

Allegories of Settler Sovereignty: The Thematics of Indigenous Government in American Literature, 1766-1830

by
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Abstract

“Allegories of Settler Sovereignty: The Thematics of Indigenous Government in American Literature, 1766-1830” argues that facts about indigenous culture gathered by European observers in the seventeenth, eighteenth, and nineteenth centuries provided Europeans a legal means of justifying territorial expansion and indigenous territorial dispossession in America of the Early National Period. My research shows that historical representations of the Indian contain a logic based on the relationship of the individual to the tribal collective, identifying the Indian as irreconcilable with American democracy and its vaunted ideal of individualism.

As I argue, representations of indigenous characters in literature, since the eighteenth century, limit, but also, specifically, erase individuality for indigenous North Americans. Drawing on nonfiction observer accounts of indigenous social life, newspapers, legal cases, and treaties of the eighteenth and nineteenth centuries, I analyze drama, poetry, and historical novels that presume a link between the indigenous exterior and a cultural interior, between Indian bodies and the rituals and practices associated with Indianness by centuries of white observers. These works, I show, hollow out the indigenous psychological interior and replace it with a preponderance of cultural or social facts.

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Allegories of Settler Sovereignty: The Thematics of Indigenous Government in American Literature, 1766-1830

Introductions

“What are you?”

In “Sure You Can Ask Me A Personal Question” (1989), Diane Burns presents one side of a conversation between a (presumably) non-white speaker and an absent or disembodied (white) interlocutor who speaks to her from somewhere off-stage. It begins “How do you do?” At a conventional level, the poem’s first line contains a request for the absent interlocutor to divulge something of their interior or of their circumstances. Possible answers include “I am well” or “you’ll never believe what happened.” Yet, as a greeting, “How do you do?” is sometimes uttered without meaning or as a rhetorical place holder. While most English-language speakers will ask you how you are doing, only a portion of them will expect to find out. Part of this inconsistency stems from the fact that interpreting “How do you do?” as “disclose your current state!” or as “hello!” is a matter of personal choice.

It would be completely normal for two Anglophone speakers to greet each other with “How do you do?” “How is it going?” or even “what’s up?” and for one or neither speaker to divulge or demand an answer to the question. Burns’ disembodied interlocutor responds, presumably, by ignoring the question altogether and offering their own question in return. We are not provided the question, which belongs to the other, absent, half of the conversation. However, it is clear that the poem’s speaker has not answered or even asked “How do you do?” in return. Instead, they have uttered a form of “what are you?” which provokes Burns’ speaker to answer “No, I am not Chinese.”

A “guess my race game” begins in which the poem’s speaker is compelled to correct a series of misidentifications, answering questions about their “racial” or “ethnic” identity in a repetition of negatives: “No, I am not Chinese/ No, I am not Spanish./ No, I am American Ind—uh, Native American. [...] / No, not from India.” Then, at a turn in the poem, the speaker is forced to engage with a series of tropes that the absent interlocutor, we must assume, projects and then claims as their own. Burns’s speaker records these as ambivalent affirmations of the absent interlocutor’s Indianness:

Oh?

So that’s where you got those high
cheekbones.

Your great grandmother, huh?

An Indian Princess, huh?

Hair down to there?

Let me guess. Cherokee?

Philip Deloria describes the phenomenon of white-as-Indian imposture as “playing Indian,” which he ties to the mechanism of carnival, its reversal of roles which hold an “anarchic possibility” as well as the “affirmation of the status quo” (1998: 17). Performance, *as* performance, consolidates the “real” (white) beneath the costume, which, simultaneously, “enact[s] the displacement of Indians” (18). Thus, the Indian impostures of the Boston Tea Party, the white anti-proprietor Indians of the Pennsylvania backcountry, and the white fraternal Indian cosplay organizations of the early nineteenth century can be interpreted as rituals of removal, consolidating white identity through Indian imposture. Understood this way, white Americans

may wish to ask personal questions of racially marked people owing to the potential for symbolic interplay with, and consolidation of, their own whiteness.

The archive and the work of numerous twentieth century scholars support this notion. Yet, as I argue, white settler identity that formed in relation to the “Indian” of ethnography and literature was not an identity, per se—it was not a cultural identity, at any rate. Whiteness in America did not emerge from the simple play of semic difference, a sense of self and other. Instead, historical instances during which white people perform Indianness are notable as they reveal an association between whiteness and universality, produced by linking Indianness to an extreme form of cultural particularity. Rather than revealing the substantive features of whiteness, these instances of white Indian play reveal the theatrical range of white actors and the covalent presumption that the Indian could never pull off a convincing performance of whiteness.

As I argue, the stakes of this claim hinge on universalist conceptions of white identity that underwrote notable aspects of American law and government such as property, consent, and, relatedly, territorial sovereignty. As I will explain, Burns’ poem, along with the other works I examine in the following chapters, can be understood as allegories of settler sovereignty. Countering the extension of this subtle form of power, Burns’ speaker’s exasperated tone resists description or textualization. It seems to produce whiteness as a genre produced by its own production. “Yeah,” the speaker offers glibly, “it was awful what you guys did to us./It’s real decent of you to apologize./No, I don’t know where you can get peyote.” Yet, while readers will certainly notice that the poem’s speaker is answering questions about “race” or “ethnicity,” they may miss its tonal qualities, interpreting the speaker as evasive or even shifty. Rather, they are clearly Indian though they refuse to disclose or comment on the fact in plain speech.

Under these lights, the speaker's annoyance may be undeserved as all the opening misidentifications owe to their obstinate opacity. Or, as an intro to lit course of white undergrads once asked me: "why doesn't she just say what she is?" To which I responded (perhaps unhelpfully) "well isn't that the point?" In the following chapters I offer a history of this presumptive transparency as a literary mode, which I term "ethnographic realism." Built around the positivistic disclosure of facts about Indians, the effects of ethnographic realism exceeded the details that comprised it. While the substance of colonist descriptions of Indians shift from decade to decade in service of white territorial expansion, they revolve, I argue, around a precipitate core of extreme cultural immutability. By nature, Indians were often depicted as incapable of truly spontaneous action or the manifestation of individuality not circumscribed in some way by culture.

Bringing Individualism to Indians

The effect of this representational mode can be glimpsed in the passage and execution of the Dawes Severalty Act of 1887, in some sense the final act of the nineteenth-century's civilizing mission. The Dawes Act was designed to bring the vaunted American value of individualism to Indigenous North Americans through a structural change in Indigenous forms of land tenure. It forced a shift from a kind of tribally administered leasehold to the individual possession of land in fee simple. Through a strange alchemy of responsibility, the feeling of financial risk, and agriculture, the Dawes was supposed to transform Indigenous North Americans from the subjects of tribalized mental enslavement into subjects of individualistic capitalist accumulation. As the following literary history shows, both subjects were the inventions and conceptual effects of white settler ideology. By right-sizing indigenous land

holdings to individual allotments or “sections” (640 acres or one square mile), Indian land holdings were trimmed to the size of an “enrolled” population. The remaining land, waste, unimproved, or undeveloped lands (typically hunting lands), were sold off to eager colonists who in some sense had been waiting centuries for the opportunity. In this way, the Dawes Act was the single largest loss of Indigenous land in the history of North American imperialism.

