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# Legitimate Possessions: History, Property and Literary Aesthetics in James F. Cooper's *The Pioneers* (1823) and Catherine M. Sedgwick's *Hope Leslie* (1827)

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**Abstract:** The essay investigates the intricate relationship between legal and cultural concepts of property and ownership in 19th-century American historical novels, specifically in James Fenimore Cooper's *The Pioneers* (1823) and Catherine Maria Sedgwick's *Hope Leslie* (1827). By examining the various meanings of the term 'property' – ranging from tangible ownership to the intrinsic qualities of objects but also texts and even ideas – the author argues that discourses on land and literature as property in 19th-century U.S.-America embody competing claims that reflect broader societal tensions and cultural struggles. Cooper's narrative emphasizes a legalistic framework, presenting property rights as rooted in colonial appropriation and entitlement and genealogical continuity. In contrast, Sedgwick's work questions these established notions by foregrounding themes of disruption and dispossession, illustrating how cultural narratives challenge patriarchal norms surrounding ownership and cultural superiority. Her portrayal of characters navigating conflicting legal landscapes reveals a more complex understanding of possession and self-possession, one that prioritizes individual autonomy and ethical considerations over mere legal entitlement. By weaving together these legal and cultural strands, the essay asserts that Sedgwick's literary approach proposes a redefinition of property that values diverse perspectives and multiplicity in narrating history. Ultimately, the study underscores the interplay between legal frameworks and cultural narratives, illustrating how both land and literature serve as sites of contested ownership and identity in the struggle for representation and understanding in 19th-century U.S.-American culture.

**Keywords:** 19th-century U.S.-American literature and culture; property and ownership; literary property; historical novel; James Fenimore Cooper; Catherine Maria Sedgwick

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# 1 Introduction

The following discussion will mainly be concerned with the interference between different meanings of the term, or more generally, the concept of property, especially in the historical novel in 19th-century America. The interference could be described more precisely as the various, sometimes complicit, sometimes conflicting legal and aesthetic connotations connected not only with 'property' but also with terms like 'authorship,' 'ownership,' 'possession,' 'acquisition' and 'entitlement.' I am thus interested in what David Saunders has described as the contingencies of the historical relation of the legal and the aesthetic, especially in regard to the gradual development in Western culture of the idea of literary property, the concept of original authorship and its protection by copyright laws. As Saunders insists, "there have been different juridical-cultural organizations of aesthetic creativity [and this] evidence of diversity [...] argues against treating the history of law on literary and artistic rights in romantic terms which reduce the history of the long wait of law finally to see what literary and artistic creation was always going to become, namely authorial."<sup>1</sup>

The larger framework of this essay could thus be described as a comparative project which looks at different cultural histories of copyright, literary and intellectual property and the various ways in which these concepts have been negotiated and represented in literary works from 1800 to the present.

In the following discussion, however, my focus will be less on the legal, and more on the literary and the aesthetic. More precisely, I want to look at the literary negotiation of property and property law in two novels, James Fenimore Cooper's *The Pioneers*<sup>2</sup> and Catherine Sedgwick's *Hope Leslie*,<sup>3</sup> reading these negotiations as reflections both on the concept of literary property, and the claims of literature to the properties of history and nature.

In order to get a clearer picture of the way the different connotations are related, it may both be appropriate and helpful to look a little closer at the term 'property' itself – in fact, I will use a rather 'pedestrian' approach by attempting to first delineate the most commonplace meanings of the term before turning to its more specific legal and literary connotations.

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<sup>1</sup> DAVID SAUNDERS. "Approaches to the Historical Relations of the Legal and the Aesthetic," *New Literary History* 23 (1992): 505–521, 518.

<sup>2</sup> JAMES FENIMORE COOPER. *The Pioneers or, The Sources of the Susquehannah*, 1823, (New York: Penguin, 1988).

<sup>3</sup> CATHERINE M. SEDGWICK. *Hope Leslie or, Early Times in the Massachusetts*, 1827, (New York: Penguin, 1998).

‘Property’ most generally understood can have more than one meaning: On the one hand, a thing which you claim to own may be called your property, on the other hand, property could also point to a characteristic feature of that thing you call your own. Most dictionaries of everyday use may explain these various meanings of ‘property’ in such a way:<sup>4</sup>

1. That which is proper to anything; a peculiar quality of a thing; that which is inherent in a subject, or naturally essential to it; an attribute; as, sweetness is a property of sugar.
2. An acquired or artificial quality; that which is given by art, or bestowed by man; as, the poem has the properties which constitute excellence.
3. The exclusive right of possessing, enjoying, and disposing of a thing; ownership; title.

