

EIGHTEENTH-CENTURY
FICTION AND THE
LAW OF PROPERTY

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CHAPTER ONE

Communal form and the transitional culture of the eighteenth-century novel

Landed property must be a central focus in any study of the construction of community in eighteenth-century Britain. Although the advances in domestic manufacture and foreign trade in the second half of the eighteenth century tend to stand out most in accounts of the rise of industrialism, these advances were more than matched by the significant growth of agricultural productivity in the period.¹ In addition to its crucial economic role, landed property remained, virtually undisputed until the end of the century, Britain's dominant social, political, and ideological paradigm.² The rapid expansion of movable forms of property in the eighteenth century – commodities, stocks, credit – challenged the real and ideological dominance of immovable property, but the rapidity with which movables spread did not result in a quick or fundamental transformation of the established world of immovables. Even Adam Smith, who considered the wide distribution of increasingly various and refined commodities a crucial measure of the difference between “civilized” and “savage” societies, in the end projected a national economy that historically emerged from the gains made on the landed estate and continued to be grounded in agriculture, which for Smith represented a privileged figure of productivity and secure wealth.³ Landed property was too deeply entrenched, imaginatively and in fact, to be run over by what we have come to recognize, with good reason, as the “commercialization of eighteenth-century England.”⁴

The combative language I have used here is, of course, questionable on a more fundamental level. While many eighteenth-century commentators painted conflictive scenarios in which movable and immovable forms of property face each other as opponents – the one corrupting and fleeting, the other virtuous and stable – a more flexible perspective which recognizes the essential connection between all forms of property makes greater conceptual and historical sense. This book investigates the relationship between persons and things under the assumption that

“things” include movables as well as immovables, and that the boundary between “persons” and “things” is constantly redrawn. As the literature of the period reveals and as subsequent chapters will show, commodities can be immovable, land can be movable, persons can be viewed as things, things can assume human intentionality and, like human beings, they can have rights. I view the person-thing relationship as a complex tangle whose various forms and shapes emerge from distinct historical situations. I foreground property because the possessive is one of the essential modes by which we conceptualize and shape our relationship to things; in eighteenth-century Britain it vividly draws together social, cultural, political, and economic forces. To understand the depth of property’s influence on British culture, however, one has to look first to landed property. It is here that the most sophisticated conceptual work was done – in law and political economy – and it is here that the most significant literary interventions took place, in that new popular medium, the novel. In the pages that follow, landed property will not feature as the curious remnant of an older world, but as the most characteristic figure of eighteenth-century Britain’s long history of objectification. The evidence for its centrality is extensive, and I wish to touch here only on the areas of commerce, legislature, and constitution.

England’s most prestigious and significant body of legal learning, the common law, was so exclusively concerned with the seemingly endless ways of holding and conveying property that a majority of the legal conflicts arising out of the eighteenth century’s new commercial realities had to be adjudicated at the Court of Chancery, a court of equity that considered cases that could not be settled under common law.⁵ It is symptomatic in this regard that one of the hallowed texts of the common law tradition, William Blackstone’s *Commentaries on the Laws of England* (1765–69), had virtually nothing to say on the law of contract, the area of law whose fundamental commercial significance made it the dominant paradigm of nineteenth-century law.⁶ Common lawyers and the environment of common law were not exactly congenial to the mental and cultural habits of the new commercial classes. While the predictive dimensions of trade and stockmarket fostered habits that were increasingly future-oriented, common lawyers continued to consider not the most recent but the oldest precedent as possessing the greatest authority.⁷ If their procedures obliged them to look into the past to authorize present practice, common lawyers’ relationship to the future was shaped by the stable transmission of current possessions. For them, the “mortemmain,” the “dead hand” of property conveyance, not the “invisible hand” of

an interdependent market ensured future prosperity. Merchants and stockjobbers, meanwhile, dealt almost exclusively in a dynamic future whose profitable manipulation depended on the enforceability of contracts.

Even so, the authority of immovable property remained undisputed and the aristocracy and gentry were able to borrow large amounts of money on land that rarely functioned as a genuine security. As the equity of redemption illustrates, it was virtually impossible for moneylenders to recover money by forcing the sale of the land it was loaned on. Judges who felt that landed property had to be protected from the contractual obligations incurred by borrowing ruled overwhelmingly in favor of landowners, a pattern that was crucial in preserving and increasing the economic importance of land.⁸ Protection was also forthcoming from the criminal law, which expanded exponentially between 1688 and 1820, adding more than 150 capital statutes to its books.⁹ Almost all of these laws concerned offenses against property, including the notorious Black Act.¹⁰ Their formulation and administration were largely in the hands of property owners who benefited from the fact that parliamentary representation and public office were tied to “the favourite safeguard of the age, the property qualification.”¹¹ And because of primogeniture, coverture, and the restrictions that applied to their independent possession of things, women were automatically excluded from most of these aspects of public life.¹²