To assign these allotments to individuals, however, federal agents needed to determine the eligibility of individual Indians with regard to the amount of Indian “blood” they could be said to have. Rather, blood in the nineteenth century became a concrete signifier of Indianness, forming a calculus of legibility and/as authenticity. Following enrollment, blood quantum, as it was called, was used for a wide range of purposes, which spanned finding jurisdiction in criminal cases with “Indian” defendants to providing a positive means for intra-community struggles over “authenticity.” Meant to bestow individualism on allottees, Indian identity under the Dawes Act became, quite literally, a card that one carried next to any other government-issued form of identification.

The ironic play of individualism and positivity can be further glimpsed in the practical efforts of federal representatives tasked with carrying out Dawes policy among Indigenous North Americans. For instance, Alice Fletcher, a notable pioneer in the emergent field of Anthropology, was sent to the Nez Perce reservation in Idaho as a special agent for the federal government in 1889. She was there to compile what are now called the “Dawes Rolls,” or the lists of names of Indigenous people deemed eligible or ineligible for “allotments” given their genealogically-determined preponderance of Indian blood. To her frustration, the Nez Perce had not been told about the Dawes Act and doubted Fletcher’s credentials. And when they were told, they declined. Or, as one Nez Perce man unambiguously stated: “We do not want our land cut up

in little pieces, we have not told you to do it” (qtd in Visweswaran 2010: 30). Moreover, a more technical issue arose when Fletcher learned that the Nez Perce treated their real or proper names as sacred and therefore, to some extent, secret. Faced with these issues, Fletcher persuaded the Indian agent to confine the Nez Perce to the reservation until they volunteered their names (Banner 2005: 275).

Despite its predication on the myth that Indigenous North Americans lacked individualism, the Dawes’ bestowal of individualism on Indians was bizarrely dependent on removing their ability to exercise choice in the matter. While the original draft of the Dawes contained a provision for consent, it was inexplicably absent at the Act’s final passage (Banner 2005: 275-6). Subsequently, conflicts like those between Fletcher and the Nez Perce emerged on other reservations, between federal agents and “irreconcilables,” as they would be called. The Creek, Cherokee, Choctaw, and Chickasaw nations, for instance, formed the Four Mothers Society, which collected dues from (at one point) as many as 24,000 members to pay for delegations and anti-Dawes lobbying efforts in Washington DC (Debo 2020: 54). Somewhat more severe than Fletcher’s solution, irreconcilables associated with the Four Mothers were jailed until they complied with the agents’ demands (Debo 2020: 46-56).

In the following chapters, I look at literature of the eighteenth and early nineteenth centuries alongside the increasingly settled idea that whiteness can and has been imagined to be a repository of universal norms, or, that “the concept of race is intimately and exclusively reserved for people of color” (Bell 2021: 1). My findings may therefore have implications for both racialized Native and non-Native peoples. The literature in which Indigenous subjectivity is described in the service of European imperial expansion tells the story of Indigenous identity construction, which is also the story of white power as opacity or interminability.

In my chapters, I find that American colonization projected indigeneity as legible or transparent and knowable, reducing it to cultural scripts as a means of materializing the goals of settler colonialism. Anti-colonial thinker Édouard Glissant has similarly described opacity as a “right,” as both ethical practice and ontological condition that resists the imperialistic compulsion to reduce the “other to the transparency experienced by oneself” (*Poetics* 1994: 49). Unlike Glissant, however, I do not see this as a new phenomenon associated with the informal imperialism of globalization. Instead, I argue that opacity has subtended white international law and whiteness itself for much longer. Over the course of the following chapters, I show that the effect of transparency and white opacity is not knowledge but negativity, or, specifically, negation, that is, the explanation of action as reducible to culture. In the literary works I examine, the actions of Indigenous North American characters are essentially textualized into culture as a means of textualizing Indians out of existence. From this emerges the strange formulation by which positivistic and sometimes celebratory invocations of culture are at odds with the related and constituent parts of American democracy such as agency, self-government, individualism and, relatedly to all these, property.

While the myth that Indigenous North Americans lacked individualism energized Dawes policy, the result was the concretization of that myth in the form of blood quantum, which figured not only into calculations of allottees’ fitness to receive allotments but also into calculations of their fitness or competence to sell them. That is, the aim of the Dawes had been the cultivation of a form of mental capacity associated, at the time, with reason and business sense or mental “competence,” a legal distinction used historically to exclude classes of people, (e.g., married women, children, and the mentally “insane”) from participation in contracts of exchange, marriage contracts, wills, and, in some cases, criminal prosecution. Disingenuous or

not, government officials administering the Dawes imagined that Indians lacked a mental competence that could only flow from detribalization. That is to say that mental competence and tribalized life (e.g. indigenous culture, custom, or “lifeways”) were perceived as mutually exclusive.

Before Dawes, state governments had begun to experiment with Indianness in terms of competence—which followed emergent conceptual formations such as “preponderance” or “one drop” rules associated then with Black Americans. For instance, in *Doe ex dem. Lafontaine v. Avaline* (1856), the validity of a will left by the late Catharine Lasselle was contested by her white husband, Lafontaine, to whom she had been married only 6 weeks. Lafontaine contested the will on the grounds that at the time Lasselle composed it (nullifying his inheritance of a piece of land he wanted) “she was an Indian, within the meaning of the laws of this State, and, as such, incompetent to devise” such an instrument (*Doe ex* 1856: 16). To argue for Lasselle’s incompetence as an Indian, the court found it necessary to provide a short review of Indianness for the purpose of owning land or enjoying the rights of citizenship in Indian jurisdictions.

In the court’s review of legal Indianness, it mentions the “preponderance of blood,” which in the laws of Ohio and Indiana determined citizenship status as “Persons of Indian or negro extraction, who have a preponderance of white blood, are declared to be ‘free white citizens,’ within the meaning of the constitution and laws of *Ohio*” (1856: 14). Whiteness then, if it was anything, was a guarantor of competence, here measured by how Indian (or Black) a person was not.

The court clarified the fuzzy connection between Lasselle’s person and her legal status by equating her “Indian blood” with the entirety of her Indian social milieu, which weighed against her competency under law. It offered that she was “Recognized as an Indian, as it is truly

admitted she was, by the community, by the Indians themselves, by the State and federal authorities,” and that “her birth, education, and language stamp[ed] the same character upon her.” So, it determined, “taking all these admissions, in connection with the fact of her having three-eighths Indian blood, we think her clearly an Indian, within the meaning of the disabling act” (*Lafontaine* 1856: 15). Lasselle was “disabled” by her preponderance of Indian blood, but the court, pretending to be unconvinced by the word “blood,” defined blood as culture to qualify her legal disability.

The connection between the metaphor of Indian blood, Indian culture, and legal disability could be left unspoken under the Dawes Act, which established a twenty-five-year trust period during which Indigenous allottees were under a form of tutelage that rendered them unable to sell or lease their allotments. Recently tribalized, newly-formed allottees were not yet individuals. Yet, during this period, allottees would inevitably assimilate to white civilization by engaging in agricultural work and generally owning, caring for, and improving their allotments. State laws, as I have noted, and then the Dawes Act, formed a clear connection between whiteness and competence. This effectively made whiteness (presented as not-Indianness) a precursor to fee simple title and wealth accumulation.

