

2015

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Rebecca Harding Davis

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A Law Unto Herself

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A Law Unto Herself

REBECCA HARDING DAVIS

*Edited and with an introduction
by Alicia Mischa Renfroe*

University of Nebraska Press
Lincoln and London

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LIBRARY OF CONGRESS
Cataloging-in-Publication Data

Davis, Rebecca Harding, 1831–1910, author.
A law unto herself / Rebecca Harding
Davis; edited and with an introduction
by Alicia Mischa Renfroe.

pages cm.—(Legacies of
nineteenth-century American
women writers)

Includes bibliographical references.
ISBN 978-0-8032-3814-5 (paperback)
ISBN 978-0-8032-5670-5 (pdf)
ISBN 978-0-8032-5671-2 (epub)
ISBN 978-0-8032-5672-9 (mobi).

1. Women—Legal status, laws, etc.—
United States—Fiction. 2. Women—
United States—History—19th
century—Fiction. 3. Law reform—
United States—Fiction. 4. Gender
identity—Fiction. I. Renfroe, Alicia
Mischa, editor. II. Title.

PS1517.L3 2015 813'.4—dc23
2014015253

Set in Adobe Carlson Pro
by Renni Johnson.
Designed by A. Shahan.

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Acknowledgments

I would not have been able to complete this edition without the support of others. I am especially grateful to Sharon M. Harris for her advice, encouragement, and enthusiasm throughout this project. My work on Davis has benefited greatly from conversations with Sherry and Robin Cadwallader; they graciously welcomed me into the Society for the Study of Rebecca Harding Davis and Her World and have generously shared their work on Davis. I continue to be motivated by the example of Mary Papke, who first introduced me to nineteenth-century women writers in an undergraduate class at the University of Tennessee; her work in the recovery of Kate Chopin and Edith Wharton surely planted the seeds of this project long before I had ever heard of Rebecca Harding Davis.

This project also benefited from the support of my institution, Middle Tennessee State University, and the National Endowment for the Humanities. I received two MTSU Faculty Research and Creative Activity grants in 2010 and 2011 that provided summer support and a one-course release for preliminary research and writing. Mark Brynes, the dean of the College of Liberal Arts, approved travel funds for a trip to the University of Virginia to use the Richard Harding Davis Collection. I am especially grateful to my department chair, Tom Strawman, for his support and encouragement. I would also like to thank the National Endowment for the Humanities for funding my participation in two fantastic summer institutes: “The Rule of Law: Legal Studies and the Liberal Arts” directed by Matthew Anderson and Cathrine O’ Frank in 2009 and “Transcendentalism and Social Action in the Age of Emerson, Thoreau, and Fuller” directed by Sterling “Ric” Delano, David Berry, and Diane Whitley Bogard. These experiences continue to shape my research in unexpected and fruitful ways.

Acknowledgments

My research is closely related to my teaching. I was fortunate to share my preliminary work with students in my graduate seminar on Louisa May Alcott and Rebecca Harding Davis. I thank Joy Smith, Cori Mathis, Shelley Maddox, Sarah Gray-Panesi, Brittany Hall, Jacquelyn Hayek, Jessica Hanson, Kazunori Oda, Sarah King Rivas, Sally Vandenberg, and Shellie Michael for their insights and encouragement. The introduction and footnotes were greatly improved by their questions and comments. I would also like to thank my research assistant, Mo Li, for her work on the project. She found elusive sources and proofread several drafts with a smile and a willingness to help with whatever I asked. My colleague Martha Hixon generously offered her advice regarding Davis's references to fairy tales.

I am particularly thankful for my friends and family. Kelly Kilgore Bratcher, Angela Byers, Lisa Durham Mendenhall, and Pat Bradley willingly listened to all things Davis. My wonderful canine assistant, Baby, made sure I took time away from my desk for a quick walk. Jim and Jan Hart offered their encouragement and support throughout the project. I am especially grateful to my parents, Ronald and Helen Renfroe, for fostering my intellectual curiosity in ways that continue to shape my academic career; I would not be editing a book today if I had not read so many good books as a child.

Last, I would not have been able to complete this project without John Hart. My partner in all things, he willingly and patiently wore the hats of literary critic, writing center tutor, and head chef as needed. He continues to enrich my life in ways I never imagined.

Editor's Introduction

In *A Law Unto Herself*, Rebecca Harding Davis transforms a typical Gothic plot device of a lost inheritance into a vehicle for a realistic critique of the legal status of women. Originally serialized in *Lippincott's Magazine* in 1877 and published in book form in 1878, *A Law Unto Herself* appeared during a time of cultural change and contradiction. Women's legal rights and cultural roles shifted dramatically throughout the nineteenth century. With the passage of married women's property laws throughout the century, the common law doctrine of *coverture*—which held that a married woman was legally “under the cover” or protection of her husband and thus not a legally recognizable “person”—was gradually replaced through statutory reform. Enacted in several waves beginning in the 1830s and culminating in the 1890s, these statutes theoretically transformed a married woman into a legal subject, capable of making her own contracts, inheriting and owning property in her own name, and keeping her own wages. Women also entered male-dominated professions, such as law and medicine, in increasing numbers. However, despite these gains, in *Bradwell v. Illinois* (1873), the United States Supreme Court held that Myra Bradwell did not have a constitutional right to be admitted to the state bar to practice law because the right to practice a profession was not protected by the Fourteenth Amendment. Drawing on contemporary domestic ideology and the legal doctrine of *coverture* in his concurring opinion, Justice Bradley observed that as a married woman, Bradwell could not enter the contracts necessary to the profession without her husband's permission. He noted:

The civil law, as well as nature herself, has always recognized a wide difference in the respective spheres and destinies of man and woman. Man is, or should be, woman's protector and defender. The

natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life. The constitution of the family organization, which is founded in the divine ordinance, as well as in the nature of things, indicates the domestic sphere as that which properly belongs to the domain and functions of womanhood.

Thus, for much of the nineteenth century, the legal system and its basic principles remained bound in patriarchal assumptions about gender.

Though changes to property law offered married women new forms of agency, the impact of these changes on the everyday lives of women remained ambiguous at best. By the end of Reconstruction in 1877, African American men had voting rights on paper but not in practice, while universal women's suffrage would have to wait until the passage of the Nineteenth Amendment in 1919, even though women in Wyoming had the right to vote as early as 1869 and many other states had granted partial suffrage throughout the late nineteenth century. As Brook Thomas suggests in *American Literary Realism and the Failed Promise of Contract*, these issues may also be situated as part of a larger cultural shift from an emphasis on status-based relationships, characterized by hierarchical arrangements such as slavery and marriage, to contract-based relationships, presumably freely chosen and negotiated in the marketplace (2). As William Graham Sumner explains, "a society based on contract . . . gives the utmost room and chance for individual development, and for all the self-reliance and dignity of a free man" (qtd. in Thomas 2–3). Yet, as Thomas cautions, a contractually organized society does not guarantee equality, especially when status-based relationships persist, often disguised in new forms.

Read in light of the Philadelphia Centennial Exposition in 1876, the novel raises questions about the application of universal norms—such as freedom and equality—to women, African Americans, and other marginalized groups; *A Law Unto Herself* provides a sustained inquiry into the legal rights of women and thus lends support, though indirectly, to the women's rights movement. Organized to celebrate the signing of the Declaration of Independence, the exposition surely reminded Re-

becca Harding Davis and her contemporaries of the nation's founding on the promise of "inalienable rights" for its citizens.¹ Yet, the passage of the Fifteenth Amendment in 1870 granted the right to vote to African American men but failed to mention women, a point that Susan B. Anthony and others foregrounded through a public reading of "A Declaration of Rights" on July 4, 1776. The group could not get permission to be part of the exposition's official program and instead staged a demonstration outside the lecture hall (Cordato 130–31). Emphasizing an Enlightenment conception of "the natural rights of each individual," the "Declaration of Rights" describes a host of wrongs against women, even noting that "*The Writ of Habeas Corpus*, the only protection against *lettres de cachet*, and all forms of unjust imprisonment . . . is held inoperative in every State in the Union, in case of a married woman against her husband,—the marital rights of the husband being in all cases primary, and the rights of the wife secondary." In *Rebecca Harding Davis and American Realism*, Harris observes that Davis's "literary stance on women's rights" can best be characterized as "interest, but from a distance" (193). Though Davis never officially joined the women's movement, her fiction speaks to contemporary debates about women's work, marriage, and property ownership.