While the term ‘property’ in my title is meant to refer to all these meanings, one may rightfully argue that history is not really a *thing* to be owned – at least not in the sense as one would own a car or a piece of land. This brings me to the heart of my concern since the major premise of my discussion could be stated as follows: History can only become one’s own, it can only become someone’s property, through an acquired, artificial quality, ‘given by art or bestowed by man’ as the definition has it, through acts of narration; i.e., history is taken possession of and being owned in form of narratives. This also means, if property is understood as a claim to rightful ownership, that these narrations must be read as claims to exclusive ownership of the past. Thus, when we talk about alternative or opposing versions of history, we are in fact talking about alternative or opposing claims to history as a property.

History, of course, can be narrated in very different ways – and this is where the other meaning of property as a distinctive quality or feature becomes relevant. For it is precisely in the distinct way history is being told or narrated that the claim to own it is made visible and acknowledgeable. To talk about the ‘properties’ of history thus means to acknowledge, first, that history may be narrated in various ways, thereby acquiring distinct properties and hence a different form, and, secondly, that in this way history may be claimed as a form of exclusive property.

Let me conclude these explanatory remarks with an illustrating quote which also will bring us closer to the literature I want to center my argument on. In his famous essay “Nature” from 1836, Ralph Waldo Emerson made an interesting observation about different forms of property and the various claims connected to them:

The charming landscape which I saw this morning is indubitably made up of some twenty or thirty farms. Miller owns this field, Locke that, and Manning the woodland beyond. But none of them owns the landscape. There is a property in the horizon which no man has but he whose eye

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<sup>4</sup> Webster’s Revised Unabridged Dictionary, 1913 Ed.

can integrate all the parts, that is, the poet. This is the best part of these men's farms, yet to this their warranty-deeds give no title.<sup>5</sup>

Obviously, Emerson is not looking at his neighbors' fields in agricultural terms, yet he uses the concept of property to make a distinction between their claims to the land – which are based on legal documents – and his claim to the land – which is based on his poetic sensibility. This sensibility allows him to acknowledge the particular character of the land his neighbors own as a landscape, i.e., an object of aesthetic appreciation and pleasure. One may argue, of course, that Emerson is merely speaking metaphorically – yet I think that would obscure the particular rhetorical strategy which he employs. Indeed, Emerson is making a claim to exclusive ownership. For, when he says “there is a property in the horizon which no man *has* but ... the poet,” he is using the word ‘property’ in both the meanings given by the dictionary – as a distinct feature of the landscape (the horizon), as well as something that can be owned: “which no man *has* but ... the poet.”<sup>6</sup> Moreover, Emerson is resting his claim to ownership on the distinctive feature which only he can acknowledge, thus claiming property of the landscape *in general* with the help of a *specific* property of that landscape.

At this point, the passage from Emerson is simply meant to illustrate how the term ‘property’ could be used in early 19th-century American culture and how closely the two meanings of ‘property’ that I sketched out at the start were associated – maybe closer than most of us would have assumed. In other words, the semantic field which surrounded the term in all of its various meanings during the 19th century was probably much more interconnected, and allowed for internal resonances, and less strictly separated and thus less resonant as it may be said today.

In the main part, I want to investigate these associated meanings which governed the concept of property during this time by comparing and contrasting two rather different historical novels written a little earlier than Emerson's essay. Nevertheless, I would like to keep Emerson's curious argument about property in mind because it will turn into a major point of reference at a later stage. The two novels which I will discuss are James Fenimore Cooper's *The Pioneers* (1823), and Catherine Maria Sedgwick's *Hope Leslie* (1827). My focus, however, will be more on Sedgwick's novel since I will read it as a radical revision of the concept of property which is dominant in Cooper's work (and maybe also in the culture of the time), and also because of the assumption that while the essentials of Cooper's “romance of

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5 RALPH W. EMERSON. “Nature,” in *Selections from Ralph Waldo Emerson*. Ed. Stephen E. Whicher (Boston: Riverside, 1958), 21–56, 23.

6 Emerson, “Nature,” 23.

property”<sup>7</sup> might be much more generally known, Sedgwick’s extraordinary counter-tale might be less so. I will therefore start out with positioning the novels and their authors in respect to each other in order to establish some necessary background for the more detailed discussion that follows.

## 2 True Histories – Competing Fictions

When Catherine Maria Sedgwick published her first selection of stories, called *A New England Tale*, in 1822, James Fenimore Cooper, who then was a friend of the Sedgwick family, wrote a rather supportive review, particularly praising the younger author’s sense of realism and even calling her a “true historian.”<sup>8</sup> Five years later, after Cooper had established himself as the leading American author of historical fictions, particularly with the help of his ‘Leatherstocking tales,’ his attitude towards Sedgwick had changed considerably.