The incentivization of deculturization has been called “a strategy of elimination” or “cultural absorption” (Ellinghaus 2009: 62). On the White Earth Reservation in Minnesota, for instance, a similar blood-competency equation produced various claims of mixed bloodedness from tribal members wishing to sell their allotments or the resources on them (Ellinghaus 2008, 92-4). According to the report of a BIA agent John Hinton, one of these claimants, Chief May *shuck e keg e shig* was suddenly struck with doubt “that his wife was of ‘full blood’” after the opportunity to alienate his land arose (Ellinghaus 2008: 94). Rather, Hinton believed the Chief’s

racial doubt had been caused by \$8-10,000 worth of timber “which could be sold if his wife was of mixed decent” (Ellinghaus 2008, 94). Blood quantum had transformed Indigenous identity or culture into something concrete and countable—“blood.” Subsequently, the loss, or surrender, of Indianness was henceforth both possible and profitable. The metaphorical and literary concept of the Indian elegy and Indian “vanishing” was thus transformed into something literal. Like Hiawatha and various other “vanishing” Indians of the eighteenth and nineteenth centuries, Indians following the Dawes were encouraged to cheerfully renounce their Indianness for profit.

Progressive Voices, Red and White

Of course, proponents of allotment did not describe its benefits in terms of whiteness. Instead, they hypothesized that detribalized allottees were merely training to inhabit the “universal” values of capitalism. These values just happened to be predominantly held by whites. To ease this transition, the Dawes’ framers built in the trust period of twenty-five years to be spent learning how to be less Indian. At that point, allottees would have the choice to sell off parts of their allotments. Twenty-five-years was far too long for land-hungry whites to wait, however, and white commentators, revising the theory and goals of allotment, became ambivalent advocates for the immediate rights of Indian allottees to sell their land.

Agriculture was one way to achieve the goal, but perhaps the ultimate path to industry was high stakes commerce. Or, as one writer in a 1904 editorial complained, “An Indian may desire to engage in business” rather than farming, and “some of the best business men in this nation are Creek Indians. To advise these men one way or the other is presumption” (qtd in Banner 2005: 282). Appeals such as these, those of white progressivism, were mired in social theories of economic competition. They called for the acceleration of detribalization,

increasingly associated with the freeing of markets but also, again, with not being a tribalized Indian.

An earlier writer for *The New York Times*, for instance, offered that tribal property regimes held land in common and therefore stifled progress, competition, and innovation. Indians might work, he wrote, “if they were to receive the fruits of their labors, yet they will not work for the lazy ones of the tribe” (qtd in Banner: 2009: 263). Theodore Roosevelt linked “trust busting” to detribalization, lauding allotment as a “mighty pulverizing engine to break up the tribal mass” in service of the benevolent goal of “recogniz[ing] the Indian as an individual and not as a member of a tribe” (*A Compilation* 1903: 348). Surprisingly, not all such appeals came from white progressives. A small number of Indigenous leaders, many of them members of the intellectual organization, The Society of American Indians (SAI), were also captivated by the logic of American progress, civilization, and the application of market principles to society. Largely graduates of the Carlisle Indian Industrial School, SAI members and collaborators like Arthur C. Parker, Charles Eastman, Gertrude Bonin, and Carlos Montezuma sometimes couched their critiques of Indian policy in popular ideas connected to individualism and the panacea of free and uninhibited competition.

Among other Indigenous thinkers who at the time were then permitted, or equipped, to share their opinions in public, Montezuma (Wassaja), a Yavapai-Apache physician, was something of an outlier to his peers. A radical and “combative” member of the SAI, Montezuma favored not only detribalization but the abolishment of the Bureau of Indian Affairs (Hertzberg 1981: 44; *The American Indian* 1916: 214). Recalling in a biographical sketch his time as a young physician working on Western Shoshone Agency in Nevada, Montezuma described how the Shoshone were “cut off from civilized life,” but nonetheless tried in vain to “become like

Yankees with the aid of a few government' employees.” The problem was, he offered, that their “situation held them to their old Indian life [...T]he government held them so arbitrarily to their tribal life, when better things were all around them” (Herzberg 1981: 43). Notably, Montezuma often disagreed with his fellow SAI members, though it was not over whether tribes should be dissolved and integrated into mainstream society—that goal was unquestionably good. Rather, neither SAI faction seems to have interrogated the meaning of phrases like “better things.” Instead, Montezuma and the SAI seemed to disagree about how much assistance formerly tribalized Indians should have in acclimating to life in American society.

Much of this discussion appeared in the SAI's periodical, *The American Indian Magazine*. A perusal of its issues reveals the leanings of its contributors and readers. There one finds articles with titles like “The Indian May Solve the Problem Through Industry,” a reprinted address from General Richard Henry Pratt, “Civilizing the Indian by Contact,” and excerpts from Theodore Roosevelt on “Indian Citizenship” where in he declares that the Indian should be removed from the tribe and “thrown loose to shift for himself, as a citizen amongst other citizens, as soon as he can be prepared for the ordeal” (*The American Indian* 1916: 326). The most vocal Indian voices agreed with the shape and stated goals of allotment. Yet, in the first years of the twentieth century, the more radical of them had gained support and officials began to chip away at the trust period. First leasing and then conditionally-granted fee simple title was granted; under the Burke Act of 1906, the Secretary of the Interior was given the power to end the trust period upon discovery that an “Indian allottee is competent and capable of managing his or her affairs” (qtd in Banner 2005: 282). The effect of all this was not only a land rush for white settlers in the late nineteenth and early twentieth century but the formalization of the link

between blood and culture—now called the Dawes Rolls from which all Indigenous identity now flows.

As I argue, the effects of late nineteenth century federal Indian policy and its trinity of blood, culture, and agency, began in literature of the eighteenth and nineteenth century as a form of literary realism. As such, the perversities of the Dawes Act would have been thoroughly normalized by more than a century of depictions of Indigenous North Americans as creatures captivated by well-documented cultural practices. While the individual practices are sometimes important to my analysis of these works, the accretive impression that they produce, that there is no action possible outside of the Indigenous cultural text—or that the Indigenous cultural text is something to be escaped—is key to my claim about literary representation and North American imperial expansion and dispossession.

Ethnographic Realism

If viewed as figures of realism, Indigenous characters in anglophone literary works represent an absolute and unrecoverable closure. It is for this reason that the figure of the Indian seems to vanish, not from the continent, but from the nineteenth century novel—only decades after the latter became viable. Said another way, the Indian of the nineteenth century, imagined to be a generalized collage of regionally different Indigenous North American cultures and trapped in a perpetual pre-civil time, resists the variation in human life that Mikhail Bakhtin called a “chronotope.” Before being banished to the dime novel, American writers like Catharine Maria Sedgwick, Lydia Child, and James Fenimore Cooper attempted a balancing act with their characters, writing Indian novels that, as I show, became allegorical reflections on individual

agency or meditations on the fate of Indians who had become unsupportable in increasingly skeptical literary worlds.