Cutting across the considerable ideological differences between common and natural law, concepts of property were central as well to defining the origins of society, the legitimacy of government, and the English constitution. This ideological function was strengthened by the successful Protestant settlement of 1689, which displaced strict genealogy and enthroned property rights. As the debate over the Bill of Rights shows, the limitation of the succession was argued largely in analogy to property law, and in the early eighteenth century even Tories began to be swayed by the argument that kings hold their crown by the same legal right as subjects their estate.¹³ The developments of the seventeenth century sealed the final ascent of common law as the dominant national law and installed the language of property at the heart of politics. This heritage made it virtually impossible to talk about the legitimacy of government without mentioning property rights.¹⁴ The first broad challenge to property’s ideological dominance arrived somewhat belatedly in the heated political debates of the 1790s. But even in the nineteenth century, and notwithstanding successful parliamentary reforms, F. W. Maitland was

forced to exclaim that “our whole constitutional law seems at times to be but an appendix to the law of real property.”¹⁵ While the ideological, social, and political force of landed property declined in the nineteenth century, the study of English law continued to depend on a firm knowledge of land law. It is safe to say that eighteenth-century Britain had not yet undergone the “social division of labour” by which Ernest Gellner characterizes the modern separation of state, culture, and society.¹⁶ Despite attacks by political theorists such as Thomas Paine, eighteenth-century government and society were still intertwined, and it was landed property that kept them together by linking private right and public legitimacy, local and national government, and legislature, jurisdiction, and representation.¹⁷ In Britain the eventual separation of state and society and the emergence of modern forms of national community are tied to the gradual removal of landed property from its social, political, and ideological functions, its demotion from its elevated position as a form of property with distinct civic capacities. If, for most of the eighteenth century, landed property is able to set the terms for the relationship of persons and things and thus for more comprehensive communal patterns, it finally loses that ability only when the distinction from movable property vanishes – at the point when both movable and immovable property have been fully reified.

The literary case studies I have assembled here show how vital the novel’s contributions to this protracted, complex process of reification were. The selection of texts I present is limited – I offer extended readings of novels by Daniel Defoe, Henry Fielding, Ann Radcliffe, and Sir Walter Scott and briefer analyses of Samuel Richardson, Henry Mackenzie, and Laurence Sterne – but my approach should produce specific insights even over the long period that these texts inhabit. In offering selected vertical probes across this period, I wish to lay open the various practices – legal, aesthetic, economic – appropriated by these novels to fashion their textual worlds, and I hope to gain in cultural specificity what I may lose in literary-historical coverage. My goal is to provide as clear a sense as possible of how exactly these texts intervene in their cultural environment: what these novels make us see about property and community, and how. If performed at the right angle and in sufficient depth, these probes should also open up “horizontal” narrative connections between the different case studies they yield. Yet the concreteness of these connections will ultimately depend on the extent to which I shall be able to make good my claim that a profound, ongoing cultural dialogue about property is shaping the communal imagination of eighteenth-century Britain.

One of the larger claims I can make confidently even at this point is that the novels I have chosen – many of them safely within the now accepted canon – have not been appreciated enough for the intensity and persistence of their concern with the relation between persons and things. The reasons for this are numerous and I will address the reluctance of literary critics to examine the novel's preoccupations in this area in a moment. I simply wish to underline here that the eighteenth-century novel's continued and sometimes laborious rehearsal of plot lines that turn on issues of property – dramas of lost and found heirs, of the right succession, the propriety of ownership, and of the “proper” marriage abound – should not be seen as a failure to address vital social and political issues. Questions of property are at the center of eighteenth-century culture and they define the community of husband and wife as much as the national community represented in parliament and the social community that “places” people in distinct ranks. It is thus not surprising that the semantic link between “plot” (signifying “a series of events,” “a small piece of ground,” a “ground plan”) and “property” should be especially visible in eighteenth-century narratives. The novel's engagement with “groundedness,” in particular, will occupy this study in a number of ways.

The prominence of such concerns in the modern genre of the novel is really a sign of the extent to which the culture of property in eighteenth-century Britain managed to retain a vital tie to feudal institutions, institutions that helped foster the impression of a vast continuity linking the centuries and that influenced Britain's public and private life well into the Victorian period.¹⁸ Immune to the twin forces of modern revolution and constitutionalism, eighteenth-century England was, in Tom Nairn's phrase, a “transitional” society whose negotiation of residual feudalism and emergent modernity reached no convulsive conclusion. Without a clear socio-cultural dominant, England's negotiation of residual and emergent forces, of older and more modern forms of property, was itself dominant. “More than any other society,” Nairn writes, England “established the transition from the conditions of later feudalism to those of modernity . . . Neither feudal nor modern, it remained obstinately and successfully intermediate.”¹⁹ Nairn has not been alone in arguing for such transitionalism, and David McNally, R. S. Neale, and Raymond Williams have offered similar arguments (one has to wonder, indeed, whether Williams's influential distinction of emergent, dominant, and residual forces is not itself a specific response to British transitionalism).²⁰ Drawing on these historians and critics, I want to argue that the notion