Describing the women writers of the era, Elaine Showalter suggests that "the heroine of women's writing in the 1870s was 'the coming woman,' the emancipated woman of the future" and that "women's fiction . . . was a series of female Declarations of Independence" (164, 166). Neither the true woman nor the new woman, the 1870s woman lived in a time of transition. Her ancestor was the true woman, immortalized in the pages of domestic fiction and characterized by her commitment to the virtues of purity, piety, submissiveness, and domesticity.² In contrast, characterized by their search for "feminine self-realization," the New Women of the 1890s were social nonconformists who "rejected conventional female roles, redefined female sexuality, and asserted their rights to higher education and the professions" (Showalter 210). The "bohemian New Women" of the city might be "art students, editors, actresses, and journalists" who saw themselves "as daring modern heroines" (210). With three fascinating female characters that can be read as reflections

of the title, *A Law Unto Herself* registers many of these contradictions, provides one of Davis's most complex treatments of the "woman question," and offers a powerful critique of what it means to be a woman within, and subject to, the law.

Brief Biography of Rebecca Harding Davis

Best known for her critique of industrialism, "Life in the Iron-Mills" (1861), Rebecca Harding Davis was a prolific writer whose career spanned over fifty years. She serialized sixteen novels, published ten novels in book form, and published several hundred short stories and essays in a host of periodicals.³ The daughter of Rachel Leet Wilson (1808–1884) and Richard W. Harding (1796–1864), Rebecca Blaine Harding was born on June 24, 1831, at the home of her aunt and uncle (Rebecca Wilson Blaine and James Blaine) in Washington, Pennsylvania.⁴ The young Rebecca lived with her parents in Alabama until 1836 when the family moved again to Wheeling, Virginia (now West Virginia).

Rebecca Harding began her education at home with her mother and private tutors. In 1845 Harding moved to Washington, Pennsylvania, where she lived with her aunt and uncle while attending the Washington Female Seminary for three years before graduating as valedictorian of her class. The curriculum included "geometry, literature, music, and drawing" as well as "courses in Evidences of Christianity, Mental Philosophy, and Butler's Analogy" (Harris and Cadwallader xii). After graduation, she returned to Wheeling and informally continued her education by studying with her brother, who attended Washington College.

Other details about Harding's life during this period are scarce. From about 1849 to 1861, she apparently contributed to the *Wheeling Intelligencer*, edited by Archibald Campbell (Harris, *RHD and Realism* 25–26). Other than her newspaper experience, little is known about her early writing until she sent "Life in the Iron-Mills" to James T. Fields at *The Atlantic Monthly*, where the publication of the story in the April 1861 issue caused an immediate sensation for its indictment of industrial capitalism. Shortly thereafter, Harding met her future husband, Lemuel Clarke Davis, a Philadelphia law clerk and editor. After a brief correspondence, they married on March 5, 1863, and had three children,

Richard Harding Davis (born April 18, 1864), Charles Belmont Davis (born January 24, 1866), and Nora Davis (born October 16, 1872).

Despite the demands of a growing family, Davis was her most prolific during the 1860s and 1870s when she used her pen to examine a variety of social issues. Drawing on her experience in the border state of West Virginia, she wrote several frank treatments of the Civil War for *The Atlantic Monthly*, including “John Lamar” (1862), “Blind Tom” (1862), and “David Gaunt” (1862) and examined the complexities of Reconstruction in her ambitious novel, *Waiting for the Verdict* (1868). Throughout her career, she penned Gothic thrillers and mysteries for *Peterson's Ladies Magazine*, eventually producing over ninety stories and fourteen serialized novels for that venue. Though neglected by scholars, these stories record her lifelong commitment to social justice. Noting in passing Davis's “obsession with inheritance” (45), Ruth Stoner observes that her *Peterson's* tales include “some of the most subversive literature written in the nineteenth century—radical declarations of women's status as chattel and portraits of women's sexual repression, embedded within very conventional imagery and formulaic sentimental plots” (44).

As this edition of *A Law Unto Herself* seeks to demonstrate, Davis clearly understood that law is a form of power. Her interest in law may have been fueled by her husband, who had legal training and edited *The Legal Intelligencer* for about ten years. Even a small sampling of her work reveals her consistent engagement with the treatment of women, children, workers, the insane, and otherwise disabled within the legal system. For instance, “In the Market” (1868) describes the limited options for female self-development, including marriages in which women “endure in legal prostitution” (207). “Polly” (1871) examines “distinctions in the law” (50), including consent, legal guardianship, inheritance, and marriage that affect women's everyday lives. “Josey's Dower” (1876) describes a gift in which two sisters “give up” the “right of choice” of their inheritance to another sister who does not deserve the reward (329). Women who attempt to subvert typical roles also face legal obstacles. “A Day with Dr. Sarah” (1878) focuses on a female physician who “had fought her way into her profession, and out of the Christian Church, and . . . had clinched with Law, Religion, and Society in a hand-to-

hand fight because of their treatment of women” (611). Published just one year after Twain and Warner’s *The Gilded Age: A Story of Today* (1873), the novel *John Andross* (1874) is a fictionalized account of William Tweed’s Whiskey Ring that examines issues of political corruption and capitalistic greed. Ahead of her time, Davis recognizes the dangers of a monolithic, powerful corporation. Explaining his role in the Tweed Ring, the protagonist John Andross observes, “For years I have been in the hold—not of a man, nor a devil, but of a corporation. . . . It buys and sells at will the government and interests of the city where it belongs: it controls the press, the pulpit, the courts” (52). More specifically, “it buys the law” (53). A contributing editor to the *New York Tribune* from 1867 to 1889 and the *New York Independent* from 1868 to 1908, Davis came to understand this issue firsthand when she wrote an exposé about corporate greed for the *Tribune* and then resigned when she learned that her work had been censored because the corporation was a major advertiser (Harris, *RHD and Realism* 233).

After 1880, Davis focused primarily on her short fiction and journalism, producing essays about race relations, labor reform, and other issues of the day. She published three more novels: *Kent Hampden* (1892), *Doctor Warwick’s Daughters* (1896), and *Frances Waldeaux* (1897). She also continued to write thrillers for *Peterson’s* and juvenile fiction for the *Youth’s Companion* and *St. Nicholas*. Her final published story, “Two Brave Boys,” appeared in *St. Nicholas* in July 1910 just two months before her death on September 29, 1910, at Richard Harding Davis’s home in Mount Kisco, New York.

Critical History

Like many of her contemporaries, Davis blends characteristics from multiple literary genres such as sentimentalism, the Gothic, and romanticism. Her work also prefigures realism and naturalism—both most often associated with late nineteenth-century male writers. She draws on wide-ranging classical, literary, and biblical allusions as well as contemporary events. As Lisa Long suggests, Davis’s work “has much to teach us: about the limits of generic classifications and the perils of literary history; [and] about the continuing need for critical work that

elucidates the many American women writers who remain if not 'lost,' at least hidden" (262). Writing of several such midcentury writers (Alcott, Stoddard, Woolson, and Phelps), Anne Boyd claims that "our understanding of American women's literary history as advancing from sentimentalism to domestic literature to local color to modernism obscures the value of many women writers who do not fit neatly into any of these categories" (249). Like many of her contemporary women writers, Davis resists easy categorization, and as a result, much of her canon continues to be neglected.

