is when the son's right of primogeniture - to his entitlement as eldest son - can be overlaid and overridden by a father's desire to do otherwise. Blackstone places writing, paradoxically, as the performance by which property things first pass into civil society and yet he questions this very practice, and thereby sets in train that practise of wondering upon the marvel of writing and the engagement of the reader within the conventions of imagining how 'things' become. These are conventions of fairytale, or 'wondertale', characters and plots which repeat that magical sequencing of the senses which is reading. Reading is the sound of speech and the sighting of poetical meanings of words which produce in the mind of the reader of texts or the viewer of films an insight of worthfulness or pleasure as the reader's imagination takes on a quest from the literal to the figurative and possibly back again. Blackstone's musings on the questions which frame his narrative of the coming into being of civil property are worth repeating here, as they bring together my themes of legal authority, recognition of entitlement, narrative, writing, and pleasure.

There is nothing which so generally strikes the imagination, and engages the affections of mankind, as the right of property; or that sole and despotic dominion which one man claims and exercises over the external things of the world...And yet there are very few, that will give themselves the trouble to consider the original and foundation of this right. Pleased as we are with the possession, we seem afraid to look back to the means by which it was acquired...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; why the son should have a right to exclude his fellow creatures from a determinate spot of ground, because his father had done so before him...

In my study of the sensory forms of recognising and constituting legal authority the 'pretty woman' of law is language itself, a commonly held medium for conveying the ground of culture, and the reader is her romancer. The reader carves out for oneself a meaning of one's own, as if sight, sound and feeling were the tools of a sculptor or the eating of an apple from the tree of wisdom. Language's qualities of enchantment attract the viewer of her figurations - to dwell within and create with her those images of self and satisfaction through which each reader comes into an inheritance of one kind or another. While legal interpretation can appear to fix meanings and legislate which name shall stand for a thing, this juridical quest for certainty is too dependant upon the sensory qualities of reading itself - the emotions and desires of humankind, to ever make the meaning of words come to a closure. In the sensory structuring of reading itself law's romance with language remains forever unrequeted. The film Pretty Woman is usually interpreted as yet one more example of the western fairytale in which a poor but beautiful young woman is rescued from a life of struggle and tedium by a prince who is captivated by her beauty. The characters of Vivian and Edward in Pretty Woman are usually interpreted as variations of Cinderella and Prince Charming, or Rapunzel locked in the tower and the rescuing Knight. Vivian is working as a prostitute in Hollywood where she is rescued by Edward, a rich and powerful corporate raider. Interpretations from film studies and cultural studies usually emphasise the destructive effects for women in the western cultural pursuit of

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4Foucault provides one historiography of these conventions: Foucault,1970. Legal historiographies, of how things become, are different, see: Duncanson and Tomlins,1982 ; Goodrich and Hachamovitch, 1991, pp159-181; Grbich, 1993; Grbich, 2001; Duncanson, 2001.

5On images, law and practices of representation I am indebted to: Mitchell, 1994; Young, 1996; Douzinas,, Goodrich, and Hachamovitch,1994; Young 1997; Douzinas, 1999.

6Blackstone,p.2.
the retelling of these narratives⁷ - destructive ideals of youthful embodiment which regulate women's sense of selfworth, and the ideals of female passivity which remain out of reach and out of mind for most women.⁸ But these interpretations also focus on the enduring pleasures the young girl in the fairytale narrative of romance holds for women, and perhaps the being of a Prince for whom all things in life seem possible.

I Romancing the body-corporate

*Pretty Woman* can be read differently. This is the romance of Edward with the body-corporate. It can be understood as a romancing of old technologies, and also a quest for finding what is intrinsically valuable about new technologies, about those new financial practices which appear as things,⁹ as commodities known collectively as paper money, 'commercial paper'. This romancing and questing structure can be understood as establishing again the cultural groundings for new technologies - the making of new 'financial derivatives' and the newer still electronic means of disposing of their benefits of ownership.