As Fredric Jameson notes, realism of the nineteenth century, for “whatever historical reason,” operated through heightened description as a means of “secur[ing] the reader’s consent, and to validate or accredit the [literary] object as desirable” (Jameson 1982: 156). As such, realist description was crafted to seduce its audience, creating what he calls a contract between writer and audience.¹ Notably, the rise of realist fiction coincided in America with the socio-legal period of Indian removal and, as I show, the most striking, but nonetheless upsetting attempts to imagine the Indian as a thinking subject. The novels of James Fennimore Cooper are representative of this shift. His Indian, which I examine in chapter 4, represents the logical extension of the positivistic eighteenth century Indian into the realm of realistic fantasy. His Indian, perhaps the most famous Indian in American literature, is flattened to a figure of tribalized mental slavery—the very same figure that appeared in legal treatments of the Indian leading up to the passage of the Dawes Act.

Early nineteenth century realism modeled a kind of sovereignty or domination by description. As I have noted, ethnographic realism is a representational strategy through which the interior of literary Indians was increasingly replaced with textual representations of Indigenous culture. By this term, I refer in part to a definition offered by Scott Manning Stevens who coined it in reference to Dutch portrait painter Albert Eckhout’s portraits of Indigenous peoples in Dutch Brazil of the mid seventeenth century. Among these is the famous portrait of a Tupinambá woman carrying a basket full of severed limbs, a depiction that made the Tupinambá an exemplar of cannibalism for Europeans and the subject of Michel de Montaigne’s “Of

¹ See also Morris 2009: 142.

Cannibals.” For Stevens, Eckhout’s work depicts subjects that “are not truly individuals, but rather ethnographic objects illustrated for the colonizing viewer-patron in the distant metropole” (Stevens 2018: 485). While this definition in combination with Eckhout’s work is rich, I want to expand it to include literary realism. That said, the ethnographic realism I pursue in the following pages entails the sincere use of literary strategies to represent the reality of indigenous subjects as exhausted or exhaustible by cultural facts.

Literature and Law

As I trace the powerful association of Indigenous North Americans and invented cultural facts, I understand the former, in literature, to be a malleable image that evolved as a reflection of white values and white needs. As I have mentioned, the link between Indigenous North Americans and culture matured in the nineteenth century into the novel biological metaphor of “blood.” Blood provided support for dispossession by facilitating the myth of the vanishing Indian and, as such, the completion of American continental imperialism, detribalization, and, all related, the most devastating examples of land dispossession in the nineteenth century. In my research, however, I find that the scaffolding for this metaphor preexisted common nineteenth-century examples, and grew directly from earlier, eighteenth-century attempts at ethnographic realism.

This longstanding pattern of representation affected the evolution of the figure of the Indian that many critics of the eighteenth and nineteenth century imagine to be a culturally continuous function with an infinite domain. Yet, in my examination of works from the mid-eighteenth century to the early nineteenth, I find that the variable white needs around which the realism of American writers turned was the simple constant of land. The figure of the Indian, its

implausible connection to or enslavement by Indian culture, was unsuited to the expansion of realism. Indeed, the figure's only purpose was to disconnect Indigenous North Americans from emergent property regimes and, by extension, their property.

As I examine the co-development of literature and law, my methodology in each chapter is based on the notion that literature and law, at least where Indigenous North Americans are the subject, share an interpretive field. Rather, in representations of Indians, "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" (Thomas 1991: 6). While I agree that both literature and law operate, respectively, as imaginative and authoritative spaces where social problems can be "resolved," I see law as a space where the imaginative resolutions of literature are reified. These reifications are essentially tropes, new and old, about Indigenous culture, that move back and forth, between literature and law through political discourse. The trope, legal and literary, is the point of relay that I track in the following chapters.

Literature and Sovereignty

Viewed along other, contemporary works about the colonial construction of Indigenous North America, the following chapters can be interpreted as an attempt to elaborate on the literary work that connected international law and/or sovereignty to Indigenous North American peoples, real and imagined, in the nineteenth century. This is a necessary angle for a project like this to include as sovereignty has become the watchword of most advocates writing about Indigenous North American communities. Yet, it is important to distinguish the projects of these advocates from those written primarily by scholars of international law in the present. For many Indigenous scholars, as I will briefly discuss, sovereignty is coextensive with independence, but

not necessarily full-throated political or legal independence. Rather, Indigenous scholars have formulated various forms of independence such as “creative” independence and have called these “Indigenous” or “Native sovereignty.”²

Western sovereignty, or the definition most common to international law, is “an authority that is supreme over all other authorities in the same territorial jurisdiction, and is independent of all foreign authorities” (Jackson 2007: 23). Or, said another way, sovereignty, in fact “Westphalian sovereignty,” works to “the exclusion of external actors from domestic authority configurations” (Krasner 1999: 9). Though not exhaustive of all configurations of sovereignty, Westphalian sovereignty is immediately relevant to, or most common in, discussions of settler colonial impositions on Indigenous North American communities.³ Specifically, in the late eighteenth and early nineteenth century, tribes lost vital sovereign capacities as the US sought the perfection of its own sovereignty following the conclusion of the war of 1812.

Beginning in 1790 and then bolstered by various other legal innovations that I discuss in my second chapter, the right of Indigenous communities to manage and alienate their lands independent of interference from a paramount authority was curtailed under the Trade and Intercourse Acts. Following these acts, tribes still retained the right to sell their land throughout the early decades of the nineteenth century, though these land contracts would be deemed invalid to US citizens under federal law. For the sake of exploring this development, we might for a

² Examples of works that articulate Indigenous sovereignties include Robert Warrior’s seminal *Tribal Secrets: Recovering American Indian Intellectual Traditions*, Craig Womack’s *Red on Red: Native American Literary Separatism*, Sarah Deer’s *The beginning and end of rape: Confronting sexual violence in Native America*, Michelle Raheja’s *Reservation Reelism: Redfacing, Visual Sovereignty, and Representations of Native Americans in Film*, Mark Rifkin’s *Erotics of Sovereignty: Queer Native Writing in the Era of Self-Determination*, David Carlson’s *Imagining Sovereignty: Self-Determination in American Indian Law and Literature*, and Marisa Duarte’s *Network Sovereignty Building the Internet Across Indian Country*.

³ As defined by Stephen Krasner, the domestic variation refers to “the organization of public authority within a state and to the level of effective control exercised by those holding authority”; interdependence sovereignty described “the ability of public authorities to control transborder movements”; and international legal sovereignty is the “mutual recognition of states or other entities” (Krasner 1999: 9).

moment imagine tribes to be sovereign entities located geographically elsewhere. In such a situation, it is doubtful they would care if land purchases made with US citizens were valid or not. In such a situation, they would almost certainly find another buyer. As such, it would be fascinating to see what might have happened had an Indigenous North American community transferred their land to one or more citizens of France—an anxiety which Lydia Child explored through the seduction trope in a short story I examine in my third chapter.