For early reviewers such as Henry James, Davis's use of sentimental conventions may have obscured her contributions to the emerging literary forms of realism and naturalism. Like her sentimental predecessors, Davis often focuses on the plight of women in conventional, domestic settings. Popularized by antebellum women writers like E.D.E.N. Southworth, Susan Warner, Maria Cummins, and Harriet Beecher Stowe, sentimental literature gained a major share of the antebellum literary market and sparked negative reactions such as Hawthorne's infamous remark about "that damn-d mob of scribbling women" (qtd. in Person 24). Usually featuring an abused or disempowered protagonist (such as Charles Dickens's *Oliver Twist* or Harriet Beecher Stowe's *Uncle Tom*), sentimental literature often foregrounds the victim's suffering in order to elicit an emotional response and thus work as a call to action on its audience.⁵ With its fraught literary history, as Nina Baym observes, "the term 'sentimental' is often a term of judgment rather than a description" (*Woman's Fiction* 24).

In a scathing review of *Waiting for the Verdict* published in *The Nation*, a young Henry James misreads Davis as a sentimental writer, noting that though some of her short stories are "distinguished by a certain severe and uncultured strength," they are also "disfigured by an injudicious straining after realistic effects" (221). He also takes issue with her choice to write about lower-class characters; though they may be appropriate subject matter,

they are worth reading about only so long as they are studied with a keen eye versed in the romance of human life. . . . Mrs. Davis's

manner is in direct oppugnancy to this truth. She drenches the whole field beforehand with a flood of lachrymose sentimentalism, and riots in the murky vapors which rise in consequence of the act. (221)

Her characters ultimately emerge as “frowning, grinning automatons,” and “the reader . . . cries aloud for the good, graceful old nullities of the ‘fashionable novel’” (222). His review of *Dallas Galbraith* one year later echoes many of these concerns. Though he admits that “Mrs. Davis, in her way, is an artist,” he concludes that she “takes life desperately hard and looks upon the world with a sentimental—we may even say, a tearful—eye” (224, 225). In *Reading for Realism*, Nancy Glazener aptly points out that “James probably attacked Davis so vehemently and elaborately because she might have been taken for a realist even though she did not, in James’s view, observe realist-professional emotional proprieties” (127).

Though realism and naturalism had not been “officially” defined by spokespersons like William Dean Howells and Frank Norris, several reviews of *A Law Unto Herself* prefigure the concerns of both and situate Davis as an early contributor to these emerging forms. Often interpreted as a reaction against the “unreality” of romantic, sentimental, and Gothic literature, realism focuses on everyday life and commonplace experiences, emphasizes character development over plot, and resists the use of stock character types to represent good and evil. Realism also strives for veracity, for being true to everyday life; as William Dean Howells succinctly defined it, “realism is nothing more and nothing than the truthful treatment of material” (966). An unsigned review in *The Nation* compares Davis to Howells, noting that “she succeeds in giving a truer impression of American conditions than any writer we know except Mr. Howells, while there is a vast difference between his delicately illuminated preparations of our social absurdities and Mrs. Davis’s grim and powerful etchings” (“Recent Novels” 264). The reviewer clearly has some reservations with Davis’s brand of realism: she “writes stories which can hardly be called pleasant, and which frequently, as in ‘A Law unto Herself,’ deal with most unpleasant per-

sons, but there is an undercurrent of recognized rectitude and a capacity for calling a spade a spade which sets her writings in a category far removed from French morality" ("Recent Novels" 264). In a similar vein, a short unsigned piece in *Godey's Lady's Book* acknowledges that the novel is "powerfully written, full of interest, but written also in a style somewhat broad and coarse, especially from the pen of a woman" ("Literary Notices" 435). Foreshadowing objections to the subject matter of realists and naturalists, the review also takes issue with the occasional use of profanity: "It does not, in our opinion, add to the strength of a really powerful book, to add profanity to its expressions, and put oaths in the mouths of women as well as men" ("Literary Notices" 435). Continuing this trend, the *New York Times* notes that in chapters 3 to 5 (a section that includes a powerful scene in which Jane takes the law into her own hands), Davis provides "good enough stuff in the story to make the reader wonder uncomfortably when he is to be shocked by some coarseness or lack of good art such as this writer seldom fails to supply" ("Lippincott's Magazine" 3). The reviewer also describes the protagonist, Jane Swendon, as "a young woman unlike the conventional Miss in almost every regard except beauty" ("Lippincott's Magazine" 3). As these reviews suggest, many of her contemporaries recognized Davis's affinities with realism; like her male counterparts, she describes the individual's relation to his or her environment and the commonplace details of everyday life.

Many of her contemporaries also recognized the complexities of her career and of the options available for women writers. In *Women Authors of Our Day in Their Homes*, Julia Tutwiler praises Davis for her "willingness to leave questions open, to acknowledge that every verdict must be an individual verdict" (272). Though Davis is "the house-mother . . . innocent of ambition" (272), her "intellectual outlook is not confined to her home and literature. She is abreast with the thought and movement of the day, entering into the life around her with the enthusiasm which is one of her most helpful and inspiring qualities and which is tempered and individualized by the habit of reflection" (276). In another assessment of Davis in her own time, Elizabeth Stuart Phelps remarks in "Stories that Stay,"

Rebecca Harding may have been too terribly in earnest. Her intensity was essentially feminine, but her grip was like that of a masculine hand. She may have had her faults in style, but those were minor matters. Her men and women breathed and suffered, loved and missed of love, won life or wasted it with an ardor that was human, and a power that was art. (120)

Other early analyses emphasize her kinship with Russian realism or French naturalism. A lengthy obituary in the *New York Times* praises her “stern but artistic realism” that “suggested a man of power not unlike Zola’s” (“Rebecca H. Davis” 13). In *American Authors*, published in 1938, Stanley Kunitz and Howard Haycraft write, “Mrs. Davis’s earlier novels . . . were grimly realistic, belonging to the ‘naturalistic’ school of Zola. She was consciously pioneering this field in America, thirty years before Stephen Crane, forty years before Theodore Dreiser” (208). Similarly, in the *Dictionary of American Biography*, Fred Pattee describes her works as “Russian-like in their grim and sordid realism” (143), and “Today’s Women,” published in the *Washington Post* in 1929, credits Davis for “introduc[ing] the labor question in American fiction” (Minderman 9). However, despite this recognition of her work, Davis was virtually erased from American literary history with the canonization of mostly male writers in the mid-twentieth century.⁶

In 1972 Davis was reintroduced to a new generation of readers with Tillie Olsen’s pioneering Feminist Press edition of *Life in the Iron Mills and Other Stories*. By far Davis’s most frequently anthologized and taught text, “Life in the Iron-Mills” has since generated over a hundred articles and book chapters, and the importance of Olsen’s role in sparking interest in Davis cannot be overstated. Unfortunately, Olsen erroneously identified Davis as the author of a conservative argument against women’s rights, *Pro Aris et Focis (For our Altars and our Hearths)* (137), a mistake that may have impacted Davis’s reception by early feminist critics involved in the recovery of many women writers in the early 1970s.⁷ Olsen also initiates the “poor Rebecca” depiction of Davis as a thwarted and somehow diminished artist. Noting that “a scanty best of her work is close to the first rank” and “even that best is

botched,” Olsen concedes that “botched art or not—a significant portion of her work remains important and vitally alive for our time” (155). Elaine Showalter concurs, concluding in *A Jury of Her Peers* that “Davis could not sustain the prophetic power of her early work” (137), and Judith Fetterley goes even further, claiming that, like Hugh Wolfe, “Davis, too, chose a form of suicide; artistic compromise turned her pen against herself” (313). These early assessments rely on Olsen’s limited collection of Davis’s work and thus overlook the complexity of her long career.

The pioneering scholarship of Sharon M. Harris, Jean Pfaelzer, Jane A. Rose, Robin Cadwallader, and others has done much to complicate these readings and to recognize her contribution to nineteenth-century literary history. Noting the lack of sustained critical attention to Davis’s canon, Rose points out that her “work fits no neat critical category” (*RHD* xi), while Harris notes her ability to blend literary styles, “most often using the techniques of both romanticism and sentimentalism . . . to draw readers into stories wherein the realities of quotidian life were of primary significance” (*RHD and Realism* 7). Situating Davis as “a founder of American realism,” Jean Pfaelzer argues that “from within these critiques of sentimentalism and transcendentalism, Davis founded a prototypical realist discourse” (*Parlor Radical* 21). Pfaelzer also suggests that Davis often “managed to use contemporary popular genres against themselves, in a sense deconstructing them as she went along” (“Legacy Profile” 41).