of a transitional eighteenth century is crucial to understanding the profile of possibilities exploited by the novel to articulate its communities of persons and things. Such transitionalism should contribute something to explaining, for example, why romance had such a powerful resurgence in the second half of the eighteenth century, and why it could overthrow what many critics saw as the cultural and literary gains made by Defoe, Fielding, and Richardson. And it should contribute something to the question of why the Gothic novel, with its cultivation of feudal fear, should become, in an age of revolution and enlightenment, a genre of delirious popularity. Generic atavisms such as these, it seems to me, emerge from British culture's ingrained ability – fostered by the persistence of property – to see the present in close vicinity to the past, to link even its turbulent commercialism to an always receding but never disappearing feudal past. It would take, indeed, writers from Ireland or Scotland such as Maria Edgeworth or Sir Walter Scott who were exposed to more drastic historical changes and who possessed an acute sense of cultural conflict, to produce novels that placed the feudal heritage beyond reach and enshrined it as a past that has come to an end. But even then, the work of assigning the past to a distinct place in history activates in someone like Scott a tremendous nostalgia for possessive modes of community. Here, too, we see a continuous transformation rather than abrupt departures: the communal function of landed property remains a constant focus for the eighteenth-century novel, whose exploration of new commercial and psychological possibilities is always in dialogue with older conceptions of identity and wealth.

Britain's expansive transitionalism raises some problems for the most influential account of modern communal forms of the past twenty years, Benedict Anderson's *Imagined Communities: Reflections on the Origin and Spread of Nationalism* (1983). Anderson sees the appearance of modern communal forms and the imaginative procedures that shape them as a sudden convergence, a "spontaneous distillation of a complex 'crossing' of discrete historical forces."²¹ As a general statement of the phenomenon under study, Anderson's formulation would seem to be at odds with my observations on eighteenth-century culture. Incomplete though they have been, these observations suggest that the emergence of modern communal forms in Britain must have been an indecisive and partial event. The obdurate persistence of landed property as the ultimate ground of social and political community indicates that the development of modern communal forms in Britain could hardly have been spontaneous. This becomes even more obvious once we consider the novel, which is

given central place by Anderson for developing the imaginative procedures requisite for achieving a more abstract sense of community that cuts across concretely localized regions. Anderson sees the novel as projecting the “‘homogeneous empty time’” needed for the development of modern communal forms, but his account of such projection implicitly discounts the eighteenth-century literary tradition.²² For it is only in the nineteenth century, after the period Anderson considers critical for the birth of the modern nation, that the British novel begins to display confidence in the modality of the “meanwhile” (the term Anderson uses to characterize the complex multilevel plots he sees as essential in the production of time as a contentless, neutral dimension). Consequently, Anderson sounds as if it is only modern communal forms that require the imaginative work of the novel and as if the rise of the novel coincides with the rise of the modern nation state – which is patently not the case in Britain. I want to argue that the novel in Britain, for a much longer time than Anderson is willing to accept, figures and refigures traditionalist communal forms, but without coming very close to producing a sense of empty homogeneous time by the end of the eighteenth century. The novel is certainly moving toward such a sense of time, but for most of the century the more absorbing spectacle is not the literary construction of the new, but the recomposition of the old communal model. And this work of recomposition does not restrict itself to the domain of time alone.

However suggestive in many ways, Anderson’s privileging of time in his account of modern communal forms is finally limiting – especially when we consider that for most of the eighteenth century the spatial figure of the landed estate set the parameters for the communal imagination. In fact, much may be said for emphasizing space rather than time in considering the eighteenth-century communal imagination, but it would be a mistake simply to switch categories – no matter how tempting that might be, given the recent resurgence of space as a term of historical and cultural analysis.²³ We actually need a more comprehensive approach to the communal imagination, an approach that moves us beyond the problematic stress on homogeneous time and sudden convergence. If the novel eventually begins to figure time as a neutral framework that relativizes the locally grounded order of landed property, this development needs to be situated within the larger relational web of time, space, and practice that I consider crucial to understanding communal forms. Anthony Giddens has made much of such relationality in his account of modernity, and some of his claims provide guideposts for my discussion. In *The Consequences of Modernity* (1990) Giddens suggests that all social

community rests on a more or less complex, more or less mediated relation of time, space, and practice. The modernization of social relations in Western Europe begins, Giddens argues, in the seventeenth century and it involves three central mechanisms: the separation of time and space and their emergence as “contentless dimensions” that exist apart from social life; the development of what he calls “disembedding mechanisms” that “‘lift out’ social activity from localized contexts”; and the “reflexive appropriation of knowledge,” by which he means the “production of systematic knowledge about social life.”²⁴ These three interlocking mechanisms present the process of modernization as a basic shift in the relationship between time, space, and practice.

While Giddens is not interested in questions of community as such, his model puts the emphasis where it should be: on relationships. It avoids the danger of isolating time or space and replicating what appears to be their current existence as separate spheres. Because it foregrounds flexible relationships, Giddens’s model offers better access to what I see as the gradual establishment of more modern communal forms; it will enable a more attentive tracing of the subtle shifts, partial disturbances, and temporary realignments effected by the novel’s imagined communities. But instead of considering these issues in the abstract, I would like to move on to a more concrete discussion of the type of immobile property that best represents the traditionalist communal form with which the novel interacts.