Edward wants the body-corporate for himself. It was made by Morse, it is Morse's baby, his daughter. Edward desires to take it over and use it for himself, to the exclusion of Morse. In the romance of the body-corporate Edward repeats the codes of the romance tale but disturbs the sequence of hero as rescuer of the feminized body.¹⁰ Morse is father of the body-corporate, having created the paper entity. He is also at the beginning of the narrative a father at risk of losing his right to exclude others from the use of her body and the things of her body. We are told he has spent 40 years of his life making this company, it is a shipbuilding company, it manufactures ships. Grandson David also tells us that 'grandfather believes that the man who has created a company should control its destiny'. At the beginning of the tale Morse is in control of the company, but it appears that his company is in need of capital and a corporate restructure is being planned as a way of gaining the capital needed for maintaining the manufacture of ships. Morse may lose his majority shareholding position and his control of the Board of Directors. Negotiations begin for the marriage of Edward and the company.

Edward at first appears to be the villain of the tale, he wants to stop Morse's control and use of his offspring's body - he intends to stop Morse's company making ships. When Vivian asks Edward what he does, what is his occupation, he says 'I buy companies'. He says he 'borrows money from banks, and investors to buy companies'. 'Not an easy thing to do' he assures Vivian. Once he buys the company, he says, he breaks them up into pieces, and sells the pieces, 'the parts are worth more than the whole'. In the case of Morse's company he wants the prime industrial property, the real estate at the Port of Long Beach, the site of the shipyards in Los Angeles. During the negotiations between Edward and the Morse family at the restaurant Morse speaks as though Edward were courting a daughter, 'we find it hard to figure out what your real intentions are'. There is a hint that Edward's intentions are not honourable. It appears that Morse needs to consider a suitor because the company assets are mortgaged to the bank, and the company's capital for carrying on the manufacture of ships has diminished. He needs Edward's capital. It appears that if Edward borrows money from a bank he can buy more shares and as he owns ten million of the Morse company shares already, his takeover of the Morse company can proceed without the consent of the present Board or present owners of the shares. Edward has simply to buy more minority shares and proceed with his hostile takeover plan.

Morse believes during the restaurant negotiations that he can retain control of the company. The price of shares has been set high enough to prevent Edward gaining a majority, he would have to pay too much to buy up sufficient shares held by minority shareholders. But the share price is contingent on a contract with the state Defence Department to purchase ships, a contract requiring approval by a Senate Appropriations Committee. It appears

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⁸ Critical approaches to these questions include: Lapsley and Westlake, 1992; Cooks, Orbe, and Bruess, 1993.


¹⁰ On analysis of the folktale, see Propp, 1968; Propp, 1984.
that Edward believes he can keep the contract buried or stalled at the Committee stage, and prevent the share price being held up by the expectation of shareholders that this lucrative contract with the state will proceed. While the contract remains buried in Committee proceedings the share price will fall. During the restaurant negotiations Morse's grandson narrates the times of old, 'when men built ships the size of cities, and men like my grandfather made this country'. These were the 'olden times' when the making of things was the making of the country. Edward's villainous nature comes to light when he discloses that he can have the state approval of the shipbuilding contract delayed indefinitely. Members of the Appropriations Committee are 'in his pocket'. Morse fights back by raising the price for the shares of minority shareholders, thereby hoping to defeat Edward's attempt to buy more shares. We are told that Morse will finance these purchases by 'throwing in with the employees', and borrowing from the Plymouth Bank. Edward's lawyer Phil has a plan to use their influence at the bank to prevent Morse obtaining a loan from the bank. Is is a coincidence that Edward's villainous nature flounders as he approaches Plymouth, a name for a place of new life for the pilgrim fathers, in American history and folklore? Plymouth as the landing place in Massachusetts of the pilgrim's flight from persecution under the old European order of things.