This edition of *A Law Unto Herself*, which has been out of print since its original book publication in 1878, continues the project of recovering Rebecca Harding Davis for a new generation of readers. Through the novel’s protagonist, Jane Swendon, Davis draws on familiar literary conventions (the female bildungsroman, romanticism, domestic fiction, and Gothic fiction) to suggest that the audience is unable to “read” Jane “right,” either through familiar genre-specific narratives about the female heroine, or, more significantly, through the lens of the law and its conceptions of women and legal identity. Framed in light of debates about citizenship, suffrage, and other rights, the novel speaks to the myriad complexities of its cultural moment and invites consideration of changing gender roles; opportunities for women as artists; the treat-

ment of the poor; the impact of immigration, urbanization, and industrialization; and the reform movements designed to address these issues.

A Law Unto Herself: Cultural Context

From the first chapter of *A Law Unto Herself*, Davis employs self-reflexive references to genre that invite critique of genre conventions. The novel opens with a reminder about the dangers of reading for genre by invoking familiar Gothic tropes. The action begins in a typically Gothic setting—"a raw, cloudy afternoon" as a carriage travels "down a lonely road" to "an apparently vacant house . . . set back from the road . . . [and] long abandoned to decay" (3). The house appears to Captain Swendon (Jane's father) and Cornelia Fleming (a family friend) "as if it were an open grave" (4). Against this haunting backdrop, readers learn the details of the "ghastly errand: to drag out the secrets of the grave" by using a spiritualist medium to communicate with the spirit of Jane's dead mother about her inheritance (3). Readers are thus prepared for a Gothic heroine, surrounded by danger and mystery.

Like many Gothic heroines, Jane is disinherited and lacks the male guidance and support to claim her legal rights. Here, Davis perceptively uses a conventional plot device to expose real-world legal doctrines that shaped the lives of nineteenth-century American women. In the opening chapter, readers learn that Jane's grandfather (Old Morôt) disinherited Jane's mother (Virginie Morôt Swendon) when she married Jane's father. He left his estate to his nephew, Phillip Laidley. Though Morôt regretted his decision, he died before formally changing his will and instead "charged" Laidley to "do justice to his daughter" (11). In the first will, Laidley apparently honored this request, leaving his property to Jane after her mother died. However, before the action of the novel begins, Laidley has had a change of heart. His new will leaves everything to Pliny Van Ness's charity, and he plans to "do justice" to Jane by arranging her marriage to Van Ness. The novel opens with the séance to contact Jane's mother for her approval. This typical Gothic plot raises a host of issues regarding Jane's property rights as a single or married woman and the legal power of a husband to control not only his wife's

property but her destiny as well; by disinheriting Jane, Laidley erases her legal identity as an heir and attempts to ensure her complicity through an arranged marriage. As Teresa Goddu suggests, Gothic literature is not necessarily an escapist form designed to entertain through evoking fear; indeed, “the Gothic registers its culture’s contradictions” (3). Davis uses this plot to reveal the links between property ownership, citizenship, and legal rights for women.

Though the title *A Law Unto Herself* refers most obviously to Jane, it can easily be applied to her foils, Charlotte and Cornelia, because both women subvert nineteenth-century gender roles and provide alternative models of female agency. As a medium and confidence woman (a con artist), Charlotte asserts the female power often associated with the Gothic, while the Bohemian writer Cornelia embraces the independence and freedom of the new woman. Both offer models of female identity that depart from the domestic ideals of true womanhood and invite comparison to Davis’s other explorations of the woman question, particularly in *Earthen Pitchers* (1874) and *Kitty’s Choice or A Story of Berrytown* (1873).

A character who could have been taken from a Gothic novel, Charlotte (disguised as the renowned clairvoyant Mrs. Miriam Combe) claims to be a spiritualist medium, able to materialize the spirits of the dead. In *Radical Spirits*, Ann Braude notes that “spirit mediums formed the first large group of American women to speak in public or to exercise religious leadership” (xix). Further, spiritualists differed from other women religious leaders in their “commitment to women’s rights” (xx). Thus, for many women, spiritualism provided a source of cultural power and an active public identity. Though she is quickly revealed to be a fake, Charlotte also seems to have “the evil eye” associated with a mesmerist’s powers.⁸ In a reversal of Nathaniel Hawthorne’s Westervelt and Priscilla in *The Blithedale Romance* (1852), Charlotte “materializes” a veiled woman pretending to be Virginie Morôt, called back to advise Laidley about his will. Read as a female mesmerist, Charlotte transgresses boundaries. As Theresa Gaul observes, “the culture that celebrated sentimentalism . . . feared the power possessed by the mesmerist, viewing it as threatening to gender roles and standards of sexual propriety” (835).

Like Alcott in “Behind a Mask” (1866), Davis codes Charlotte’s sexuality through her mesmeric power—she is “charged with electricity” and her gaze produces strong reactions in most of the men (14).

Though described as “a regular confidence woman” (125), Charlotte is not a one-dimensional villain. Davis makes clear that Charlotte’s profession actually pays better than honest work, a point she revisits in “Low Wages for Women” (1888) where she argues that women must have access to meaningful work and be able to do it well in order to achieve economic security. When Jane later encounters Charlotte disguised as a Russian princess, she keeps Charlotte’s secret because “she remembered she had once taken the bread from the wretched woman’s mouth” and “would not do it again” (107). Drawing on domestic ideology, Davis also humanizes Charlotte through her regard for her son. Thinking of his future, Charlotte briefly considers Jane’s offer of “honest work” as a seamstress but then she “remember[s] the time when some fussy, good women had put her in charge of a fashionable Kindergarten” (114, 115).⁹ Despite a good salary and teachers to help with the work, Charlotte broke “the finical apparatus to pieces, left a heap of bonbons for the children, scrawled a verse of good-bye with the chalk on the blackboard, and [took] to the road again without a penny” (115). A law unto herself, Charlotte provides a genre-defying model of female agency that resists domestic gender codes.

Like Charlotte, Cornelia Fleming is also a potential model of female agency. Reminiscent of Hawthorne’s Zenobia in *The Blithedale Romance*, Cornelia is a prototypical bluestocking artist and a forerunner of the independent new woman of the 1890s. Described by Carroll Smith-Rosenberg as “single, highly educated, economically autonomous” (qtd. in Showalter 210), the new woman forges her own path. The only character explicitly described as an artist, Cornelia is “an Arab among her own sex” who “stepped freely up . . . to level ground with men, and struck hands and made friendships with them precisely as if she were one of themselves” (12, 6). However, Cornelia is not the typical suffragist or artist. Literally a law unto herself, she avoids both “the emancipated lonely sisterhood, who set social laws at defiance” and “the whole tribe of literary and artistic adventurers” (27). She describes her-

self as “independent as any—female doctor” (130), invoking a profession often denied to women in the nineteenth century.¹⁰ Like Louisa May Alcott’s Jo March, Cornelia is often figured in masculine terms: a “clever, candid boy” and “an innocent, manly boy” (6, 161). She admits to an “antipathy . . . to everything in the world that was not masculine” (98), and like the men in the novel, she frequently misreads Jane. Though she notes that Jane “can turn a penny to the best advantage,” Cornelia sees her as a “child” who “irritated her, just as a machine did, or an animal or any other creature whose motive-power she could not comprehend” (27). Cornelia’s masculine identity stands in sharp contrast to the feminine exemplar of sentimental, domestic fiction.