I

If there is one type of landed property that occupies, in one way or another, all the novels I examine in detail, it is the manorial estate. Recognized for some time as an idealizing trope of feudalism and baronial plenitude in seventeenth-century poetry, the manor also has an importance for the history of the novel that has not been registered.²⁵ In texts as diverse as *Robinson Crusoe* (1709), *Tom Jones* (1749), *A Sicilian Romance* (1790), and *Waverley* (1814), to name only the novels that concern me most closely here, the manor is central. In them the seventeenth-century manor becomes a deeply contested figure; it haunts these texts as inescapable ground, ideal state, delusive chimera, and sentimental image. The manor was not the dominant form of landholding in eighteenth-century Britain, and already in 1696 Samuel Carter estimated that only about a third of all British landed property was manorial.²⁶ Even if one adds E. P. Thompson’s remark that one should not merely count the acres in

estimating the importance of the manor, but consider also the often considerable number of farmers who made a living on the basis of customary tenures, manorial landholdings were not socio-economically dominant in the eighteenth century.²⁷ But if the manor as an actual community was on the decline in the seventeenth and eighteenth centuries, its ideological and imaginative value continued to be extremely high throughout this period.

Such value can be measured not only by the emerging tradition of the country house poem in the seventeenth century, but also – as befits an age increasingly self-conscious about the communal function of property – by the growing legal visibility of the manor. The publication in 1641 of Edward Coke’s *The Compleate Copy-Holder, Wherein Is Contained a Learned Discourse of the Antiquity and Nature of Manors and Copy-Holds*, is the central event in the legal recognition of the manor as a distinct communal form.²⁸ Because of its general importance for what I shall be doing in the following chapters, it is necessary to look at Coke’s text in some detail. To describe “the very forme of Manors, which is observed amongst us at this present houre” is Coke’s declared goal.²⁹ In a first allusion to the political dimensions of his legal discourse, Coke presents the manor as a “little common weale” (52) whose “essential parts” have been in continuous existence from Saxon times to the seventeenth century (8). The two “material causes” of the manor are “Demesnes and Services,” by which Coke refers to the manorial integration of land and social practice. He devotes a considerable part of his treatise to delineating what he prefers to call the “jurisdictions” or “fruits of a Manor” (22), those practices that belong to or grow out of the manorial estate. Among these he lists the lord’s privilege of appointing a guardian for heirs who are too young to accept responsibility for the lands they inherit, or the payment of “reliefe,” a certain sum of money that becomes due when a freeholder is at full age at the death of his ancestor (24, 30). To understand the significance of these and similar manorial practices, it is important to recognize what Coke’s preferred metaphor of the “fruits” of the manor tries to make clear: that such practices are not rooted in the person of the owner, but in the land and the kind of tenure by which it is held. A particularly striking illustration of the way in which manorial land concretely embodies certain powers and rights is provided by the regulations regarding forfeiture. “If a Horse striketh his Keeper,” Coke explains, “and killeth him: or if a man driveth his Cart, and seeking to redresse it, falleth, and the Cart wheele running over him, presseth him to death,” “then immediately that thing which is the cause of that untimely death, becometh forfeited unto the

Lord” (45). Though not every manor possesses such duties, the example Coke offers here makes tangible the sense in which the territory of the manor has itself distinct rights incorporated into it, rights that, in this case, secure certain movable possessions of the dead against the claims of their relatives. These rights are, indeed, self-activating. As Coke’s stress on the moment of death indicates – “*then immediately*” forfeiture takes place – no legal action needs to be brought to ensure forfeiture of these goods. No human agency is necessary, and it is the land itself that seems to be capable of legal action, preempting all other claims. It is in contexts such as these that Blackstone’s decision to call one of his four volumes on the laws of England *Of the Rights of Things* suddenly makes striking sense.

This complex unity of practice and land, of right and territory, however, does not come about without the intervention of a third factor that Coke distinguishes as “the efficient cause of a Manor,” and that cause is time. In what must be the key passage of the entire text, Coke rises to the challenge of capturing this third factor as follows:

The efficient cause of a Manor is expressed in these words, of long continuance, for indeede time is the mother, or rather the nurse of manors; time is the soule that giveth life unto every Manor, without which a Manor decayeth and dyeth, for tis not the two materiall causes of a Manor, but the efficient cause (knitting and uniting together those two materiall causes) that maketh a Manor. Hence it is that the King himselfe cannot create a perfect Manor at this day, for such things as receive their perfection by the continuance of time, come not within the compasse of a Kings Prerogative. (52)

Time itself, a traditionalist time of “long continuance,” joins the manor’s two material causes, land and practice. It is the manor’s venerable origin, dating back to the ancient liberties of Saxon England, that for Coke has made its union of practice and land as inextricable as it is irresistible. Coke’s “little common weal” shows here its political face. In Coke’s vision the manor reaches right back into England’s ancient constitution, and it is such rootedness in a time before time that allows the manor to resist the prerogative of the king. And while manors can no longer be created, not even by the king himself, such temporal integrity is matched by considerable spatial fixity: manors cannot be enlarged (54–55), and can be divided only in a way that preserves the combination of demesne and service in each of the newly created units (61). The manor is thus a communal form in which the operation of a continuous, uninterrupted time has integrated land and practice to such an extent that they cannot

be separated. So complex and gradual is this process, in fact, that it can never be recreated by deliberate human action. In this sense the manor is a self-sufficient, self-shaping entity whose political independence hinges on the extent to which time has “knitted together” a particular title to land with a recognizable set of practices. We are dealing with a communal form, then, in which time, space, and practice are closely interrelated. Certainly, time and space are not the “contentless dimensions” Giddens suggests they become in modern society. On the contrary: if manorial space concretely embodies specific practices and thus possesses distinct qualities, then manorial time is also a qualitative, not a quantitative, force. As Coke’s invocation of time as “mother” and “nurse” suggests, time has powers of its own and, as the force that joins land and practice, it does not function as a neutral frame that measures human activity, but concretely participates in it.