After telling Vivian that 'I wont let myself become emotionally involved in business' and her reportage of a similar way of doing the prostitution business, Edward observes that 'you and I are such similar creatures... we both screw people for money'. As he reveals to her a remnant of emotion for a lost father and himself as a lost soul, he seems to find an empathy for Morse about to lose a child, the corporate child. He complains to his lawyer still planning the hostile takeover, that 'we dont build anything, we dont make anything'. Phil the lawyer explains in return that 'we make money Edward. We worked for a year on this deal, it is what you said you wanted. Morse's jugular is exposed, it is time for the kill. Let's finish this, call the bank.' It becomes clear that Edward never calls the Plymouth bank to stop Morse's loan. Vivian becomes the medium through which Edward experiences an emotional level to this life - to her he expresses anger towards a filandering father and the loss of his inheritance, and confesses his first corporate takeover was that of his father's company, his motivation was revenge. As Edward's sensibilities towards Vivian develop, as he comes to see her as a person with qualities in addition to sexual services, as she becomes his object of pursuit - for her intrinsic qualities rather than simply sexual services, he emerges as the hero of the romancing of the corporate body tale. His marriage with Morse's corporate child proceeds. Edward agrees to reform his asset stripping habits and build big ships with Morse.

But what he longed to seize is now no longer determinative of his sense of quietude, satisfaction or achievement. His longing remains, and shifts to that other unattainable union - a meeting of spirits with a Vivian who trades only in the use of her body. Left undecided is whether Edward's use of promissory notes, his use of bank notes, has been sufficient to qualify as a new kind of 'making the country great' again. The intrinsic value of his underwriting of the company's new things is undecided. The old technology of manufacturing things is revealed as simply the making of 'destroyers', of warships, things which destroy.

II The Cinderella Code and the Persons and Things of Property Law

In property law theory - that curious contemporary practise of deploying the terminology of feudal office holding and its supplementation by the recognition and naming of new kinds of freeholding persons and things - landed or real property is divided from personal property. This categorisation preserves a distinction between things belonging to the king - real, landed or royal property, and things capable of ownership of a freeman which were not necessarily held by the king - personal property. Within property law theory, roman law conceptions of citizenship, of personhood as free or enslaved, and of patria potestas - the power of the father, remain encoded as learnt practices for recognising when a new kind of human practise can be named as creative and its fruits claimed for oneself. Contemporary property law textbooks narrate an imagined landscape of feudal persons and their estates, peopleed in the mind of the legal reader by the freeman and the unfree man, their families and households, their obligations and various incidents of tenure holding or servitude. While the characters of the unfree have been

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11 Anne Bottomley has written on the tradition of real property texts and the theme of landscape, see Bottomley, 1996, pp109-124.
largely absent in twentieth century property law textbooks, and legal judgments, their presence and obligations remain within the classificatory structure of property law’s terminology for confirming the presence of any new kind of financial property, practise or effect. Writing and its figural dimensions stand in to perform the scripts for these phantom characters. Or is it the reader who animates the ‘plain’ words of ‘ordinary’ language? The actions of finding, gathering, making and using conjure memories of roman woods, fields, vinyards, wild animals, slaves and the poetical forms for representing their rightful ownership and use. While poetical terms for these actions repeat the feudal order of a freeman’s holding of tenure and the uses of his estate, this feudal landscape of the legal imagination is embedded within the roman law narratives of Justinian and his scripts for the characters of fathers and freemen - the conditions of their rights over things naturally under their control and other things which might be brought under their control.

When a man makes a new object out of materials belonging to another, the question arises to which of them, by natural reason, does this new object belong? to the man who made it, or to the owner of the materials?... If the new object can be reduced to the materials of which it was made, it belongs to the owner of the materials, if not, it belongs to the person who made it...