This may have been due partly to some failed financial interactions with Sedgwick’s brother, but mostly because Sedgwick had rather successfully entered the realm of the historical novel herself with *Hope Leslie*, published the same year as Cooper’s third Leatherstocking novel *The Prairie* (1827). Not only did the critics almost unanimously favor Sedgwick’s historical novel over Cooper’s, they also positively acknowledged *Hope Leslie* as an explicit counter narrative to Cooper’s *The Last of the Mohicans*, which had appeared in 1826. Sedgwick was thus ‘out-coopering’ Cooper, as it were, and especially her sympathetic and detailed treatment of Indigenous characters and the complex relation between natives and settlers was seen as a welcome corrective to Cooper’s rather unfavorable descriptions of Native Americans. To be outdone as a ‘true historian’ on his own turf and by a woman to boot was obviously more than Cooper could handle. Thus, he tried to recover lost ground in 1829, when he wrote *The Wept of Wish-ton-Wish*, a novel which like Sedgwick’s *Hope Leslie* was set in Puritan New England and clearly designed by Cooper to refute Sedgwick’s version of that particular period of American history. However, as some contemporary critics already charged, Cooper’s refutation was based on a flagrant act of plagiarism since he had simply copied most of Sedgwick’s plot lines and characters. In a manner of speaking, Cooper had illicitly

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7 ERIC CHEYFITZ. “Savage Law. The Plot Against American Indians in *Johnson and Graham’s Lessee v. M’Intosh* and *The Pioneers*,” in *Cultures of United States Imperialism*. Ed. Amy Kaplan and Donald E. Pease (Durham: Duke University Press, 1993), 109–128, 123.

8 JAMES FENIMORE COOPER. *Early Critical Essays, 1820-1822*. Ed. James F. Beard. Gainesville: Scholar’s Facsimiles, 1955, 98.

appropriated the distinctive properties of Sedgwick's story in order to reclaim what he obviously considered his own exclusive property: the American past.

It is, I think, quite appropriate to speak about Cooper's reaction to Sedgwick's novel as if the latter presented a violation of established property rights, since conflicts surrounding claims to rightful ownership are quite persistent in Cooper's novels. The Leatherstocking tales are a case in point. Specifically, their first volume, *The Pioneers*, reveals that Cooper was indeed rewriting history in terms of property rights.

The story is set in a small pioneer settlement called Templeton (hence the title), a few years after the end of the revolutionary war. The founder of the settlement and owner of the large estates surrounding it, Judge Marmaduke Temple, is quite obviously based on Cooper's father, William Cooper, who founded Cooperstown in the State of New York and managed to accumulate extensive holdings of land by obscure political schemes and by allegedly duping the original owners, the local Indigenous tribes, into leaving their claims to him. Critics have argued rather convincingly that in his novels, Cooper was trying to 'set the record straight,' as it were, and to prove that the alleged illegal appropriation of indigenous land by his family had indeed been lawful. In *The Pioneers*, this effort is as obvious as it is successful.

At first, the legitimacy of the Judge's claims to ownership are questioned both by Leatherstocking who sides with his indigenous friends, and by a mysterious young newcomer to the settlement, named Oliver Edwards, who has also some ties to Leatherstocking and the Natives. Through a chain of interrelated events which lead to a final confrontation between Leatherstocking, Edwards, and the Judge, the reader not only learns about the Judge's superior sense of law and justice, but also that his claims and, ironically, Edwards's counterclaims to the estate are based on the same rupture of historical continuity: the American Revolution. The Revolution had forced Judge Temple's friend and business partner, Major Effingham, to leave the colonies, and the Judge had taken over the Major's part of the property as a trustee, holding and developing it until the latter was to come back from England. This, however, never happened, and the Judge later learned that Major Effingham had been drowned at sea on his way back. Since no immediate successor could be found, the Judge became entitled to the entire property by the new law of the United States. Nevertheless, he decided to draw up a legacy in which he turned over half of the estate to any descendant of the luckless Major who would come forward and prove his lineage. Which is what happens at the climax of the novel, when Oliver Edwards reveals his true identity as the only living son of Major Effingham, who had come to America to reclaim his father's property which he thought had been unlawfully appropriated by the Judge. Both the Judge and Edwards thus present competing claims to the same property which can only be reconciled by overcoming the rupture

which is the source of their competition. In other words, the American Revolution is presented by Cooper as an interruption of the natural succession and the lineage which legally secure property rights; the process of history thus confuses genealogy, which in turn leads to a confusion about ownership. It therefore seems only logical that at the end of the novel the Judge should give his daughter to Oliver Edwards as the rightful owner of the other half the estate, for in this way British and American property claims are realigned and a new genealogy is established: it's all in the American family now.