Like her contemporaries Louisa May Alcott in *Work* (1873) and Elizabeth Stuart Phelps in *The Story of Avis* (1877), Davis draws on the tradition of the female bildungsroman. Jane’s plight suggests elements of the typical domestic plot in which a young woman “has lost the emotional and financial support of her legal guardians . . . but . . . goes on to win her own way in the world” (Baym, *Woman’s Fiction* ix). The protagonist is eventually rewarded with “domestic comfort, a social network, and a companionable husband” after learning the value of the “overcoming of obstacles through a hard-won, much tested ‘self-dependence’” (ix). Left to her own devices by her ineffectual father, Jane forges an independent identity of sorts, yet she lacks a fully realized, mature sense of self. For instance, at the beginning of the novel, during Charlotte’s performance, Jane seems independent and decisive because she is the only one to see through the charade. Readers later learn that she manages the family finances and helps her father make his patent models though she still has child-like traits: “she made the models, she draughted them, she worked with carpenter’s tools, needles, pencils, clay, by turns, and was both swift and skillful” (28). However, though Jane has some artistic ability, she is frequently described as a “child” (28), and her suitor Bruce Neckart initially believes that “the girl is like her dog” (45). Further, unlike the typical domestic heroine, Jane seldom justifies her actions through appeals to traditional Christianity. For instance, when Judge Rhodes’s daughters offer their “domestic feminine influence,” they learn that Jane “did not know a word of any catechism” and offer “religious

novels to convert her" (101). Jane takes the books "but never cut[s] the leaves" (101). Thus, Jane does not have access to the traditional sphere of influence afforded by true womanhood ideology.

Despite Jane's practical traits and ability to see through deception, her suitors consistently misread her in sentimental and romantic terms, a misreading that may also suggest Davis's awareness of her own position (the sentimental authoress in James's reviews, for instance) in a rapidly changing literary marketplace.¹¹ Throughout the novel, Bruce Neckart attempts to "read" Jane "page by page" but does so according to the wrong genre (62). Like the protagonist of a domestic novel, Jane appears to Neckart as part of "quiet, pretty picture" (31), and to her other suitor, Pliny Van Ness, as "the most noticeable point in the picture" (121). Framed in this way by her male "readers" as an artistic representation, Jane is open to interpretation, and misinterpretation, throughout the novel.

A reflection of the late-nineteenth-century market economy, Neckart is a public man. As an editor and businessman, he is involved with the political issues of the day and is always aware of the market; for instance, when he negotiates a contract with a local man, he refuses to follow the local practice to "talk rates when the day's over" (36). Instead, he insists on making the bargain as strangers, requiring a price up front and claiming that "I pay to a penny, and I exact to a penny" (36). He even recognizes that the marriage market is akin to a slave auction but fails to recognize his own complicity in the system: "Item, so much amiability; item, so many pounds of healthy flesh; item annual income so much. . . . [I]f she prove satisfactory, he will marry her" (71).

His romanticized view of Jane reflects the contemporary ideology of separate spheres. When he sees Jane, he "vaguely remembered the jargon of sentimental novels, the heroines of which always keep their heads on Nature's breast. He did not mean to chaff any woman, but he would gladly have proved this one sentimental and weak to explain his strong antipathy to her" (43). With Jane, who seems "a part of the shore, as much as sea or sand" (44), Neckart begins "to feel the physical effect of coming from close streets and striving work into this vast open space" and realizes that "the influence that had quieted him so

unaccountably had been in the girl" (44, 45). Reading Jane through the lens of domesticity, Neckart believes that her presence creates a private space and offers a haven from the hectic public sphere. Characterized by his "dwarfed bulk and massive head set in its black mane," Neckart calls to mind Charlotte Brontë's Rochester in *Jane Eyre* (1847), a point that is reinforced not only by Jane's name but also by the description of her as "his little friend" and his desire to "claim . . . a guardianship over her" (62). Yet, it is precisely this type of male guardianship, and its legal implications, that the novel encourages readers to question.

"But his blood is good": Reform, Race, and Ethnicity

A Law Unto Herself also engages contemporary conversations about race, ethnicity, and biological inheritance. In contrast to her stark treatment of race in her fiction of the 1860s (*Waiting for the Verdict* [1868] features a mulatto doctor and examines contemporary concerns about miscegenation, for instance), Davis does not directly examine the plight of African Americans in *A Law Unto Herself*, an interesting choice since the novel was published near the end of Reconstruction. Only a few African American characters appear at the margins of the novel, and all of them are stereotypes who speak in dialect and play the role of slave turned domestic servant. These flat depictions may subtly suggest the failures of Reconstruction; though free citizens, many African American men must continue to behave like slaves in order to survive in white society.

Perhaps a reflection of the emerging cultural interest in proto-eugenics and social Darwinism, Davis shifts to broader questions about "blood" as a marker of race, ethnicity, and destiny. For instance, Jane is desirable for her status as a pure white woman; an example of "the great women of her race," she is consistently marked by her whiteness and her Swedish blood (62). Though Jane lacks the "true American vim" (32), Neckart is attracted to "her clear Scandinavian face" (45). Interestingly, this "Swedish blood" is desirable in a woman but not necessarily a man; Captain Swendon's "Swedish blood had infused a gentle laziness into his temper," and he forgives Laidley "as no American with English grandfathers would have done" (25). Further, consistent with eugenic ideas about desirable marriages, insanity is an

“obstacle” that “make[s] it simply criminal” to marry and risk passing the disease to offspring (40).

These ideas also inform contemporary discussions about the poor. Through conversations about charitable reform, Davis examines contemporary theories about benevolence. She suggests that some organized reform efforts are suspect because they do not adequately address the underlying capitalist system that produces poor working conditions, inadequate wages, and poverty.¹² In *The Dangerous Classes of New York* (1872), Charles Loring Brace, a near-contemporary of Davis and the inspiration for many of the reforms addressed in the novel, focuses primarily on the plight of homeless urban children and argues that they should be sent to the rural West via orphan trains to build new lives with foster families with Christian values. Davis encourages readers to question this approach by linking Brace’s reforms to a variety of schemes in the novel, including a “State Home for destitute children” and “Orphans’ Homes in the Gulf States,” often supported by letters of authentication from clergy (112, 109).¹³ These schemes depend on upper-class guilt to raise money to help “friendless children” and raise the “dangerous classes” (90) and replicate “the vast system of organized charities through which the kindly wealthy class touch [sic] the poor beneath them” (111). Another con game involves selling lots in “Temperance City” to “colonists who are tee-totallers and members of some church” (111). As an investor observes, “Shares go off this summer like hotcakes. There’s nothing like religion . . . to back up business enterprise” (111). Through this section, Davis calls attention to the dark side of industrialization and contemporary strategies for reform that often linked capitalism and Christianity.

A reflection of emerging Social Darwinist theories, Judge Rhodes believes that the poor cannot be helped: “What with ignorance and whiskey and conceit, the dangerous classes even here are too heavily handicapped to make any running. They will need two or three lives after this . . . to bring them up to a fair starting point” (75). In contrast, Captain Swendon suggests “to give to ’em all, and so be on the safe side” even though he admits that “the organized charities tell us they are all impostors; and then every day some organized charity turns out to be a

swindle” (75). Jane tries to find middle ground in her solution. She purchases Hemlock Farm, “a great untrimmed tract of farm and woodland on the Hudson” and creates a kind of utopian community for urban refugees, “a colony of Philadelphia paupers,” as Cornelia puts it (63, 96). Building on her earlier treatments of industrialism and urbanization in “Life in the Iron-Mills,” *Margret Howth* (1861), and “The Promise of the Dawn” (1863), Davis describes poverty and disease. Twiss, the shoemaker “who used to live—or starve—in the back ally of their garden,” is the “head-gardener”; Nichols, the “consumptive sempstress,” is “growing quite fat” while she handles the dairy; and the new stable boy has escaped “the printing office, where he was going to the devil” (77). As Twiss’s situation indicates, poverty is not simply a matter of unemployment or disability—some people are poor because they do not earn a living wage. Jane’s solution suggests that authentic, individual action, rather than organized reform, can lead to positive change.