In the feudal order of things an unfree man belonged to his lord, did that mean the offspring of his making were also the things belonging to the feudal lord? Recognising that an offspring was made by the actions of ‘a person who was not unfree’ encapsulates the limits of both the feudal order and contemporary property law, but its focal point or image is as near or far as one imagines the actions of finding, gathering, making and using. These are actions of the imagination for picturing the person who is not unfree, pictures interwoven with narratives of daughters and absent fathers in European fairytales, and sons and godly fathers in biblical tales.

The poetical structuring of persons and things and the aesthetics of actions which animate them are sufficiently alike in contemporary property law and in the romantic wonder tale of the Europeans for each to stand in for the concept of property in general. In each there is a struggle by a hero to find and take for himself the offspring of an absent father.

**The focal point of desire**

In *Pretty Woman* the romancing of the body corporate does not stop at the marriage of Edward with Morse’s grown up corporate child, Edward's desires are displaced and our questions about the intrinsic worth of Edward's business practices in the making of the country great again remain unresolved. It appears that the hostile takeover and revenge strategies have been only personal tactics for dealing with his own emotional confusion at the loss of his father at the time of his parent's divorce. Edward's willingness to accept the regard of Morse as if he were a father seems to permit Edward some compensation and he emerges with new feelings of sensibilities, which he directs towards Vivian. His desires are displaced to the takeover of her body for his sexual gratification, he wants to buy her sexual services for a longer term. His desires now lead him to another land of commerce, back to Hollywood Boulevard. But it is now a land of commerce in which Vivian will no longer deal on the same terms. His desires have led him also to the land of her dreams where she is Cinderella wanting a knight to rescue her - from herself. It is in the giving up of his desires to pay for the use of her body and entering into the fantasy of her body being in need of rescue that the romance moves through the Cinderella fairytale to become one of the viewer's engagement with the romancing of language and writing.

There is an ambiguity about the representation of Vivian's body. In the land of commerce inhabited by Edward and Vivian the hooker, money paid for her services suggests that things of substance can be substituted for an equivalent value of money. Vivian trades in the use of her body, she owns it and she gets to say 'when...where, ... how much’. Property can be known, its value estimated and exchanged at a price known to the holder and representing the similar price the buyer puts upon the satisfaction of his desires. Money can represent the propriety thing and what one is willing to pay for it. Or can it? Where the propriety thing has a physical substance, such as land, or gold, or Vivian's body, then perhaps this is the case. But can an estimate of desire be a substitute for a non-physical thing, such as incorporeal property, such as writing the words of money on paper?

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12 They are returning to academic texts in contemporary critiques of the Australian native title practices, see: Grattan and McNamara,1999.

13 Justinian, 1913.
How can words be a substitute for an estimate of one's desire? How and where can desire replace words? When Edward desires Vivian more, for more than the 6 day deal, he is willing to pay more. But the narrative of *Pretty Woman* takes Edward, and the viewer, to the door of Vivian's dreams, the fairytale world of the Cinderella tale.

At this point there is an ambiguity for the viewer. Where is the place of the viewer, commerce land or fairytale land? Are we still in the land of commerce where money can buy things, anything, or have we been transported to some more noble place - the land of chivalry, of higher morality, of domesticity, private life, and marriage. Does Vivian's body mean Edward's desire for a new takeover - to use her for himself, or does her body mean Edward's desire is for her as his wife and himself as husband; and can we tell the difference? How do we interpret Edward's actions in securing the consummation of his desires for this daughter of Hollywood?

At this point I want to turn to the story in legal histories of tenure in law books, stories which provide another account of daughters and the meanings which attach to the price to be paid for their hand in marriage. In these legal histories picturing daughters of absent fathers provides a negative logic to that father's identity as a free man, and her suitor's actions provide us with the clues to interpreting those forms of entitlement -linked in fiction to tenurial relations, and in practise to the narrative form for transforming written words into monetary things.