In this neat solution to the central conflict of the novel, Leatherstocking and his Indigenous friends have no place – at least not in the sense of being serious competing claimants to the property. And yet, their function is essential for Cooper's historical fiction of property. While Judge Temple stands for the legalistic integrity and the lawfulness of property claims which will even survive a revolution – i.e., the temporal upsetting of historical continuity and political order –, Leatherstocking and his Indigenous friends stand for the mystical origin of the natural succession of title from father to son. Cooper needs this American side to the story since the successful restoration of rightful ownership to the estate still leaves out the question how the land ever came into the possession of Temple and Effingham in the first place. As Cooper explains almost in passing, the Native leaders originally gave the land to the father of Major Effingham as a gift of gratitude, even adopting him as one of their own tribe. At a later stage, his son, together with Temple, eventually secured this extra-legal entitlement by receiving a royal grant to the land – thus giving the original transaction the protection of the English common law.

Cooper's claim to American history, one could argue, is thus based on an unbroken genealogy of lawful ownership which in turn rests on the continuity of historical and legal fictions. The continuance of legal title from one generation to the next relies on the imaginative restoration of historical continuity even where documents, witnesses, and letters are lost beyond retrieval. For Cooper, the historical novel offers its narratives to heal the ruptures of historical change, resolving conflicts of ownership and identity in order to establish and maintain legal and social order.

In stark contrast to Cooper's notion of the inherent relation between historical and narrative continuity and the continuance of property which is inscribed into *The Pioneers*, Sedgwick's *Hope Leslie* is characterized above all by a deliberate emphasis on disruption, dispossession, and discontinuity on all levels. It is rather obvious that Sedgwick's novel is not meant to restore American history through a unified, uninterrupted, and self-contained act of storytelling, but rather present history as a conflation of fragmented and opposing, at times even contradictory stories and their revisions, told by multiple voices and from different points-of-view. Moreover, and again in glaring contrast to Cooper, *Hope Leslie* is full of broken lineages and mixed

genealogies, even though, similar to *The Pioneers*, there is a reunion of sorts at the end of Sedgwick's novel as well.

The internal logic of disruption and reunion is set in motion already at the start: *Hope Leslie* begins with a deliberate departure and a forced separation, when the Puritan William Fletcher leaves England for America, but is also forced to depart his love Alice, the daughter of his uncle who forcefully prevented Alice from joining William because he deeply resented William's unwavering attachment to religious separatism. The story then rather characteristically jumps ahead and the reader meets William again as a pilgrim at the Massachusetts frontier with his wife Martha, their two sons, and two servants. The small household is soon joined by Magawisca, the daughter of a Pequot chief. The young Indigeneous woman was captured by the Puritans in one of their skirmishes with the Natives and is sent to the Fletchers as a servant to prepare for the planned arrival of the two daughters of Alice, Faith and Hope Leslie. The two girls were placed under the guardianship of William Fletcher, after their widowed mother had died at sea on the way to Boston. However, before they can be united, the Natives retaliate, slaying half of the Fletcher family, abducting Faith and the elder son, Everell. When Magawisca's father, the leader of the Native tribe, wants to kill Everell as well, Magawisca shields the boy with her body, losing one of her arms by the strike of her father's axe. While Everell manages to flee, Faith remains with the Pequots, gradually losing her language and Western manners, and subsequently marrying the brother of Magawisca, Oneco.

Another jump in time brings the reader to the main action of the novel, namely Hope Leslie's attempts to reunite with her sister – in which she is assisted by Everell who in turn hopes to meet his savior Magawisca again. In their efforts, they soon come into conflict with Puritan morals and laws, especially Hope, who secretly tries to establish contact with the Natives at a time when the Puritan magistrates are increasingly paranoid about a tribal uprising and look at clandestine interactions between the Natives and white settlers as acts of conspiracy.

When Magawisca finally arranges a meeting between the sisters, they are betrayed by the novel's villain, an undercover catholic, and while Magawisca is captured by the Puritans, and put on trial, Hope Leslie once again falls into the hands of the Pequots. During a violent storm, however, the heroine manages to escape, and together with her friend Everell, she succeeds in getting Magawisca out of prison, helping her to join her father again and removing with her tribe into "the deep voiceless obscurity of [the] unknown regions"<sup>9</sup> of the American wilderness.