In this case, undoubtedly, US sovereignty would be enacted—specifically, US international legal sovereignty. France, or any other purchaser belonging to the “family” of sovereign nations, might be persuaded to extend a form of comity to the US and nullify the contract to avoid violating its domestic preference.⁴ This international legal bulwark is perhaps the darker side of what Mohawk anthropologist Audra Simpson calls “nested sovereignty,” which describes for her a situation in which coherent communities of people operate apart from the peoples that jurisdictionally surround them. While being “nested” may not preclude independent action from within a remote enclave, it may also not preclude a situation wherein “one [sovereign] proliferates at the other’s expense” (Simpson 2014: 12).

Perhaps the most devastating imposition on Indigenous North American sovereignty, phrased, at least, in terms of Westphalian sovereignty, was the Major Crimes Act (MCA) of 1885, which replaced tribal with settler jurisdiction in cases involving one or more of seven “major crimes”: murder, manslaughter, rape, assault with intent to kill, arson, burglary, and

⁴ As Anghie notes, for legal positivists in the nineteenth century, “the notion of a ‘community,’ ‘society’ or a ‘family’ becomes fundamental to the definition of law.” Rogers Smith offers an example in the way such positivist ascriptions influenced Judge Taney’s infamous *Dred Scott* opinion wherein Taney excluded Black people from the “political family.” For Smith, Taney invokes race as political kinship under the assumption that “[m]ost white men could be expected to be repelled by the idea that black men were family members.” Unlike women and children who also had limitations on their right to form contracts and participate fully in civic life, Black people were neither the “people of the United States” nor “citizens,” which both described for Taney the “political body” who “form the sovereignty, and who hold the power and conduct the Government through their representatives.” Anghie 2007: 48; Smith 1997: 268; *Dred Scott v. Sandford*, 60 US 405.

larceny. Following the MCA, most crimes involving Indigenous victims or defendants went to federal court while all crimes committed by whites and, and some against whites, went to state jurisdictions. Generally, speaking, tribes living in tribal jurisdictions lost, under this act of law, the ability to police the people within their own territorial boundaries.

Viewing the effects of the Act, legal scholar Robert Clinton characterized Federal Indian criminal law a “jurisdictional maze” which its target populations have struggled to navigate since its passage (Clinton 1976: 504). The obstacles and oddities formed by the MCA include harsher sentencing (typical of federal courts) for Indians and an increase in defendants attempting to adopt or cast off their Indianness to trigger a retrial after receiving an unfavorable or severe verdict (Lewis 2010: 275). The MCA also produced a legal culture of negligence on the part of federal authorities who let, for various reasons, countless crimes go unprosecuted.

Advocates for female victims of sexual violence only recently achieved a victory against the legal mess created by the MCA under which rape, one of the seven “major crimes,” often went unprosecuted. The reasons for this failure include social disconnections between federal officials and Indigenous community members, geographical distance between reservations and federal agencies, the inability to secure rape kits at underfunded tribal clinics, and a simple lack of concern or care by federal officials. In 2012, Congress reauthorized the Violence Against Women Act and in the new draft displaced federal jurisdiction over rape, returning it to tribal courts.

The tangible impacts of the MCA are awful and bizarre and nearly constitutive of a subfield in legal scholarship. Its theoretical implications for Westphalian sovereignty are absolute. By the lights of US courts, the power to punish is at the core of sovereignty and citizenship. Or, as Karl Shoemaker notes, “[i]n punishing, a community distinguishes itself both

as capable of ‘exercising its own power,’ and as capable of claiming those who belong to it” (2004: 34). Sovereignty, in the Westphalian sense, defines the authority of a community to govern and thus punish the people it claims as its own and who live within delineated geographical boundaries. In this articulation, (Westphalian) sovereignty is not something the Indigenous North Americans have.

This may mean little to Indigenous communities, however, as they may live at a distance from settler society and to some extent, under their own rules and traditions. Acknowledging the present legal position of Indigenous communities, most scholars treating the subject of sovereignty have looked to interstitial forms “existing in a space between what is and what is possible” (Wildcat & De Leon 2020: 2). While they may find the imposition of western sovereignty to be stifling, they may also find it, to use Taiake Alfred’s word, “inappropriate” to their needs and “incompatible with traditional indigenous notions of power” (1999: 55). As he notes, “Native sovereignty” is something else, something that must be created, and that “precludes the [...] the idea that there can be a permanent transference of power or authority from the individual to an abstraction of the collective called 'government’” (Alfred 1999: 25). That said, the scope of the current project, and the capacities of its author, limit the following to something more modest than the construction of a new Native sovereignty. Instead, I attempt to describe the dehumanizing basis for colonial settler sovereignty and, hopefully, to encourage more discussion about the public or popular face of that imposition. Or, said another way, the goal of the present project is descriptive or concerned with what *is* rather than what is possible.

This project also aligns with Alfred’s localization of sovereignty and takes the position that sovereignty is not a universal concept but one invented for and by Europeans alone. It is

either meaningless and/or a mask for power.⁵ Rather, it is quite possible that sovereignty was merely a blunt instrument to be used against colonized people and, as such, a residue of colonization. This does not mean, however, that sovereignty has no meaning for Indigenous peoples. As Antony Anghie suggests, modern legal norms and international law rose to prominence among European powers in tandem with and based on the needs of colonial empires. Rather, “colonialism was central to the constitution of international law and sovereignty doctrine” as it was in fact the most compelling reason for its invention (Anghie 2007: 310). Looking on new lands and inhabitants with designs for profit and expansion, Europeans needed to imagine their own power as something inherently different but superior to that of new world inhabitants. A deconstruction of sovereignty, then, holds the key to decolonization and understanding archival violence against history’s colonized peoples.

Anghie’s claim echoes that made by Charles Mills regarding the structure of contract theory and its central metaphor: the binary of the state and the “state of nature” commonly associated with Hobbes. Arising during and in the service of colonial contact, the image of the non-European was enshrined in European notions of “pre-civility.” As Mills notes, non-Europeans in this formulation became holdovers from an earlier period of development such that “the intimacy of the connection between place and (sub)person mean[t] that perhaps it never *will* be complete, that those associated with the jungle will take the jungle with them even when they are brought to more civilized regions” (1997: 48). In contrast to Mills, Anghie looks more to the development of colonial systems of administration when he argues that sovereignty was the

⁵ Borrowing a framework from Nils Brunsson, Krasner argues, for instance, that given two “logics” that animate action in international law, that/those of “appropriateness” and “expected consequences,” a perusal of case studies will show that invocations of sovereignty have typically followed the latter, despite lip service given to the former. “Westphalian and international legal sovereignty are best understood as examples of organized hypocrisy. At times rulers adhere to conventional norms or rules because it provides them with resources and support (both material and ideational). At other times, rulers have violated the norms, and for the same reasons” (Krasner 1999: 24).

product of a series of innovations based on needs arising in the colonial encounter. To meet these needs, European jurists, beginning with Francisco de Vitoria, worked to create “a gap between two cultures, demarcating one as ‘universal’ and civilized and the other as ‘particular’ and uncivilized, and seeking to bridge the gap by developing techniques to normalize the aberrant society” (Anghie 2007: 4). Subsequently, sovereignty is an artifact of colonization and a negative of European observations of non-Europeans.