Coke’s exposition may so far have seemed to favor baronial power (even as he carefully locates such power in the manor, not the baron), but that is only one part of his agenda, and probably not the most important one. Coke’s political strategy comes out clearly in his attempt to expand the ranks of privileged manorial tenants by suggesting that copyholders are *de facto* freeholders, and thus part of that important group of landholders who were seen to ensure British liberty because of their independence from baronial interference and their right to elect members of parliament.³⁰ This is a significant move because the title of copyhold – originally considered an inferior tenure because of the base services attached to it – rests on custom, and custom has a special relationship to time and to common law, and thus to the ancient rights and liberties of the English people Coke wants to defend against the encroaching Stuarts. Customs are, indeed, “defined to be a Law, or Right not written, which being established by long use, and the consent of our Ancestors, hath beene, and is daily practised” (68). This formulation recalls the emphasis Coke had laid on “long continuance of time” in defining the efficient cause of the manor, and he does, in fact, closely associate the manor with custom, even in the long central passage I have already begun to quote. He there goes on to state that the king cannot “create any new custome” and then argues that this untouchability of immemorial custom ultimately lies behind the king’s inability to “create a perfect Manor at this day” (53). Custom bolsters both the independence of the manor from royal prerogative and the independence of copyholders from manorial lords, a balancing act that shows how Coke utilizes custom as a

protective shield to prevent hierarchical power relationships from becoming oppressive.

Customs can be an effective shield because they embody a particularly close union between practice, land, and law. Antiquarian Thomas Blount tells us, for example, that “by the Custom of Warham in the County of Dorset, both Males and Females have a right equally in the partition of Lands and Tenements . . . And is so unusuall a Custom, that perhaps it may be hard to find the like elsewhere in England.”³¹ The local custom has here the power to defeat rules of primogeniture that otherwise govern all of England. It is with arrangements like this in mind that we need to approach expressions such as Samuel Carter’s that “custom lies upon the land,” that it “binds the land,” or, to turn to Matthew Hale, that customs are “fix’d to the Land.”³² Coke himself suggests such an irresistibly close relationship between custom and land for the copyholder when he describes how “Costume . . . fixeth a Copyholder instantly in his land” (82). I find all of these expressions symptomatic because they exhibit the tendency of manorial communities to blur the distinction between practice and space, persons and things, human and material spheres.

In an already familiar pattern, custom’s union with the land depends on a specific relationship to time. Coke makes the essential point when he states that “a Custome never extendeth to a thing newly created . . . what things soever have their beginning, since the memory of man, Custome maintains not” (75). The ultimate authority of custom lies in its immemorial nature, its source in a time before time. Blackstone draws out some of the implications of Coke’s statement when he addresses the validity of custom at common law. To be legally valid, Blackstone argues, a custom must “have been used so long, that the memory of man runneth not to the contrary. So that if any one can shew the beginning of it, it is no good custom . . . It must have been *continued*. Any interruption would cause a temporary ceasing: the revival gives it a new beginning, which will be within time of memory, and thereupon the custom will be void.”³³ Quite in keeping with the communal form of the manor outlined by Coke, custom “lies on the land” by virtue of being indistinguishable from the flow of time. For a custom to be valid, time has to be unable to measure it. The determination of the precise moment in which a certain custom began immediately dispels its authority as a binding social pattern. We touch here on the reflexivity of knowledge that Giddens notes as a modernizing mechanism. The inquiry into the precise circumstances that gave rise to a certain custom would produce precisely the kind of systematic knowledge of social life that customs have to elude in order to be binding.

A valid custom has to maintain a primary relationship with time; once it is separated from and appears within time, as a recognizable stage in an historical development, all validity is gone.³⁴

The manor thus illuminates what it means to speak, with Giddens, of a premodern “embedding” of social relations in a localized context. Its integration of territory and social practice through length of time interrupts the reach of national customs and laws and disables the inquiry into precise origins. Social life in the manor remains tied to the present moment and the present location, both of which represent an unchanging, continuous existence. Such regionalism managed to survive into the eighteenth century in part because a genuine national legislation was still lacking. Parliament’s growing power notwithstanding, statutes on poor relief, crime, and even taxation were largely reactive, tailored to particular regions, and quickly challenged when they contradicted local customs.³⁵ As the particularities of concrete places with their personalized power relations and distinctive social practices are not fully integrated into a more abstract, homogeneous national space and administrative apparatus, the differentiation between a generalized “space” and a particularized “place” remains incomplete. The issue of manorial jurisdictions, to which I turn now, underscores this. It has particular relevance for the construction of political community in eighteenth-century Britain.