To be sure, *Hope Leslie's* concern with property and ownership on first sight appears far less obvious compared to Cooper's Whig version of frontier history and legal entitlement. In fact, one of the rare occasions where Sedgwick's novel offers an

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9 SEDGWICK, *Hope Leslie*, 55.



obvious commentary to the lawful appropriation and possession of the land actually reads more like a support than a refutation of Cooper's perspective. In a conversation between a Puritan settler and a freshly arrived newcomer, the latter rejects the rights of the King to reclaim the land of the colonies:

"The King, no doubt," replied the young gentleman, "would like to resume both power and possession; but still, I think we might retain our own, on the principle that he had no right to give, and in truth could not give, what was not his, and what we have acquired, either by purchase of the natives, or by lawful conquest, which gives us the right to the vacuum domicilium."<sup>10</sup>

The principle of *vacuum domicilium*, also called *terra nullius*, refers to a legal fiction used by lawyers in the age of colonial expansion to legitimate the appropriation of foreign lands which in this perspective were 'empty' and unsettled, and thus could be claimed as property by those that first 'discovered' and then conquered it. Sedgwick, the 'true historian,' was of course aware that the Puritan colonies in New England were based on charters approved by and issued by the king. Thus, the remark that the king could not give what was not his in the first place presents a misguided observation, to say the least, and yet the second part of the argument refers to the very same fiction of *vacuum domicilium* which was used not only by the English Royalty to lay claims to unsettled land. In other words, the Puritan here is simply defending the right of first possession, whether by purchase or by conquest; in regard to the claim of absolute dominion and its reliance on a legal fiction, there is thus hardly any difference between the King and the Puritan settlers.

Moreover, the speaker here is Everell, the son of William Fletcher, and the male counterpart of the novel's heroine, Hope Leslie. This observation is significant since it not only suggests that Sedgwick wants her readers to acknowledge the legalistic underpinnings of the Puritans' mission in the wilderness, she also very clearly marks the difference between this rather male insistence on absolute dominion and the right of first possession on the one hand, and another form of possession more sympathetic to the rights of others, which is both characterized and negotiated by the two central female characters, Hope Leslie and Magawisca.

The novel's numerous removals, departures, separations, and disruptions and the violence connected to them are in effect the result of claims to absolute possession, most obviously represented both by the Puritan leaders and the Indian chiefs. Since these claims – to the land, and to persons – are absolute, they cannot be negotiated. Thus, they must eventually lead to violence and to further removals, separations, and dispossessions. What Sedgwick presents is a history of property as a history of the violent enforcement of absolute claims to exclusive possession. In the

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<sup>10</sup> SEDGWICK, *Hope Leslie*, 131.

concluding section I want to look at the alternative form of legitimate appropriation and property which I believe is inscribed into Sedgwick's novel.

### 3 Imaginary Property and the Culture of Aesthetic Exchange

If the law in *Hope Leslie* is not as obviously meant to secure ownership claims and land titles as it is in *The Pioneers*, it still has an essential relation to property – in the second sense of the word: as distinct features or capacities. For the source of Hope Leslie's trouble with Puritan morals and laws is her refusal to subdue her 'natural' character, that is her distinct properties as a person and as an individual, to the strictures imposed by the codes and statutes of her superiors. Repeatedly, the reader is reminded that Hope is a 'lawless girl' not afraid to act on her own conscience. Explaining her decision to free an old Indian woman from prison, the narrator tells the readers: "This was a bold, dangerous, and unlawful interposition; but Hope Leslie took counsel only from her own heart, and that told her that the rights of innocence were paramount to all other rights [...]."<sup>11</sup>

Even her faith is not bound to the rules of Puritan religion and thus completely her own, since

... she was led to doubt [the Puritans] infallibility; and like a bird that spreads his wing and soars above the limits by which each man fences in his own narrow domain, she enjoyed the capacities of her nature and permitted her mind to expand beyond the contracted boundaries of sectarian faith. Her religion was pure and disinterested – and no one, therefore, should doubt its intrinsic value, though it had not been coined into a particular form, or received the current impress.<sup>12</sup>

The term "intrinsic value" at the end of this passage is significant since it translates Hope's freedom from a specific form of claiming personal property – the fencing of one's domain – into the future promise of profit. Hope's natural 'properties' are thus marked as a kind of virtual or imaginary property, whose value cannot be measured with existing forms of currency.