### III Feudalscapes: The Imaginary land of tenure and estates in historiographies of land law

In property law theory, the division of real property from personal property follows historical lines of categorisation. The terms and theory of real property remains within thirteenth century English terminology for specifying which kinds of property passed on death of a feudal lord to his son. 'Real' property were the kinds of corporeal and incorporeal hereditaments which passed with the inheritance of office or status of Lord under a system of primogeniture. The heir of a lord took up occupation of the immovable incidents of being Son, of filiation, of entitlement.

Contemporary practices of diverse propertisations of relations in modernity remain within these imagined worlds or 'feudalscapes' - imaginary worlds\(^{14}\) in which a reader with juridical conventions for picturing the work of making things with words and writing can recognise privileged forms of being,\(^{15}\) of citizenship, and of entitlements. Appadurai has coined some phrases\(^{16}\) for exploring various disjunctions in contemporary global economies between economy, culture and politics, explorations based upon the theorisation of the politics of global commoditization as involving language, interpretation and themes of landscape. His purpose is, in his words, to use terms with the common suffix scape to indicate first of all that these are not objectively given relations which look the same from every angle of vision, but rather that they are deeply perspectival constructs, inflected very much by the historical, linguistic and political situatedness of different sorts of actors...these landscapes thus, are the building blocks of what, extending Benedict Anderson, I would like to call "imagined worlds", that is, the multiple worlds which are constituted by the historically situated imaginations of persons and groups spread around the globe.\(^{17}\)

Using Appadurai's insights, 'feudalscapes' are part of an aesthetics of how things of writing can confirm the presence of a legal character or person, and how this character can be recognised as capable of performing wondrous feats of financial capabilities which far outwit and outweigh the efforts of any human being.

As the pre-Norman system of many lords changed to one in which the land was assumed to be occupied under

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16 Appadurai, 1990. These terms are: ethnoscapes, mediascapes, technoscapes, financescapes, ideoscapes.

notions of tenure, the Crown became both the one Lord or sovereign and the one title holder to land. Well at least this narrative of the coming into being of the historical coincidence and reality of sovereignty and legal ownership of real things is repeated in twentieth century property law textbooks. Land was occupied as Knight service or as service free of military obligation, provided the duties of occupation were commuted by a money payment to the King. Tenure was the service which the Knight owed and the service incumbent upon the tenement or land while it was in the Knight's hands. Where the Knight could not perform the service the Crown could enforce the duty owed against the land. The land owed its 'fruits' to the Crown, almost as if it were a person. The term tenure means the power of the lord to deal in both the land and the fruits of the land, his interests in the uses of the land. As the services owed by the Knight came to be commuted by a money payment other categories of tenure became blended into the category of free-holding of land. Land tenures became either free-hold tenements for the life of the holder or for a term of years, each with both services owed by the holder and fruits owed by the land. Where the services owed by the holder were certain or finite, and the fruits of the land measurable in certain quantities both kind of tenements were thought of as 'free' or limited. The holders liberties were known.

In these narratives of times past, not all inhabitants of feudal Britain lived as free-holders of land, some lived under conditions of villeinage or unfree tenure. In Pollock and Maitland's History of English Law, their status as villeins was one of entitlement of occupation to the land of a sublord who held from the overlord - an entitlement by descent and the performance of uncertain and unlimited duties to the sublord. Pollock in 1882 gives a passage from Bracton on 'the legal theory of villenage which prevailed in his day'.

The tenement changes not the condition of a free man any more than a slave. For a free man may hold in mere villenage, doing whatever service thereto belongs, and shall not the less be free, since he does this in regard of the villenage and not in regard of his person... Mere villenage is a tenure rendering uncertain and unlimited services, where it cannot be known at eventide what service hath to be done in the morning - that is, where the tenant is bound to do whatever is commanded him.