In the following, I trace the history of these colonial innovations in North America in order to isolate the core representational strategy that animated them in literature. Beneath various articulations of Indigenous society is a magical (that is, facile and uncritical) and dehumanizing assumption about culture and the tribalized peoples of North America. I also suggest that in its dehumanizing work, this strategy, “ethnographic realism,” fixed the parameters of American political concepts such as individualism and personal agency that built the foundation of American government and political life. Finally, by tracing the evolution of ethnographic realism, I hope to encourage discussion about the effect of administrative techniques that prevailed in the eighteenth and early nineteenth centuries. These include the use of natural law justifications and later legal positivism with a view to their effects in literature and their furthering of American colonialism and territorial expansion, that is, the formation, closure, or, “perfection,” of settler sovereignty.⁶

The Chapters

In my first chapter, I offer a pre-history of this concept by examining a pre-revolutionary instance of ethnographic realism titled *Ponteach; or the Savages of America* (1765). An

⁶ Lisa Ford 2010: 2.

unperformed eighteenth-century play about Pontiac's Rebellion by military scout Robert Rogers, *Ponteach*, as I explain, was written to secure Rogers a command of a fort and a seat at the head of North American Indigenous trade. Consequently, its studious depiction of Indigenous culture can be interpreted as Rogers posturing of expertise about Indigenous peoples on the frontier. Balancing his subject, his tragic theme, and his information about Indians, Rogers describes the Ottawa as a society of people living in a state of near chaos that is confusingly circumscribed or prescribed by their culture. In this way, Rogers replaces personal agency with cultural adherence so that Ponteach's fall is understood as a matter of course. As I note, this mode of representation has an impact on the idea of agency or consent in a fascinating way. Through ethnographic realism, treaties may be imagined to be magically self-executing or self-enforcing agreements.

Finally, Rogers' characters model a form of Indian dualism traced by several other scholars looking at or through the representational history of Indians in North America. Rather than two moral halves, good and bad, however, *Ponteach*, I argue, is composed of natural and a cultural part, becoming (not quite) a European-styled monarch. In this way, *Ponteach*, is chimerically imagined to be a sovereign without agency or, in a manner of speaking, without sovereignty.

Chapter 2 examines the use of thematic domesticity to produce the fantasy of consent in Sarah Wentworth Morton's 1790 epic poem, *Ouâbi; or the Virtues of Nature*. A popular epic romance poem in its time, *Ouâbi* portrayed racial intermixing as a means of making Indigenous land available to colonists. Romantic displacement forms a wishful story of land conveyance made possible by a narrative frame developed with a view to law and land speculation. This chapter examines the literary effects of documentary style on ethnographic realism, which I connect developments in professional history as well as law. In *Ouâbi*, the citation of facts about

Indigenous North Americans in footnotes throughout the poem gestures at an extreme form of documentary realism through which the interiors of Morton's Indians are displayed positivistically at the bottom of each page in order to posture credibility and add plausibility to its romance of land conveyance.

Chapter 3 follows the theme of Indigenous domesticity to emergent ideas about the republican household in the early nineteenth century novel, *Hobomok; Or a Tale of Early Times* (1824) by Lydia Maria Child. The novel's eponymous protagonist is depicted as inherently undomestic, or incapable of "husbandry" in two co-constituent interpretations of the word. In this way, I argue, Child reimagines Indigenous sovereignty as semi-sovereignty through the naturalized status asymmetries modeled by the doctrine of marital coverture.

Finally, chapter 4 reads James Fenimore Cooper's *Last of the Mohicans* (1825), a text that attempts to introduce ethnographic realism to mainstream literary realism. In doing so, Cooper produces an apocalyptic allegory of American government through Indian government. Writing a cautionary tale American democracy, Cooper warns Americans against becoming Indians, or a fallen society of mindless, violent slaves under the spell of a demagogue. Fanning the flames of removal fervor, Cooper offered images of deindividuated Indigenous subjects all transformed into a ghastly, synecdochic mob of eyes, hands, and tomahawks that move horrifically "as one man" and abridge the rights of individuals. In its use of literary realism to support Indigenous cultural essentialism, Cooper's text recapitulates mainstream ideas about the Indian interior that had appeared in criminal law, official government reports about Indians, and the memorializing, pro-removal speeches of Andrew Jackson.

Chapter 1: History, Tragedy, and Ontology: Imagining an Indian King

1.1. Introduction

Ponteach, or the Savages of America: A Tragedy (1766) is a play by the British military scout, Robert Rogers about the rise and fall of the pan-Indigenous war called Pontiac's Rebellion.⁷ It seems to have been written for no reason other than proving its author to be a proud loyalist and an expert on all things Indian and North American. It was the last of three works that Rogers published on a trip to England in 1765, a collection of his journals, a reference book titled *An Account of North America*, and *Ponteach*. The only fiction piece of the three, *Ponteach* blames the outbreak of the war on the colonists who, Rogers suggests, had strayed so far outside of the crown's circle of authority that they had degenerated into savages. He spends the entire first act with this theme, describing blood-thirsty hunters playing catch with Indian scalps and royal officials pocketing diplomatic gifts at the crown's expense.

While Rogers was not wrong about the violence and grift of colonists, or about their related role in inciting the war with the Indians, his execution was comical and nearly every critic who has written about the play has mentioned the "low comic" or "bitterly farcical" tone of its first act.⁸ As I will discuss, this damning description of British colonists did not make *Ponteach* anti-colonial. Despite his depiction of colonists as "devils incarnate," as one reviewer for *The Gentleman's Magazine* described them, Rogers's writings reveal him to be more of an opportunist than an activist. It was unlikely that he was inspired by any kind of pro-Indian

⁷ The British names for this conflict have been contested by historians, including Alan Taylor who notes in passing that the Pontiac could not himself have commanded "the many diverse peoples who dwelled in dozens of scattered villages." The word "war" would be more appropriate, he adds, since "Rebellion" "misses [the] point" of Indians who sought a declaration that they "were free peoples who had never become British subjects" (Taylor 2016: 59). The name becomes an important point of historical enquiry given its reflection of very specific British attitudes or pretensions about subjection and jurisdiction following the end of French and Indian War. See also Fred Anderson 2007: 535-637.

⁸ Julie Ellison 1999: 92; Gordon Sayre 2006: 154.

activism.⁹ Moreover, after the first act, Rogers's colonist characters almost completely disappear, which has been found so jarring to some critics that they have speculated Rogers may only be responsible for writing the one act; the remaining four acts have been attributed to Rogers's secretary Nathaniel Potter as well as a London minister named John Campbell.¹⁰ It seems unnecessary to assign blame for the play to anyone else so as I proceed, I will do so under the assumption that Rogers was the sole author of *Ponteach*.