A similar figure of autonomy is used in another well-known passage to make an even more explicit connection between different forms of the imagination and claims to property connected to them. In a letter Hope Leslie writes to Everell, she describes a trip to the summit of a nearby mountain together with Everell's father, and two other puritan brethren, Mr. Craddock and Mr. Holioke. Especially the

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<sup>11</sup> SEDGWICK, *Hope Leslie*, 124.

<sup>12</sup> SEDGWICK, *Hope Leslie*, 128.

colorful spectacle of the autumnal woods inspires Hope's enthusiasm while her Puritan companions display a very different reaction:

... I love to lend my imagination to poet's dreams, and to fancy nature has her myriads of little spirits. He must have a torpid imagination and a cold heart, I think who does not fancy these vast forests filled with invisible intelligences. ... While I was pondering on this thought, Mr. Holioke, who seldom indulges in a fanciful suggestion, said to your father, "The Romans ... had their ... empty sepulchres, in honor of those who died in their country's cause, and mouldered on a distant soil. Why may we not have ours? And surmise that the spirits of those who have died for liberty and religion, have come before us to this wilderness, and taken possession in the name of the Lord?"<sup>13</sup>

While Hope Leslie, the 'lawless girl,' allows her fancy to imagine the natural scene alive with 'spirits' and 'intelligences,' her father and Mr. Holioke only see the spirits of the martyrs of the Church, which allows them to imagine the land as being already in the possession of the Puritans. That this possessive imagination has some very concrete consequences and may lead to further violent conflicts is suggested by Sedgwick when she has Hope report that while they "lingered for an hour or two on the mountain [...] Mr. Holioke and your father were noting the sites for future villages, already marked out for them by clusters of Indian huts."<sup>14</sup>

Religious belief thus turns into the foundation for real estate, and while the two puritan surveyors imagine nature as a legacy from the dead to establish a historical continuity between the past, present, and future of their faith and their property, they completely overlook all signs of life and of the living. Hope, in contrast, describes her own reaction as an awakening of her senses to the landscape – for her, nature is not an empty tomb filled with the spirits of the dead, it rather presents a living composition:

My senses were enchanted on that high place. I listened to the mighty sound that rose from the forest depths ... like the roar of the distant ocean, and to the gentler voices of nature, borne on the invisible waves of air – the farewell notes of the few birds that still linger with us – the rustling of the leaves beneath the squirrel's joyous leap – the whizzing of the partridge startled from his perch; the tinkling of a cow-bell, and the barking of the Indian's dog.<sup>15</sup>

If one used the various meanings of property described at the beginning, the different reactions to the landscape which Sedgwick contrasts in this particular passage could be situated on either side of the line between a more aesthetic and a more legal understanding of property. Indeed, the two reactions are presented as being mutually exclusive, as it were. While Everell's father and Mr. Holioke act like

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<sup>13</sup> SEDGWICK, *Hope Leslie*, 104.

<sup>14</sup> SEDGWICK, *Hope Leslie*, 105.

<sup>15</sup> *Ibidem*.

the farmers in Emerson's description whose idea of property is guided by the right of absolute possession and legal title, Hope Leslie behaves like Emerson's poet whose claims to ownership are based on the acute perception of the properties of nature: the specific colors, shapes, and sounds of the landscape. Yet while Hope Leslie may display a sensibility similar to that of Emerson's poet, she has not yet developed the same acquisitiveness; she does not claim to own the landscape.

Nevertheless, and this will be the slightly speculative, maybe even provocative conclusion of my argument, I do not think that Sedgwick's novel is simply arguing for a non-acquisitive form of aesthetic pleasure. The pure and disinterested sensitivity towards the properties of nature which Hope displays so well is above all meant to serve as a model of reading history for Sedgwick's audience. *Hope Leslie* in fact argues for a form of historical fiction that sees its priority in the sensitive description of the particular properties of history rather than in the continuation of a particular history of acquisition and property. When Magawisca presents to Everell Fletcher her own memory of the Pequot war which he only knew from Puritan witnesses and sources, he is particularly affected by the way the story recounts the emotions and feelings of the victims. Magawisca's version of history is superior because

from [her] lips [the events] took a new form and hue; she seemed, to [Everell], to embody nature's best gifts, and her feelings to be the inspiration of heaven. This new version of an old story reminded him of the man and the lion in the fable. But here it was not merely changing sculptors to give the advantage to one or the other of the artist's subjects; but it was putting the chisel into the hands of truth, and giving it to whom it belonged.<sup>16</sup>