Pollock continues his extract from Bracton,

Again: 'Another kind of tenement is villenage, whereof some is mere and other privileged. Mere villenage is that which is so held that the tenant in villenage, whether free or bound, shall do of villein service whatever is commanded him, and may not know at nightfall what he must do on the morrow, and shall ever be held to uncertain dues; and he may be taxed at the will of the lord for more or for less,...yet so that if he be a free man he doth this in the name of villenage and not in the name of personal service;... but if he be a villein [by blood] he shall do all these things in regard as well of the villenage as of his person'.

In Pollock and Maitland's History, some men held tenure subject to more certain duties, such as 3 days labour for the sublord per week, the ploughing and planting of so many acres of wheat to be given to the sublord. The customary duties to the sublord both evidenced their entitlements of occupation and their unfree status. To the extent some entitlements of tenure were 'by copy of court roll', by 'copyholding' came to be viewed as by the authority of the lord's manor courts and unfree tenements were difficult to distinguish at a later age from free tenements. In this historiography of Pollock and Maitland of the coming of modern English property law, at the time of the King's courts admitting jurisdiction, 'the term "unfree tenement" becomes the pivot of a whole system of remedies'.

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20Pollock, 1901, p333.
21Ibid.
22Pollock and Maitland, 1968, vol.1, p 376
23Ibid, 358
In the history books of Pollock and Maitland the dividing line between the incidents of holding tenure coincident with free status and the incidents of holding coincident with the unfree was blurred, and consequently the jurisdiction of the King's courts was blurred, at least in the history writing. It appears that it had become blurred by the Lords treating the holding of some use of the land as transferable, such as a leasehold for a certain number of years. Were the monies paid by the leaseholder for the uses of the land a sign of unfree service, or of free-holding? How could the wheat paid by an unfree villein to his Lord for the occupation of land as an unfree villein be distinguished from the monies of equivalent value paid by another possibly free villein for similar benefits of occupation? In this history narrative at stake was a thirteenth century distinction for determining the jurisdiction of the Kings' courts.

Pollock and Maitlands' History speaks of the difficulties of reading the 'process of commutation'. How does one read the meaning of villenage when dues can be paid in money or in produce?

We may see the process of commutation in all its various stages, from the stage in which the lord is beginning to take a penny or a halfpenny instead of each 'work' that in that particular year he does not happen to want, through the stage in which he habitually takes each year the same sum in respect of the same number of works but has expressly reserved to himself the power of exacting the works in kind, to the ultimate stage in which there is a distinct understanding that the tenant is to pay rent instead of doing work'.

And also at stake in the telling of this blurred line dividing the free status and the unfree, was a picturescape for plotting the beginnings of the commercialization of the benefits of landholding. Writing in the nineteenth century this picturing, of feudal office holding and status in the thirteenth century, created a prehistory for monetary forms of property yet to be thought.

The mark of the unfree man

One method of detecting or distinguishing the free villein from the unfree was the presence, in his incidents of holding, of the right to dispose at his will of the fruits of his body. Pollock argues in 1882 that

The only difference in the services was that the merchetum on marrying a daughter, being an incident of personal servitude (as a fine paid to the lord for depriving him of a slave), was not demandable from the free man holding in villenage. \(^{25}\)

The benefits of the uses of the unfree man's body - his sons and daughters - were subject to the control of the lord. His daughter could be married out of the manorial jurisdiction only by paying a fine to the lord. His daughter was, in effect, the property of the lord in similar manner to the wheat of her father's labour, or the new calves of her father's husbandry. She was part of the stock on the tenement. The unfree man must pay the merchetum before his daughter could be removed from the tenement, and used by a husband. In the history book of Pollock and Maitland, the merchet was a base payment or mark of personal unfreedom. \(^{26}\) Pollock and Maitland argue that a man who did not have the power to control the giving of his daughter in marriage, the man who did not own and control the fruits of his reproductive labour was an unfree man. Being able to treat one's daughter as if she were a produced and disposable thing of a fatherly maker was not determinative of the status of a freeman, but not being able to treat one's daughter as a made thing was determinative of an unfree man.