However, though Jane’s actions are perfectly consistent with the moral influence attributed to women by domestic ideology, her approach elicits criticism; because she simply helps people who have been kind to her, Jane does not distinguish between the deserving and the undeserving poor, an important point of distinction for many nineteenth-century reformers. Reinforcing other descriptions of Jane as a child, Cornelia claims that “very young girls are apt to be impetuous in their charities and damage more than they help” (96). Thus, some forms of aid can actually harm the recipient. Similarly, echoing Emerson’s position in “Self-Reliance” that a dollar given to the poor is “a wicked dollar” (322), Judge Rhodes argues that “every bit of bread given to a beggar degrades human nature and rots society to the core” (97). He also suggests that such efforts are “hopeless,” noting that “the more efforts you make to reform the dangerous classes the more hardened you will grow” (98). When the captain notes that “the Good Samaritan wasn’t afraid of pauperizing that poor devil on the road,” Judge Rhodes counters, “Let him starve. He will have self-respect. The Good Samaritan knew nothing of political economy” (97). Underlying many of these ideas about the poor is the assumption that “blood” is an indicator of who or what a person can become.

Law, Gender, and Identity

With its emphasis on the legal status of women, *A Law Unto Herself* may also be productively read in light of recent interdisciplinary scholarship interested in the convergence of law and literature. The work of Robert Ferguson, Brook Thomas, Wai-Chee Dimock, and others suggests the ways in which reading literature with regard to its legal context can help us better understand the cultural significance of both. In *Cross-Examinations of Law and Literature*, Thomas suggests that “if law, like literature, is related to the narratives a culture tells about itself, so literature, like law, responds to its historical situation by seeking ways to resolve social contradictions” (6). Focusing on literature as a means to expose and critique the limitations of law, Wai-Chee Dimock cites “Life in the Iron-Mills” as a powerful example of her claim that through literature “the problem of justice is given a face and a voice” (10). Recent work on women writers and law suggests several promising directions for Davis scholarship. Melissa Homestead’s recent analysis of “the implications of the copyright debates for nineteenth century scenes of reading and writing” invites inquiry into the influence of other legal doctrines on both the literary texts and everyday lives of nineteenth-century women writers (4); further, her work on the intersection of married women’s property laws and copyright protections might be extended to postbellum writers, including Davis.

Most relevant for my analysis here, in *Criminal Conversations*, Laura Korobkin persuasively argues that sentimentalism may be productively understood as a cultural discourse that shapes not only literature but its rational “other”—the law. For Korobkin, the rhetoric of sentimentality “permeates the legal process” and “provides the controlling mode for jury arguments that strive to convince jurors that their own deepest beliefs and emotions are at stake” (15). Thus, in the courtroom, sentiment coexists with reason as lawyers rely on emotional appeals to reinforce a particular narrative about the “facts” of the case.¹⁴

In his legal analysis of Jane’s situation, Judge Rhodes exemplifies this point. Described by Cornelia Fleming as “one of those shrewd, common-sense men who, when lifted out of their place into the region

of sentiment or romance, swagger and generally misconduct themselves” (8–9), Judge Rhodes represents the rational order of the legal system, but his views often stem from sentimentalism, especially his assumption that a society built on status-based relationships will provide justice when the letter of the law fails. When Cornelia points out that the estate “legally” belongs to Van Ness as Laidley’s new heir, the judge agrees but with a caveat: “Of course this sort of crime is unappreciable in the courts. But society, Virginia society, knows how to deal with it” (11). He agrees to “do justice” by encouraging an arranged marriage for Jane rather than investigating her legal options, such as a will contest or a caveat proceeding, that might help her claim the estate. Viewing Jane as a “poor creature” (21), he never imagines that Jane might take the law into her own hands. Through his legal analysis of her situation, Judge Rhodes reflects prevailing legal ideology that the private sphere of family relationships should be outside the law’s reach. Also, as a Southerner, Judge Rhodes exemplifies the unreconstructed South and its inability to adjust to rapid cultural changes.

Through her depictions of male characters, Davis exposes the limitations of the patriarchal assumption that the father / husband should be the de-facto legal representative of the family. In her critique of law as a form of gendered oppression, Davis emphasizes several issues: a woman’s legal identity, her property rights, and her mental capacity as determined by the law. Jane’s plight highlights the gray area between a legally defined (and thus legally actionable) crime and a moral wrong that may not be defined as a crime by the law. Jane’s lack of legally viable options to secure her inheritance highlights her status as a woman, and it is not surprising that she chooses to break the law to claim her property. In her treatment of these issues, Davis clearly recognizes the interdependence of sentimental and legal discourse suggested by Korobkin’s analysis.

As a young, unmarried woman, Jane has limited legal options, and in the nineteenth century, her father would be expected to contest Laidley’s second will through a caveat proceeding, an action that seems unlikely given his inability to act as a true head of the household.¹⁵ Described as a “good for nothing” and a “well-born tramp,” Captain

Swendon serves as a failed exemplar of romantic individualism (12). Though he enlists in the army for practical, not ideological, reasons—“to keep the wolf out of the house at home” (7)—he devotes himself to his inventions and seems just as divorced from reality as Davis recalled Emerson and Bronson Alcott.¹⁶ Though Jane has managed the family finances for several years, her father persistently reads her a sentimental heroine, as weak and in need of male guardianship. A literal example of the “dead hand of the law,” he finally forces Jane to consent to a marriage that she would not choose for herself.

Through the complicated inheritance plot, Davis also reveals the limitations of guardianship and trust arrangements, legal relationships through which a male relative or family friend controlled property on behalf of a woman or child. Though Phillip Laidley is not Jane’s legal guardian or a trustee, Old Morôt’s deathbed request for “justice” suggests a fiduciary relationship because Laidley has control over an estate that was originally intended for Jane’s use. His decision to leave the estate to charity reveals the problems with assuming that a male guardian or trustee will automatically make sound legal decisions on behalf of his female ward.

When Jane confronts Laidley about his will, his reaction emphasizes his position as a kind of guardian and foregrounds the reasons why she lacks legal status—the related issues of her age, her mental capacity, and her natural state as a woman according to God’s law. First, he asks, “Do I understand what you say? . . . That you, a child, come here to a dying man to assert your claim to his property! It is incredible that you came of your own free will. Who sent you?” (51). His response mirrors several important legal questions—though readers do not know her precise age, his reference to Jane as a “child” is an accurate reflection of her legal status. Because Jane is an unmarried woman, her legal rights, to the extent they exist at all, reside in her father until she comes of age. Similarly, Laidley questions Jane’s “free will,” an important concept in nineteenth-century American law, and assumes that, even if she is legally of age to do so, she lacks the capacity to act on her own. Even when he acknowledges that she has a “crude, illegal claim” on his “property” (51), he justifies his decision with an appeal to higher law:

How can you understand the relations of a dying man to his Maker? It has been shown to me how with this money I could make peace with—with Him. . . . Why, the rich man was commanded to “sell all that he had and give to the poor, and he should have treasure in heaven.” The place is marked in the Bible there. . . . Why should I take from the poor to give to your father? (51, 52)

According to Laidley, the laws of God and of man concur on this issue. Jane's answer is a simple assertion of ownership that goes to the question of female agency at the heart of the novel; she replies, “Because it is not yours to take or give” (52). With Jane's defiant action in the moment that follows, Davis encourages her readers to reconsider their conceptions of free will, consent, and justice. Her response implicitly asserts her identity as a legal subject and citizen capable of owning and controlling property.

The issue of consent plays an important role throughout the novel. In *From Bondage to Contract*, Amy Dru Stanley describes contract as both a “worldview” that “idealized ownership of self and voluntary exchange between individuals who were formally equal and free” and a “social relation assumed in American culture to rest of principles of self ownership, consent and exchange” (x). Borrowing these principles, early women's rights activists often linked slavery and marriage to expose the legal status of married women. However, as Stanley points out, “legal and political thinkers . . . held that marriage was peculiar among free contracts, that it alone—unlike either contracts of sale or contemporary wage contracts—created a related of status” (180). Judge Rhodes illustrates precisely this type of thinking.