In delineating his communal form, Coke finally adds one last essential ingredient, which he describes as the “*causa sine qua non*” of the manor: the baronial court or “Court Baron” (57). The owner of a manorial estate exercised, by virtue of his tenure, certain jurisdictional rights that could even include the power over the life and death of his tenants (an aspect of which novelists such as Radcliffe and Scott would make careful use, as we shall see). When Coke calls such jurisdictions the “chiefe prop and Pillar of a Manor” (57), he is broadening the manor’s ability to resist intrusion from the outside, but he is also promoting the “feudal identification of government and property” that legal historians have recognized as a continuing influence on eighteenth-century ideas of right and government.³⁶ Even Daniel Defoe, typically viewed as the standard bearer of modern commerce and mobile property, was notably vocal when it came to this issue. In 1702 he compared feudal modes of government with present-day practices:

In former Days the Freehold gave a Right of Government to the Freeholder, and Vassalage and Villinage was deriv’d from this Right, that every Man who will

live in my Land shall be my Servant; if he wont, let him go about his Business, and live somewhere else: And 'tis the same still in right reasoning. And I make no question that Property of Land is the best Title to Government in the World; and if the King was universal Landlord, he ought to be Universal Governour of Right, and the People so living on his Lands ought to obey him, or go off his Premises.³⁷

Though the idea is several hundred years old, the possession of land continues to guarantee, in Defoe's eyes, governmental power. "There can be no Legal Power in England," he asserts in the same pamphlet, "but what has its Original in the Possessors; for Property is the Foundation of Power."³⁸ Although he suggests that the Commons "represent" the people, Defoe ultimately embraces the assumption, central to concepts of legitimacy at the time, that the assembled members of the two houses gain their powers because they literally represent the territory of Great Britain. That this legitimation of power originates in feudal systems of tenure is for Defoe no drawback; on the contrary, such continuity illustrates for him the general validity of the assumption that "Property of Land is the best Title to Government in the World." The "chiefe prop and Pillar" of the manor thus occupies a distinct place in eighteenth-century constitutional ideas. Obviously, the manor presents a less mediated version of the link between legal power and possession, but it ultimately draws on the same source of legitimacy that Defoe identifies for national government. Both rely on a primary association of land and law, the belief that the law originates in the possessive division of the soil. Noting the frequently spatial origin of legal concepts, Carl Schmitt has used the term "nomos" to refer to such a belief in the "groundedness" of social and political community.³⁹ The idea that the division of the soil produces and legitimizes a certain social and political order is central to the possessive imagination of community, and it is significant within not only a national but also a colonial context, as I will show in a sustained reading of *Robinson Crusoe*.

In emphasizing the manor's link to the culture of custom and regionalism, I have followed the lead of E. P. Thompson, whose *Customs in Common* (1993) highlights the same connection. Yet my intentions differ from his. Thompson is interested in the manor mainly because he wishes to document the resistance of "plebs" to "patricians," of a "rebellious traditional culture" to the gradual reification and homogenization of social life by the commercial and landed classes.⁴⁰ He pits common law as the instrument of these classes against custom, but he does not emphasize enough that the concept of custom itself is linked to the common

law in a number of ways. As I have tried to argue, one of the reasons why the manor assumes fresh relevance in the eighteenth century is that, after the demise of the Stuarts and the constitutional rise of property as a paradigm of political community, it is able to embody basic constitutional realities of eighteenth-century Britain: the legitimation of legislative power through landed possession, the dominance of the local over the national, the importance of custom. These constitutional realities, however, fall under common law. Even if custom may challenge common law, it is common law that defines the validity of a custom. The conflict foregrounded by Thompson does not tell the whole story. Coke himself had already suggested that custom and common law were not at odds, and he appropriated their relationship to distribute power more evenly in a still hierarchical “common weale.” I want to suggest that custom belongs to perhaps an equal extent to the culture of local, popular resistance and the ideology of the “culturally hegemonic” gentry, to use Thompson’s term.⁴¹ In many ways “plebs” and “patricians” both exploited the authority of established usage. This is illustrated rather strikingly for the patrician side when we consider that the common law’s legitimacy was constructed through an appeal to its origins in customary culture, an appeal that became particularly urgent whenever common lawyers felt they had to defend their “unwritten” *lex non scripta* against competing systems, be they different national laws, civil law, statutory law, or utilitarian concepts of law.

Moreover, the reliance on precedent and case law, and the notion that common law is shaped by the actual decisions of judges, easily supported arguments that the common law itself was essentially customary in nature – not fixed in unchangeable forms but flexible and infinitely adaptable to circumstance and the changing practices of the nation. It is this line of argument that Hale made strong when he commented on the composite nature of English law later in the seventeenth century. Unlike Coke, who had a more developed sense of the purity of common law, Hale believed that it was characteristic of English law that “Use and Custom, and Judicial Decisions and Resolutions, and Acts of Parliament, tho’ not now extant, might introduce some new Laws, and alter some Old, which we now take to be the very Common Law itself, tho’ the Times and precise Periods of such Alterations are not expliciteely or clearly known.” This sense of a complex and untraceable intermixture of different aspects of law culminates in Hale’s comparison of the common law to the “Argonauts Ship [that] was the same when it returned home, as it was when it went out, tho’ in that long Voyage it had

successive Amendments, and scarce came back with any of its former Materials.”⁴² As one of the oldest and most prestigious forms of tenure, the manorial estate with its accumulated usages and immemorial customs shares something with Hale’s ship, a connection that Blackstone was to make more explicit when he decided to represent the common law by the figure of a manor house whose original shape had virtually disappeared under layers of continuous additions, alterations, and repairs. On the level of discursive practice, common law and custom are often impossible to separate, and I intend to put some pressure on the language of those who, like Blackstone, capitalized on the link between a fluid, localized social practice and the legitimacy of the law.