The argument about the superiority of the new version of the old story – that is, a new way of telling old history – is significantly connected to a claim of rightful ownership, indeed, 'putting the chisel into the hands of truth, and giving it to whom it belonged.' This, of course, is Sedgwick's own claim and it fairly well describes her own relation to her subject(s). The only problem here is that Magawisca, who in this passage is presented as the true historian and abler artist, at the end of the novel vanishes into the wilderness, taking all that's left of truth and history with her: "That which remains untold of [her] story is lost in the deep, voiceless obscurity of [...] unknown regions."<sup>17</sup> It thus appears as if Sedgwick concluded her novel with a disclaiming gesture: waiving her rights to history as a form of property in exchange for the free development of the properties of the individual. This gesture becomes even more obvious in the very closing statement of the novel, because the last word belongs not to the happy couple Hope and Everell but to their mutual friend, Esther Downing, who never marries – despite the fact that "she was an object of very general

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<sup>16</sup> SEDGWICK, *Hope Leslie*, 55.

<sup>17</sup> *Ibidem*.

attraction [whose] hand was often and eagerly sought.” Sedgwick’s narrator comments thus:

She illustrated a truth, which, if more generally received by her sex, might save a vast deal of misery: that marriage is not essential to the contentment, the dignity, or the happiness of woman. Indeed, those who saw [...] how many were made better and happier by her disinterested devotion, might have rejoiced that she did not “Give to a party what was meant for mankind.”<sup>18</sup>

This famous final statement must be read as the ultimate refutation of Cooper’s legalistic perspective on property. For while *The Pioneers*, as we have seen, ended with a marriage that legally transferred existing property rights from one generation to the next by marrying, the heiress of the estate to the new owner, Sedgwick explicitly refuses such transformations of daughters into wives, and thus of personal properties into legal property. For Sedgwick, the “disinterested devotion” of the true historian remains the only way to reclaim history and its properties for the common good.

## 4 Conclusion: Owning Nature, Disowning History

The final act of renunciation also calls attention to the inequities which characterized nineteenth-century American laws and legal culture in regard to the status and the property rights of women. In this respect, Sedgwick’s fictions in general allow for a deeper and rather illuminating interpretation of the specific relation between the aesthetic and the legal, between literary and legal concepts of authorship, ownership, and property. As Norma Basch and Melissa Homestead, among others, have shown, one of the central legal conflicts in 19th-century America was the contested reformation of the legal rights of married women and particularly the revision of the so-called concept of *coverture* or *feme covert* – a struggle which is certainly reflected in Sedgwick’s novel and the works of other women writers of the time. According to these common law principles, husband and wife were seen as one and, as Basch comments,

[a]s a direct result of this metaphor, a wife came under her husband’s wing or protective cover in a legal status designated as coverture. She could neither sue nor be sued in her own name. Theoretically, all her personal property belonged to her husband; the management of her real property came under his control; and she was restricted in making contracts and wills. If the

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<sup>18</sup> SEDGWICK, *Hope Leslie*, 370–371.

legal oneness of the husband and wife was a common law axiom, the legal invisibility of the wife was its corollary.<sup>19</sup>

This struggle against the inequities of the common law perspective on marital unity is closely linked to the struggle for copyright and the defense of literary and intellectual property at the same time. One reason, of course, was that during the 19th century professional writing became one of the most important areas of intellectual work in the public realm that allowed women a certain independence and autonomy, not only in terms of income but also in terms of cultural acknowledgment and even fame. What also connected the struggle for women's rights and the struggle for copyright protection was the fact that both relied for their legal success on statutes and codes, that is, positive law which makes them part of the larger codification movement of the nineteenth century which aimed at the abolition of the feudal common law in favor of an enlightened and rational system of laws and rules. For defenders of the common law – like Cooper – the act of codification clearly ran against the wisdom of the law which had been collected and refined from time immemorial. Codification as a deliberate act of legislating could only lead to the disorder and the disintegration of society, especially because with the help of the new statutes traditional property law in regard to landownership and inheritance appeared subject to change by will. Proponents of the codification movement – like Sedgwick and her brothers – in contrast claimed that only a rational system of laws and statutes could help to manage the challenges and changes of a radical progressive society.

What is important about these legal issues and cultural struggles for my reading, however, is less the more obvious relation between Esther's steadfast refusal to marry and Sedgwick's insistence on her autonomy and originality as a writer of historical fiction. Rather, the refusal to become a *feme covert* must be read within the context of literary property as a claim to authorship *as ownership* – which in the case of Sedgwick's historical romance *Hope Leslie* means the right to claim history as one's property in form of a specific narrative.