A contrast to his colonists, Rogers's Indians are noble victims who speak like Indians, practice diplomacy like Indians, start fights, abandon fights, govern, and decide great matters of importance through the divination of dreams—all like Indians. And this seems to be Rogers's point: he knew all about Indians and what they do. He may in fact have been inspired to write *Ponteach* by a 1765 review of his *Account* in *The Critical Review* wherein the writer opined that his knowledge of Indians, specifically Pontiac, “would appear to vast advantage in the hands of a great dramatic genius” (Rogers 2010: 203). Rogers heard the call and set about the task of writing the first play on North American subject matter written by a North American. His *Account* subsequently operates like a companion book or a collection of annotations, containing various bits of information about Indians that English readers could peruse if they wanted substantiation for Rogers's descriptions of Indian behavior. The effect of Rogers's factual play may therefore have exceeded its initial design of persuasion and the posturing of knowledge. Linking dramatic and “factual” accounts of Indigenous North Americans, I argue, Rogers encouraged his audiences to adopt a documentary attitude toward the latter.

⁹ See Marilyn Anderson 1977, Susan Castillo 2006, Robert Rogers 2010.

¹⁰ Ellison other authors. On October 26, 1767 Sir William Johnson wrote to the Earl of Shelburne about recent allegations brought against Rogers whose secretary, Nathaniel Potter is described as supporting Rogers who “is a very illiterate man, he found it necessary to engage some person to do business for him” (Broadhead 1856: 988-990).

By writing a tragedy, as *Ponteach* claims to be, Rogers ensured that readers would see this documentary difference in terms of ontology or character. As a tragedy, *Ponteach* operates in the purely ironic mode, or, as Northrop Frye described it, a form of tragic emplotment “attained by putting the characters in a state of lower freedom than the audience” in which they move “according to the conditions of a law [...] from which the audience has been, at least theoretically, redeemed” (2000: 221). Thus, in tragedies written through the “ironic perspective,” the transparency of tragic characters is accompanied by a feeling of superiority or elevation produced by the depiction of fate’s operation on backward or denigrated characters. Frye refers to Chaucer’s *Troilus and Criseyde*, which “puts a Courtly Love tragedy into its historical relation to ‘Payens corsed olde rites’” (Frye 2000: 222).

To illustrate the freedom concept, Frye comments on Milton’s tragic solution to freewill and his addition of a “disclaim[er of] legal responsibility” such that God is said to have made man “Sufficient to have stood, though free to fall” (2000: 211). In this famous proviso to *Paradise Lost*, Milton fixed both theological as well as literary problems related to God’s omniscience and omnipotence. The disclaimer, Frye argued, prevented audiences from experiencing the boredom of a deterministic tragedy without “tragic effect” in which suspense, terror, and foreboding are ruined because the hero falls before the curtain ever rises (2000: 207). In this formulation, Frye notes, “God” and “author” are functionally the same, as both “exert[...] all [their] power to avoid the sense of having manipulated that situation for [their] own purposes” (2000: 211). Rogers solved a similar problem with character in *Ponteach*. Yet, as I argue, Rogers’s literary solution fixed a political rather than literary problem.

The universally negative reception of his play evidenced that he did not care too much to identify or solve literary problems. One reviewer remarked on the play’s tone, describing it as

“the most insipid and flat of any we ever reviewed” while another pointed to Rogers’s characters who were all so impossible to identify with that they “excite no kindness, their distress moves no pity. The dialogue however adapted to the characters, is so much below the dignity of tragedy, that it cannot be read without disgust” (*Critical* 1766: 150; Rogers 2010: 200). Given Rogers’s shallow motives for writing *Ponteach*, namely, to earn a promotion to a frontier command, it is no surprise that it failed to impress critics. Rogers’s choice of subject, namely Pontiac’s Rebellion, only points readers back to his *Account* where he describes the Ottawa leader with lavish familiarity. Rogers this way has invited a comparison to John Smith who may have invented his acquaintance with Pocahontas to make some of her “prestige [...] rub off on himself” (Sayre 2005: 155). It is possible then to see a connection between Rogers’s account and that of British officials of the time who also tried to make kings or “emperor[s],” as Rogers describes, out of Indian chiefs. As I show, their reasons for raising the status of a war chief from Detroit were not altogether different from Rogers’s.

Pontiac’s Rebellion reflected a formal shift in colonial policy which precipitated the passage of the Royal Proclamation in October of 1763. At its core, the Proclamation forbade all land purchases but those executed between sovereigns or official units of Indigenous and English government. Rather, the search for or creation of powerful Indian leaders or Indian kings could be said to have been a theme in the 1760s. This was, of course, despite there being no “kings” among the Indians. Rogers knew this and so did colonists like James Smith, who as a teenager during the French and Indian War had been taken captive by a group of French-allied Caughnawaga Iroquois. “I have often heard of Indian kings,” wrote Smith, “but never saw any.” And remarking perhaps on the mood of British officials at the time, he added that “white people were formerly so fond of the name of kings, and so ignorant of their (Indian chiefs’) power,” he

assumed, “that they concluded the chief man of a nation must be a king” (Drake 2009: 257). As I show, the transformation of Indian chiefs into kings in both law and literature produced a strange hybrid of forms, a sovereign who was both determinant and determined, decisive but also decided.

1.2. “...Their King is distant, would he hear our Prayers ...”

Well before the formal conclusion of the French and Indian War, British colonists and administrators had begun to create resentment with the Indians in the *Pays d'en Haut* or “upper country,” an area encompassing the Great Lakes around Detroit, the Ohio country adjacent to the British colonies, and the Illinois country to the west of the Ohio country. Rogers depicts some of this in his first act, formulating the problem as a “private” conflict taking place in the state of nature—a cycle of revenge between Indians and the king’s misbehaving subjects. The cycle is always associated with the absence of royal power as his rogue Englishmen fear the crown while his Indians adore it. Or, as Ponteach’s counselor Tenesco, laments, “Their King is distant, would he hear our Prayers” (Rogers 2010: 115). Dwelling on royal power, Rogers flattered the king while insulting his colonial representatives, depicting the latter as negligent caretakers who shirk their duties for personal gain, “Cheat, lye, and break their solemn Promises,/ And take no care to have our Wrongs redress'd” (Rogers 2010: 115). When the conflict moves from “private” revenge to “public” war, it is described as the effect of distance, as the Indians have “no other Way to come at Justice/ But by our Arms to punish Wrongs like these” (Rogers 2010: 115).

Documenting frontier violence and administrative negligence, Rogers presented an occupational cross section of colonial society, beginning with hunters, then traders, and then fort commanders, and colonial governors who are portrayed as unconcerned with the violence of the

first two groups. Regarding this, critics have universally understood Rogers to be demonizing his white settlers. Yet, I find more ambivalence than this. As I show, Rogers introduces ambivalence to his depiction of colonists in the lower ranks through allusions to white vigilantism of the time which Rogers uses to link Indians to the white settlers. A means of assigning greater blame to the crown's colonial governors, colonists of a lower station and Indians are depicted as equally violent and engaged in a never-ending cycle of revenge that the crown's officials, negligent or willfully inattentive, have failed to arbitrate.