Through Jane, Davis highlights the paradox of consent as it applies to women. As Stanley explains, “Like all other contracts, marriage hinged on the principles of mutual consent and exchange. But, unlike any other contract, the marriage contract ordained male proprietorship and absolute female dispossession, establishing self ownership as the fundamental right of men alone” (11). Put another way, when a woman consents to the marriage contract, she may give up her ability to consent to any other contract. Davis makes this point apparent in the way that

she handles Jane's marriage ceremony. Like Esther Lashley in *The Second Life* (1863), Jane "consents" only at her father's deathbed request (a point that clearly suggests coercion), and though she ultimately avoids Esther's fate, Jane risks being declared mad and committed to an institution, a Gothic plot twist that foregrounds Jane's new legal status as wife. Her marriage amounts to a patriarchal bequest rather than a freely chosen agreement; as Captain Swendon explains, "I can give her to you. I can die in peace" (143). This important scene underscores the significance of consent. When Jane flees, her husband quickly requests an official marriage certificate, explaining that "if my wife is living and wandering insane through the country, it will be necessary to prove my right to claim her" (152). This language reflects Jane's status as property. Paradoxically, given Jane's alleged insanity, the minister seeks clarification: "Are you quite sure she consented freely to the marriage? There was no moral compulsion used?" (152).

Married women's property laws were enacted gradually over the nineteenth century to counteract the legal doctrine of coverture. In his *Commentaries on the Laws of England*, Sir William Blackstone provides a succinct definition of the doctrine of marital unity: "The very being or legal existence of a woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband; under whose wing, protection, and cover, she performs everything" (bk. 1; ch. 15). Thus, a wife had little or no legal identity apart from her husband. Passed in the 1830s and '40s, the first married women's property laws "dealt primarily with freeing married women's estates from the debts of their husbands" and "left untouched the traditional marital estate and coverture rules" (Chused 1398). The second group, enacted over a twenty-year period from the early 1840s until well after the Civil War ended, "established separate estates for married women" through which they might have limited control of their own property (Chused 1398). The final statutes were passed in the late nineteenth century and provided that married women could keep their wages (Chused 1398).¹⁷ In the absence of these statutory guarantees, most states allowed married women to hold property in a trust through a separate estate. In most cases, a male relative, usually a father or brother, set up a trust in order

to shield the wife's inheritance from a husband who lacked business skills or, even more likely, was estranged from his wife's family. However, as legal scholars demonstrate, "the virtual universality of married women's property acts did not mean . . . that uniformity reigned in America" (Shammas 83). Jane's rights in New York might not be consistent with her rights if she lived in Virginia or New Jersey. Further, the mere existence of married women's property laws did not guarantee that women could automatically gain meaningful control of their property. In her study *In the Eyes of the Law*, Norma Basch argues that "married women's acts cannot be construed as a revolution" because they often "failed to obliterate the historic barriers the common law had thrown around married women" (200).

If we assume that Jane's marriage is valid, then her husband would control her property to the extent allowed by the married women's property law in her home state, New York. As New York was among the most liberal jurisdictions in the United States at the time, its married women's property law suggests that Jane might maintain at least some control of the property she owned prior to her marriage; the 1848 statute reads in part, "the real and personal property of any female who may hereafter marry, and which she shall own at the time of marriage . . . shall continue her sole and separate property, as if she were a single female."¹⁸

The turn to insanity, which Davis treats in depth in her novella *Put Out of the Way* (1870), points to another important issue—the capacity to consent and the legal mechanism for evaluating that capacity. By declaring Jane insane, her husband might be able to control her property despite the protections afforded by married women's property laws. In *Put Out of the Way* (1870), Davis examines unethical civil commitment procedures that allow sane individuals to be institutionalized without a physician's authorization or due process review.¹⁹ The protagonist, Philip Wortley (based on his real-world counterpart Morgan Hinchman) was committed to an asylum by unscrupulous relatives who wanted control of his property. By purchasing a physician's certificate and paying for Wortley's board, they literally put him "out of the way" until he was able to contact a judge by secretly sending a letter. Though Pennsylva-

nia passed new legislation (L. Clarke Davis was appointed to the investigating committee) in 1874 to provide due process guarantees and greater oversight of physicians and institutions, Davis continued to call attention to the issue in stories such as “The Case of Jane Boyer” (1877). In a study of nineteenth-century civil commitment reform, Applebaum and Kemp report that “rather than an abrupt switch from relaxed procedures to stringent safeguards, Pennsylvania law underwent a slow accretion of procedural protections, with the essential role of families, friends, and physicians left undisturbed” (352).

Jane’s plight becomes a metaphor for the plight of all women in a patriarchal legal system, a system in which resistance can be an indicator of madness. With the understanding that “the law would ensure him immediate possession of his wife” (167), Jane is forced to recognize that “it was the Law” (168). She realizes that though “the law within her gave a savage answer,” “she must answer according to the judgment of the outside world” (168). Even a sympathetic friend advises her, “Suppose you don’t like him so much at first? You’ll grow into it. Hundreds of women marry without love. You must give up to the law” (170).

The emphasis on law throughout the novel also invites consideration of the title. What does it mean for Jane to be “a law unto herself” in the context of a legal system that systematically excludes her participation? A familiar idiom, the title phrase might have resonated in several ways with Davis’s audience. It appears in Nathaniel Hawthorne’s *The Scarlet Letter* (1850) as a description of Pearl: “It was as if she had been made afresh, out of new elements, and must perforce be permitted to live her own life, and be a law unto herself, without her eccentricities being reckoned to her for a crime” (112). In this scene, Chillingworth proclaims that “there is no law, nor reverence for authority, no regard for human ordinances or opinions, right or wrong, mixed up with that child’s composition” (112). In contrast, for Dimmesdale, Pearl has “the freedom of a broken law” (112). In this context, the phrase suggests that Pearl has the potential to create herself without reference to law or social custom. This allusion to *The Scarlet Letter* is particularly haunting if we consider Jane as Pearl’s figurative descendent. Jane cannot create herself in a world that figures her as a child rather than an autonomous adult.

Sophocles's *Antigone* is another likely source that reinforces the novel's central themes. The most popular Greek heroine in nineteenth-century America, Antigone would certainly have been a familiar figure for Davis and her audience. The last installment of Sophocles's *Oedipus* trilogy, *Antigone* centers on the clash between positive law (Creon's edict forbidding the burial of traitors) and natural law (the law of the gods that demands the burial of a family member). In violation of Creon's law, Antigone symbolically buries her brother and defends her action on the grounds that she is following the law of the gods. The line that may have inspired Davis's title comes late in the play, after Antigone has been sentenced to death, and most translations emphasize the Chorus's recognition of Antigone's autonomy. Commenting on her situation, the Chorus describes her as "answering only / To the law of yourself, you / Are the only mortal who / Will go down alive into Hades" (881–884). In an 1842 edition (available at the Philadelphia Public Library where Davis often worked), Thomas Francklin translates the same phrase as "above thy sex, and to thyself a law" (59). More recently, Diane Raynor comments on the connotations of the original Greek: "The Chorus disapprovingly calls her 'autonomos' (following her 'own law' or being a law unto herself)" (84).²⁰ In this context, the phrase refers to Antigone as an autonomous subject.

In *The Mirror of Antiquity*, Caroline Winterer examines the use of classicism by American women for a range of political and personal goals and argues that the many permutations of Antigone across the nineteenth century reflect the tension between public and private roles for women. According to Winterer, "Antigone became the crux of one of the major questions of the post-Civil War period: Could women become political actors and on what grounds?" (190). Winterer describes Antigone's resonance with American women: "Antigone was popular . . . because she dramatized clearly how Americans might accept female political participation in an age that still insisted on the essentially apolitical nature of women" (191). However, this interest was not without complications; Winterer observes that many nineteenth-century commentators "took an overtly political story and made it a study in feminine self-perfection. . . . During these decades, *Antigone* spoke less for

a universal *human* dilemma of choosing between self and state . . . than for a peculiarly *female* moral story of religious obligation, family duty, and martyrdom to true womanhood” (205, italics in original). Thus, the Antigone of Davis’s cultural moment resonates powerfully both with Jane’s defiant action and the novel’s complex ending.