This brings me back to my initial question 'how to own history', and also back to the counter claims presented by Cooper and his own historical novels against Sedgwick's *Hope Leslie*. Within the context of the struggle for copyright on the one hand, and the cultural and legal dominance of *coverture* on the other, women writers in 19th-century America could not defend their own claims to literary property in the same way as their male competitors since from the beginning the idea of literary property was clearly based on the same patriarchal legal premises of ownership and

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<sup>19</sup> NORMA BASCH, "Invisible Women: The Legal Fiction of Marital Unity in Nineteenth-Century America," in *Feminist Studies* 5.2, 1979.

*coverture* which favored the legal invisibility of married women over the potential legal autonomy of unmarried women. According to Melissa Homestead, Catherine Sedgwick's singular success as a national author – contemporary critics listed her alongside Cooper, Irving, Paulding, and Hawthorne – was due to the female author's ability to reconcile the demands of her audience with her own claims:

How could authors serve the national interest and give readers appropriate 'American' books while also claiming proprietary rights and their attendant financial rewards? Catherine Sedgwick emerges as a singularly successful author at precisely this juncture between two conflicting sets of demands, as a supremely self-effacing and disinterested author who was, nevertheless, professionally successful precisely as she produced the 'right' books for American readers while making modest proprietary claims suited to the American cultural climate.<sup>20</sup>

Homestead is referring to Sedgwick's works from the 1830s onward, but this is not the only reason why I would finally suggest that *Hope Leslie* presents a much less self-effacing claim to property and authorship than those later works which were, in Sedgwick's own words, 'suited to the market.' Even while granted that the final remark of the novel presents a kind of renunciation, Sedgwick's self-conscious possessive claims to American history can be felt strongly throughout *Hope Leslie*. In contrast to Cooper, however, Sedgwick does not attempt to present her own version of the American past as the legitimate restoration of legal and genealogical continuity. On the contrary, her frontier romance about the original Puritan settlement in Boston is based on an understanding of the properties of individuals as both a disruptive and decisive force within the process of history and settlement. This is why in *Hope Leslie* the idiosyncratic, the eccentric, and the anecdotal form the original foundation of national history, as my final – and favorite – example beautifully demonstrates.

The significant scene on the mountain top already discussed ends with a highly ironic exchange whose deeper meaning for Sedgwick's contemporaries is much likely to be lost to later day audiences. When the Puritan elders have finished their prospective real estate survey, the question arises how to name the spot that allowed for such wonderful prospects. Before the dignitaries can make up their mind, however, Hope Leslie, in a characteristically impulsive and preemptive move, suggests naming it "Mount Holioke" after one of her companions, a Mr. Holioke – an honor which the bearer of the name accepts happily despite his obvious embarrassment.

For Sedgwick's readers, this detail certainly was more than just an amusing anecdote. For in 1827, Mt. Holyoke (as it was spelled correctly) had already become

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20 MELISSA J. HOMESTEAD, *American Woman Authors and Literary Property, 1822–1869*, (Cambridge: Cambridge University Press, 2005), 86–87.

one of the most popular and significant sites for the formation of a specifically American cultural imaginary based on the peculiar properties of the ‘American scenery’ in contrast to the landscapes of Europe. With its spectacular and famous view on the so-called Oxbow, the picturesque meandering of the Connecticut River at Northampton, Mount Holyoke had become a topical site for a national aesthetics based on the sublime experience of nature. Painters like Thomas Cole would translate this experience into images which gave the aesthetic appropriation of nature its decisive, that is, national characteristics. With an admirable slight of hand, Sedgwick not only reveals in her little anecdote the economic and religious underpinnings of such material and aesthetic appropriations of nature, her specific literary irony also ridicules and finally subverts the pathos of entitlement which governs the historical fictions of Cooper.

One could thus argue that Sedgwick’s claim to American history is based on an aesthetic counter strategy which gives precedence to willful acts of individual naming and a national narrative of disruption and new beginnings, of dislocation and reunion. *Hope Leslie* in this way emphasizes (even celebrates) the inherent contingency of entitlement, as it were, both in the legal and the literary sense; a contingency, however, which ironically subverts Sedgwick’s own property claims in the end.

The urgency of individual autonomy which drives *Hope Leslie* thus still appears less individualized and absolute than Emerson’s claim to the exclusive ‘property in the horizon’ of the cultural landscape of 19th-century America. However, Emerson’s transcendental vision of the property of the poet would have been impossible without histories like Sedgwick’s which claimed that the evolution and perfection of a democratic culture and its aesthetic properties relied very much on the creative capacities and linguistic prowess of individual women who did not “give to a party what was meant for mankind.”<sup>21</sup>

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<sup>21</sup> SEDGWICK, *Hope Leslie*, 371.



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