Whether we regard the theory of real property law produced by Pollock and Maitland as faithful accounts of 'land law', as 'theory' faithful to a history written in the 1880s, or whether we read them as postmodern historiographies written for the coming into being of a new legal life for monetary property, their jurisprudence did record the place of the daughter or young girl in the legal imagination of western law. Having to pay another for leave to give one's daughter in marriage was the mark of personal unfreedom. Payments made for the right to take and hold the future uses of the things of the tenement - whether the field and its wheat, the cows and their calves, or the serfs of the tenement and their offspring, had an indeterminate meaning or effect, a meaning for the future.


\(^{25}\) Pollock, 1901, p334; see also Pollock, 1887, pp202-214.

only if one knew the civil and legal origin of that for which payment was proferred. But these same civil and legal origins of things were being transformed by the making of payments for rights to future use. And rights to future use - the character of the *chose-in-action* - were taking up a place as hero in the scripts of a feudal order, in the feudalscapes of property law textbooks. Here were the future heroes of commercial life, without a narrative, unless Pollock and Maitland could create one for them. Through daughters fathers can dream of any alliance with other men and make this happen, if he has the gift of her in marriage;27 and if a juridical community can recognise the characters in the paper-work of this dream which underwrites the adventures and conquests of corporate and financial capital.

**IV Reading the Ideoscape of Entitlement: Rescuing Vivian and Edward**

The fairytale narrative within Vivian's dream for herself in *Pretty Woman*, with its code of the maiden trapped in the tower by a wicked Queen and the Knight on the white horse with colours flying, provides a picturing of the textbook theories of property law, and the characters of its feudalscapes. The Cinderella or Rapunzel code and the rescuing Prince or Knight repeats the system of signification of property law theory, that feudalscape of tenurial relations which passes for the idea of property in general. In the fairytale an 'ideascape'28 of feudal land and office, of *res* and *persona* - the thing and the mask of persona, form the structure of the character's spheres of action. Each daughter's marriage is not within her leave. Cinderella or Rapunzel is the focal point in how the Knight's actions can be meaningful. We do not know whether she is the daughter of a freeman who can decide for himself whom she will marry, or whether she is a daughter of an unfree man who can be married only on payment to the feudal Lord for the loss of a manorial subject. In the fairy tale narrative of the Cinderella or Rapunzel genre father is always missing. She cannot be married until a complex event occurs, a quest is completed, or a series of barriers are surmounted. These events, quests or barriers are sufficiently complicated for their completion to be possible only by a heroic character. The meaning of the hero's actions provide one part of a larger narrative of a father, perhaps an earthly father with qualities of being free, or perhaps a spiritual father towards whom longing remains coded by a life long quest.

As Edward enters Vivian's dream world and its feudalscape of the maiden locked in the attic and the rescuing Knight, the viewer is transported to fairyland. There is an ambiguity to Edward's actions as he is drawn from corporate world into the feudalscape. The images and signs of what Edward's money means are displaced from the funds he contributed to saving Morse's company to the outlay of an apartment and living expenses for a 'paid woman', or at least the offer of these monies. Edward is willing to pay for Vivian's sexual services on a long term basis.

Edward's desires for Vivian and how he will achieve his object are doubly coded.29 While still in corporate land he believes that money will buy her body and her sexual services. In Vivian's feudalscape this means she is the daughter of an unfree man, the ideoscape of property law theory is confirmed as inhabited by the personae of Lords and others who serve as things for Lords. Vivian rejects his offer to be a 'paid woman' and holds out for her dream. As Edward is drawn into her dream and the sequence of patterns of action available in the fairytale narrative he changes the path of his quest. Where in corporate world payment always joined Edward with the object of his desires, it is now his own efforts as rescuing hero which are required. He must charge on the White horse with colours flying, find the trapped maiden and climb the tower despite the dangers of the quest. Monetary performance is replaced by a performance by him of the character in her dreams.