II

As actual communal reality, as historically specific expression of existent patterns of government, as concrete embodiment of traditionalist communal forms, and as ideological figure, the manor can thus be seen as a central *Gestalt* of Britain’s propertied culture. The novel’s interaction with this *Gestalt* includes an important thematic dimension, but its most intriguing work comes to bear on the manor’s communal form – its grounding of social and political community in the division of the soil, its blurring of human and material spheres, and its overall integration of time with practice and space. This work on communal form finds a central focus in the novel’s descriptive acts. It is in the description of landscapes, houses, and objects that I see the novel shift the relationship between persons and things, mobility and immobility, body and space, and it is here that it closely interacts with the groundedness and integration so characteristic of the manor’s communal form. While eighteenth-century narratives turn almost inescapably on conflicts over property, descriptions bracket the distributive logic of plot (who gets what, when, why, how) and figure the relational patterns that link human and material spheres. They present a key to the novel’s attempt at making visible the grounding of communal forms in possessive relationships.

My claim for the importance of description in the eighteenth-century novel goes against the grain of some well-established critical assumptions. In criticism of eighteenth-century literature, it is usually poetry and not fiction that is associated with description. The tradition of topographic poetry, graced by such prominent practitioners as John Denham, Ben Jonson, Andrew Marvell, Alexander Pope, and James Thomson, has always seemed more vital than prose description and has been the object

of now classic studies by Earl Wasserman, John Barrell, James Turner, Anne Janowitz, and others.⁴³ The eighteenth-century novel has seemed by comparison firmly committed to narrative, with description as a negligible appendix.⁴⁴ Most critical thinking about prose description has instead focused on the nineteenth-century novel, whose so-called “realism” has been seen to go hand in hand with the rise of description. In Marxist criticism this distinction between eighteenth- and nineteenth-century fiction has been strengthened further by associating the descriptive with advanced modes of capitalist production. In his emotional “Narrate or Describe?” (1936) Georg Lukács, exercising the traditional Marxist suspicion of spatial structure, argues that the ascendance of descriptive over narrative modes in nineteenth-century fiction indicates “the domination of capitalist prose over the inner poetry of human experience.”⁴⁵ For Lukács the reification of social relations by the industrial revolution is directly reflected in the dominance of description’s immobilizing spatial monotony over the temporal, dynamic, and life-giving forces of narrative. In *History and Class Consciousness* (1923) he sketches the larger socio-economic context when he states that, under industrial capitalism, “time sheds its qualitative, variable, flowing character; it congeals into an exactly delimited, quantifiable continuum filled with quantifiable ‘things’ (the reified, mechanically objectified ‘performance’ of the worker, wholly separated from his total human personality); in short, it becomes space.”⁴⁶ Lukács’s critique of nineteenth-century fiction as promoting such spatialization of time by descriptively arresting narrative invokes a venerable prejudice of Western aesthetics according to which description always has to be held in check lest its pleasant, but empty, ornamental function undermine the quasi-organic unity of narrative. In this tradition narration and description relate to each other like “master and slave, leader and led, essential and accessory.” As Michel Beaujour has shown, this hierarchical scenario in which description is always the illegitimate upstart has had a remarkable tendency to reproduce itself across different aesthetic and methodological contexts, from classicism to modernism, surrealism, and structuralism.⁴⁷

Lukács’s alarmist attitude, for example, can be rediscovered in Roland Barthes’s important “The Reality Effect,” which represents something of a structuralist companion piece to Lukács’s Marxist account. In Barthes’s analysis, Lukács’s vitalist, anthropocentric vocabulary for narrative is replaced by a notion of structural traffic. “Description,” Barthes observes, “is quite different [from narrative]: it has no predictive aspect; it is ‘analogical’, its structure being purely additive, and not incorporating

that circuit of choices and alternatives which make a narration look like a vast traffic control center, provided with referential (and not merely discursive) temporality.”⁴⁸ Barthes’s contrast between narrative and description recognizes the former as a complex distributive center and limits the latter by granting it merely an additive, not a relational, function. In this way Barthes not only gives an impoverishing account of the descriptive function, but also seems to discount those heavily episodic, paratactic narratives that in the eighteenth century approximate to additive structures. The metaphor of the “traffic control center,” at any rate, raises questions about its historical adequacy even for nineteenth-century narratives. Barthes’s resistance to recognizing description as a relational mode finds its active fulfillment in his final explanation of the reality effect. The apparently “useless” or “superfluous” descriptive detail is redeemed by the creation of what Barthes calls “the referential illusion.”⁴⁹ If the descriptive detail does not mean anything beyond its immediate reference, that is for Barthes precisely its most important function. For by seeming to denote directly the details of reality, without any further symbolic significance, descriptions create the appearance, in Fredric Jameson’s words, of a “a sense of raw data existing objectively out there.”⁵⁰ With this final twist the “scandalous” status of the useless descriptive detail – its apparent failure to participate in the work of signification – is resolved and description can now assume its limited function in the traffic center of narrative structure.