Like Antigone, Jane becomes a “law unto herself,” and her justification also appropriates natural law but with a twist: “She was absolutely certain of her own honesty, and she hoped that God believed in it. What did it matter if by the laws of men and society she was a thief?” (139). This description resists both natural law and positive law, implying instead that a woman must be her own moral compass, a move that suggests the title and foreshadows the complicated ending. Indeed, the novel persistently asks readers to examine the relationship between positive law (man-made law) and natural law (God’s law or some higher notion of justice). Davis’s contemporary, Harriet Beecher Stowe, creates a powerful example of this clash in *Uncle Tom’s Cabin* (1852) when Mrs. Bird asserts God’s law to counter the man-made Fugitive Slave Law, a law her senator-husband helps to enact and then must break. Mrs. Bird’s justification provides a typical nineteenth-century invocation of natural law grounded in Christian religious principles, and she is also a typical example of the nineteenth-century true woman of sentimental fiction, acting from her position as the moral center of the domestic space. In contrast, Jane’s justification for her decision elides the typical definition of natural law in religious terms. Rather than an appeal to “God’s law,” Jane justifies her actions by asserting honesty and an implied sense of personhood that she hopes God will understand.

Pointing to the heart of Davis’s legal critique, the phrase “a law unto herself” appears twice in the novel, both times in relation to marriage. Near the novel’s midpoint, Jane reluctantly discusses the expectation that she marry. She admits, “I don’t know what I was made for” (103), and her father urges her to “be like other people” (103). Here, it is important to recognize that Jane has not been “made” to be anything other than a dependent, child-like woman. Though she acts independently to manage her father’s affairs, others consistently misread her as a child.

Concerned that Jane has “loved but one or two people in the world,” he continues, “You cannot be a law to yourself, child. . . . [Y]ou are out of the groove which other girls are in” (103). Recognizing her father’s distress, Jane promises, “I will give myself up, body and soul, to Society or Philanthropy—anything you choose—rather than see you so shaken” (105). Jane’s lighthearted declaration, spoken simply to soothe her father, proves prophetic when he forces her into a marriage she would not choose.

The phrase appears again in the final scene when Jane admits, “I know that I made many mistakes when I was a law to myself. You are my law now.” (175). Yet, the narrator’s last comment further undercuts Jane’s apparent concession to her husband’s law: “There are times when she seems, even to him, a woman whose acquaintance he has scarcely made, and whom he can never hope to know better” (175). In the context of the concluding line, Jane may well remain a “law unto herself” and unknowable to others, a reading that complicates the conventional ending of the female bildungsroman. Through the ending, Davis posits an identity for Jane that is not a completely relational self—she keeps a part of herself as private property—but not quite an autonomous self as she submits to her husband’s law according to the cultural ideology of the day.

In her final act of defiance, she continues to emphasize her legal right to her inheritance, asserting her identity as a property owner by making a “free gift” of it to a charity (175). This gift, however, is a paradox; as Hildegard Hoeller explains, in nineteenth-century America, “the gift collides with and reflects on the market” (13), and by the end of the century, “the gift appears to be a more and more difficult, yet always utterly necessary, concept to uphold” (14). On the one hand, by asserting her right to the property through making a legal gift, Jane resists the idea of marital unity inherent in the doctrine of coverture; she acts through her own legal identity. However, her gift raises the specter of coercion because her husband may have unduly influenced her decision. Through this assertion of a legal identity and a private self, Jane claims a kind of property interest in herself but one that exists in isolation, suggesting the alienated and fragmented self of modernity.

Notes

1. In "A Rainy Day" (1882), Davis describes the exhibition from the perspective of a young visitor, Amy Pollok, who does not visit the women's exhibit.
2. See Barbara Welter's classic article, "The Cult of True Womanhood."
3. For a bibliography of Davis's work, see Jane A. Rose, "A Bibliography of Fiction and Non-Fiction by Rebecca Harding Davis." For subsequent additions, see "Newly Discovered Works by RHD."
4. For biographical details, I am indebted to Langford, *The Richard Harding Davis Years*; Harris, *Rebecca Harding Davis and American Realism*; Harris and Cadwallader, "Introduction" in *Rebecca Harding Davis's Stories of the Civil War*; Jean Pfaelzer, *Parlor Radical*; and Jane A. Rose, *Rebecca Harding Davis*.
5. Critical assessments of sentimentalism vary greatly. See Ann Douglas, *The Feminization of American Culture*; Jane Thompkins, *Sensational Designs*; and Shirley Samuels, *The Culture of Sentiment*.
6. See Nina Baym, "Melodramas of Beset Manhood."
7. See Eppard, "Rebecca Harding Davis: A Misattribution," and Harris "Rebecca Harding Davis: A Continuing Misattribution."
8. See Davis's "Mesmerism vs. Common Sense" (1881).
9. Just two years earlier in "Two Women" (1875), Davis described two types of women that "represent two phases of city life" and "are born antagonists" (5). Jane McCall is a practical woman who is "a huckster in the Farmer's Market" and is "honest, but sharp as a steel trap" (5), and like Cornelia, Madame Constantia de Gonzalon "is clever with her pen," and like Charlotte, she once had charge of a kindergarten but left her charges "tearing through the house like sheep without a shepherd" when she took to "vagabondage" (5).
10. For more on the woman physician in Davis's work, see Harris, "Rebecca Harding Davis's Kitty's Choice and the Disabled Woman Physician."
11. My approach here is informed by Laura Korobkin's claim that "sentimental texts . . . interpret the lives of their readers" (78). If Jane functions on one level as a text (the description of her as a book to be read page by page certainly invites such an interpretation), then what does she reveal about her readers?
12. For an overview of benevolence literature by American women writers, see Bernadi and Bergman, *Our Sisters' Keepers: Nineteenth Century Benevolence Literature by American Women*.
13. As Karen Halttunen argues in *Confidence Men and Painted Women*, both types of con artists exemplify cultural anxieties about identity by revealing "that they themselves and those around them were 'passing' for something they were not" (xv).

14. To illustrate her general argument, Korobkin focuses on “criminal conversation,” the civil tort for adultery cases (16). She suggests that “appeals court judges appropriated stories about domesticity and marriage from literary fictions and used them to instantiate the legal parameters of spousal rights and obligations” (18).
15. Also, successful will contests were rare due to a high burden of proof. The estate typically pays for the proceeding and is thus diminished in the process of litigation (Dickens’s famous *Jarndyce v. Jarndyce* litigation in *Bleak House* [1853] comes to mind here).
16. See “Boston in the Sixties” in *Bits of Gossip* (1904).
17. For a general history of married women’s property law, see Peggy Rabkin’s *Fathers to Daughters: The Legal Foundation of Female Emancipation* and Norma Basch’s *In the Eyes of the Law: Women, Marriage, and Property in Nineteenth-Century New York*.
18. The 1848 New York statute known as the Married Women’s Property Act reads as follows:

Section 1: The real and personal property of any female who may hereafter marry, and which she shall own at the time of marriage, and the rents, issues and profits thereof shall not be subject to the disposal of her husband, nor be liable for his debts, and shall continue her sole and separate property, as if she were a single female.

Section 2: The real and personal property, and the rents issues and profits thereof of any female now married shall not be subject to the disposal of her husband; but shall be her sole and separate property as if she were a single female except so far as the same may be liable for the debts of her husband heretofore contracted.

Section 3: It shall be lawful for any married female to receive by gift, grant, devise or bequest, from any person other than her husband and hold to her sole and separate use, as if she were a single female, real and personal property, and the rents, issues and profits thereof, and the same shall not be subject to the disposal of her husband, nor be liable for his debts.

Section 4: All contracts made between persons in contemplation of marriage shall remain in full force after such marriage takes place. See *Laws of New York*, 1848, Chapter 20.
19. For an examination of Davis’s collaboration with her husband, L. Clarke Davis, on this issue, see David Dowling, “Davis, Inc.: The Business of Asylum Reform in the Periodical Press.”
20. In Plumptre’s Harvard Classics edition, his translation emphasizes Antigone’s free will: “But of thine own free will, in fullest life, to Hades tak’st thy way” (946–47).

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