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28Appadurai has coined this term and notes that, "'ideascapes' are also concatenations of images... composed of elements of the Enlightenment world-view, which consists of a concatenation of ideas, terms and images, including 'freedom', 'welfare', 'rights', 'sovereignty', 'representation' and the master-term 'democracy'." Appadurai,1990,p 299.

29See Bal, 1996.
But does this performance by Edward of the quest struggle mean she is a daughter for whom payment must be made? Is she the sign of an unfree man, a daughter of the unfree? Do we read Edward's performance as Knight as the struggle of payment, the return to the feudalscape of tenurial relations? Or do we read Edward's actions from the land of private life in modernity - the 'real time' of the present towards which Edward and Vivian appear to be moving, to the point of recognition that a non-commercial love is possible. In this mythical land of private life it is his desire which has brought him to the recognition that she is intrinsically valued, a person to be loved for herself.

The ambiguity of Edward's actions lies in his performance of both the scenario of private life with its corporate world, and that of fairyland and its rescuing Knights. Are we in the present or the past? As the viewer struggles to contain both readings, Vivian's body stands as the ground upon which the viewer makes sense of each scenario. What does Vivian's body mean? And how does the movie viewer's desiring to recognise the meaning of the film structure which reading of Edward's actions emerges? Has Edward rescued Vivian from her attic and completed the heroic quest which scripts the life of monetary persons within the juridical mind of corporate lives? Or has Vivian rescued Edward from his failing to make things of any value, from his life as a corporate raider? Has an intrinsic value of the writing of Edward's commercial paper or his performance of this character been established? As Edward completes the climb to the top of the stairs outside the windows of Vivian's apartment, he asks her what happens next to the characters in her childhood dream. 'So what happened after he climbed up the tower and rescued her?' Vivian says that 'she rescued him right back'.

But right back where? Back to the reality of that somatoscope of the Europeans where a reader's feelings and emotions for the characters of feudal actors in financial scripts enliven a global commodification of cultures? Or has he exchanged a reality for the dreamworld of the feudalscape, a reality of the present in which there are scenarios of private life outside a corporate world in which people stand in as things for persons in feudalscapes of monetary exchanges? Or has he exchanged this for the land of her dreams, the times past where rescues of maidens can only confirm an order of heroes transformed into things or things acting as if they could become heroes?

In each of these endings to my wondertale of language as the 'pretty woman' of law, the legal character of the 'writer' or 'maker' is confirmed as having made words on paper into something of intrinsic monetary value. The writer or maker is a well known character of banking and finance law. He is also a character through whom the interpretive conventions by which words refer to things of monetary value, or are things of monetary value, have entered the cultural repertoire of transformation narratives. The writer makes paper money, he makes 'commercial paper'. His written signs on paper, alphabetical signs arranged as words become things of monetary value. His materials partly belong to himself and partly belong to another; the writer in the legal imagination of the feudalscape uses words on paper of his own, the poetical forms of a reader for picturing finding, gathering, making and using these words, and the emotions of a viewer of movies, and life, for making sense of the actions of persons. These feelings of longing and desire can re-present an ancient narrative as one of new insight and its hero as the subject of the human will. In feelings of longing the human subject emerges as that hero of the struggle to be human destined during life never to survive the Fall from Grace.

But the Justinian Institutes have already laid down that a new object made partly by the materials belonging to one shall be rightfully owned by he who has contributed both the labour of making and part of the materials. Recognition of a new idea remains within the scenarios of roman life. While these poetical forms for the work of the juridical imagination are bound by pictures of roman life and scenarios of citizenship and servitude, they retain their capacity to enchant by their reenactment within the enjoyments of popular culture. Each reader's pleasures taken in the figurations of speech, her sounds and sights, draw the eyes towards the place of next time, and compel the soul to long for home.

30 Justinian, 1883.
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NOTES ON CONTRIBUTORS