Barthes’s take on description is one of the more extreme illustrations available for the impoverishing association of description with realism. The unfortunate concentration on realism and nineteenth-century fiction has made it difficult, indeed, to view prose description outside a referential paradigm. Even Jameson, whose brilliant analysis of description in Flaubert has influenced my own interpretive strategies, unblinkingly identifies the realistic novel with description and description with referentiality, an assumption presumably motivated by his enthusiastic reception of Lukács’s “Describe or Narrate?”⁵¹ While Jameson recognizes description as a relational medium, he nonetheless aligns it with reification, a sense of “the object so radically sundered from the subject that our language and symbolic systems can do no more than designate it from afar.”⁵² I do not dispute the validity of this reading (though I will argue that it needs to be moved back historically), but by presenting description as the characteristic feature of realism in the novel, Jameson reinforces the assumption that description is inherently tied to the referential illusion and arrives as a significant literary mode with

the large-scale reification of social relations ushered in by the industrial revolution. In this way Jameson's attempt to combine structuralist and Marxist perspectives reproduces limiting parameters for the analysis of prose description.

I want to redraw this critical map by making the case that novelistic description is a crucial eighteenth-century mode because of the novel's profound engagement with Britain's culture of property and its distinctive modes of objectification. The descriptive is not automatically tied to a referential function that simply reifies social relations. Such a view ignores an entire landscape of variation and difference. The descriptive is instead a complex relational and predictive mode that intersects persons and things in different ways across historically varying legal, economic, epistemological, aesthetic, and political paradigms. From feudal, mercantile, and industrial modes of production, to the aesthetic of the visible, the invisible, the sublime, and the picturesque, to the modern nation and premodern communal forms, fictional descriptions engage the relation between the human and the material on a variety of fronts simultaneously. This variety can be grasped only by leaving behind description's association with realism and referentiality. Neither the actual correspondence of a "sign" with "reality" nor the illusion of such a correspondence will play a constitutive role in my analysis. Instead, I approach the descriptive in a constructivist spirit that recognizes it as a semi-independent medium with the ability to figure different versions of the world. My general assumption throughout this book will be that all forms of description, whether "realistic" or not, are privileged places for observing the literary figuration of social practice. They capture more immediately than other literary modes the relationship between human and material spheres, and in showing us this fundamental aspect of all social life they also reveal just how long and varied is the history of objectification.

I make such a strong case for description in part for strategic reasons. For even those critics who consider description a fictional mode that demands close critical attention frequently treat it as an epiphenomenon of narrative. Thus José Manuel Lopes, in his recent *Foregrounded Description in Prose Fiction: Five Cross-Literary Studies* (1995) sets out to redeem the descriptive act from its status as a "dispensable ornament of narration," but his opening move already indicates that description is bound to remain in the shadow of narrative. "I designate as background description," Lopes begins, "any descriptive material that does not seem to play a predominant narrative function; conversely, the term foregrounded description applies to all descriptive segments shown to have a more relevant

narrative role.”⁵³ It should be clear at once that this does not at all redress the old claim about description’s inferiority. It merely refines it by distinguishing between worthy and unworthy descriptions on the basis of the extent of their involvement with narrative (unsurprisingly, that distinction is underwritten by Lopes’s historical sense that descriptions take on narrative importance only in the nineteenth century).⁵⁴

One senses in Lopes’s desire to classify description through narrative the presence of Gerard Genette, whose influential argument on description as one of the “negative limits of narrative” is worth following in some detail.⁵⁵ Genette makes clear right away that description is “quite naturally *ancilla narrationis*, the ever-necessary, ever-submissive, never-emancipated slave [of narrative].” Yet, curiously, he also suggests that description is the more independent literary mode: “Description is more indispensable than narration, since it is easier to describe without relating than it is to relate without describing.”⁵⁶ Narrative cannot do without description, but description can do without narrative. Or, to draw out another implication, description is naturally the property of narrative, but actually freely alienable. Genette exposes here why description has traditionally been feared and kept under. Unless description is held in check, we risk that it break free from the obligation to interact with the human world of narrative. This danger may explain, in fact, Genette’s strange construction of slavery as something that comes “naturally” to description. Why this should be the case remains unclear, and it seems to me that Genette’s unfortunate metaphor of “natural slavery” further illustrates the apparently overwhelming need to control description, even if that means casting narrative in the role of slaveholder. Genette cuts short these disturbing and revelatory tensions by summing up: “the study of the relations between the narrative and the descriptive amount . . . in essence to a consideration of the diegetic functions of description, that is to say, the role played by the descriptive passages or aspects in the general economy of narrative.”⁵⁷ After some rather anxious passages, description is once again simply a property of narrative, an object of human action.

I am not sure how keen I am to gain a reputation as the critic who liberated description from narrative bondage, and I am not in any case certain that this is a feasible undertaking. The difficulties Barthes, Lopes, Genette, and others have encountered grow to some extent out of a genuine problem concerning description’s identity. As Genette points out, in its opposition to narrative, description is “one of the major features of our literary consciousness,” yet it is impossible to identify it as