Rogers deploys this motif by depicting colonial officers as wholly unsympathetic and almost literally deaf to the sounds of Indian grievances. For instance, Ponteach declares to the absurdly-named fort commander, Colonel Cockum, "Your Men give my Men always too much Rum,/ Then trade and cheat 'em. What! d' ye think this right?" Cockum replies "Tush! Silence! hold your noisy cursed Nonsense." The second fort official, Captain Frisk adds "You'd better go and watch your Men yourself,/ Nor plague us with your cursed endless Noise" (Rogers 2010: 72-3). To the invocation of former French allies, "*Frenchmen* would always hear an *Indian* speak"—a common rhetorical strategy among Indigenous speakers of the period, including the historical Pontiac—Cockum again dismisses the sound of Indian speech: "Let me hear no more of your hellish Clamour" (Rogers 2010: 74). When Ponteach questions "Did your King tell you thus to treat the *Indians*?" Rogers accomplishes his simple purpose, however. As Tiffany Potter suggests, the exchange would have struck a chord in the 1760s as George III had only recently taken the throne and had since been "disturbed" by reports concerning the treatment of the Indians (Rogers 2010: 74n35).

In this way, Rogers's depiction of the colonial administration might be compared to what Lauren Benton has called treason writing, "an emerging genre" of the seventeenth and

eighteenth centuries through which European writers and crown officials disciplined subordinates and rivals under the assumption that they had “placed themselves outside of the political community by renouncing loyalty” to authority (Benton 2010: 79, 102). Relying largely on the political construction of space, treason rhetoric equated “being off the map [...with] representations of barbarism,” describing the actual reach of sovereignty as well as a rhetorical means of extending or re-exerting imperial intervention into the “wilderness” (Benton 2010: 296). As such, accusations of treason or insubordination constituted a way for ambitious colonial agents like Rogers to seek advancement by exploiting royal anxieties about distant colonial geographies.

In the play’s most comical scene, Rogers implicated the colony’s highest officials in the direct theft of diplomatic gifts meant for the Indians. Like the previous scene involving the Fort authorities, the colonial governors are portrayed in a state of willful distraction. Here, however, Rogers marked duplicity on the page with bracketed directions that signify their theft of diplomatic gifts. Of Rogers’s ridiculous officers, Sharp, Gripe, and Catchum, the lattermost announces “The British King, of his great Bounty, sends/To Ponteach, King upon the Lakes, and his Chiefs”:

Two hundred, No [*aside*] a Number of fine Blankets,
 Six hundred [*aside*] Yes, and several Dozen Hatchets,
 Twenty thousand [*aside*] and a Bag of Wampum,
 A Parcel too of Pans, and Knives, and Kettles. (Rogers 2010: 80)

Interrupting this absurdity, Ponteach bluntly criticizes the officers, cautioning “Indians a’n’t Fools, if White men think us so/We see, we hear, we think as well as you” (Rogers 2010: 81). He then stiffly addresses the king through his governors, asking them to let him “know our

Mind, and what we wish,/ That we dislike his crusty Officers/And wish the Path of Peace was made more plain” (Rogers 2010: 82). Addressing the absent king, who would likely not receive Ponteach’s message (until reading Rogers’s play), the rhetorical effect is the inversion of the officer’s deception. Like the Indian delegation, the governors are excluded from a conversation between Ponteach and their king and forced into the odd position of overhearing an insult directed at them.

Like the fort scene, an earlier scene set in “An Indian Trading House” offers a depiction of the entanglement of commerce in frontier violence. There, two frontier traders M’Dole and Murphy operate a remote trading post where they defraud Indians. As the first scene in the play, the trading house is held out as the fountainhead of frontier conflict. The more experienced of the two traders, M’Dole, suggests that not only is it “no Crime to cheat and gull an Indian” but adds that it is quite easy to distort the output of the post’s trading scale to misrepresent the weight of his goods (Rogers: 2010: 62). The trick could earn them great wealth, he explains to the other less experienced trader. It worked for the trader who first practiced the trick, “old Ogden,” who had convinced the Indians that “his Right Foot exactly weigh’d a Pound.” Ogden built his own large house and “grew a little King” (Rogers 2010: 63).

M’Dole’s reference is certainly to the seventeenth century tradition of Major Richard Waldron of New England who became wealthy in retirement through a similar tactic. Waldron, however, was known to have used his fist. The story, which must have been passed around New England as local legend when Rogers was a young boy, was told with reference to Waldron’s death at the hands of Indigenous warriors under Chief Kancamagus in King William’s War which broke out soon after King Philip’s War. The Major was reportedly bound before his fingers were cut off at the knuckle at which point his captors asked him if his fist still weighed

the same.¹¹ This is perhaps the cautionary scene that Rogers meant as subtext when the younger of the two traders worries that “should the Dogs detect me in the Fraud,/ They are malicious, and would have Revenge” (Rogers 2010: 66). Of all the play’s scenes of colonial misbehavior, three of four are linked to the crown’s commercial activities on the continent, attacking English frontier communities as well as, most important, the colonial officials he wished to replace. This placed emphasis on the deepest interests of the crown, that is, the war’s financial impact.

Yet, while pretending to offer a comprehensive portrait of colonial corruption, Rogers curiously omits the most lucrative crime on the frontier, namely, the land frauds perpetrated by speculators and colonial proprietors like Thomas Penn. Inflamed by Penn, discontentment among Indigenous communities in the Pennsylvania backcountry was decades long, extending beyond the violence and small-time land theft that Rogers uses as his background.¹² Rogers’s portrait of the frontier gestured to unpunished murderers in the upper country, fraudulent trade, and waves of aggressive squatters from the Irish Province of Ulster and the Rhineland-Palatinate area in southern Germany.

Figuring into Rogers’s depiction of the frontier was the issue of squatters which split colonial provinces on an index of class. Rogers was himself descended from Ulster settlers, James and Mary McFatridge Rogers, a fact that may have inspired Rogers’s ambivalence in his representation of Indian-hating traders and hunters/squatters in the first act. Benjamin Franklin disliked both the squatters and proprietors in his public writing, though he immortalized the former following the violence of the so-called Paxton Boys in his *A Narrative of the Late Massacres* (1764). There he suggestively called them “the Christian white savages of Peckstang

¹¹ The story was apparently told through the nineteenth century as evidenced in John Greenleaf Whittier’s 1894 “How the Women Went from Dover,” which memorialized Waldron’s torture and death in the lines: “On thy cruel heart and thy hand of wrong/ Vengeance is sure, though it tarry long” (Whittier 1894: 131).

¹² Schutt 2007 94-123.

and Donegall,” which may have influenced the way Roger’s would present such people in his play (Dunbar 2012: 72). Having set down roots in the town of Paxtang, these hearty frontier folk had taken up vigilantism in 1763, declaring non-specific revenge on Indians for their role in the war-time atrocities of the French and Indian War.

As Richard Maxwell Brown argued, the Paxton vigilantes, among other backcountry settlers, were absorbed by a “homestead ethic,” or the assumption that white squatters were entitled to all land occupied by Indians. Part of this ethos had grown from the remembered deprivations suffered during the French and Indian War, such as the Penn’s Creek Massacre by the French-allied Lenni Lenape in 1755. Citing wartime atrocities and the unwillingness of Pennsylvania officials to subsidize their defense, residents of Paxtang, along with other backcountry settlers, organized a militia in 1763 and marched on a town of Susquehanna Indians called Conestoga. Because the massacre seemed to have been unprovoked by the Conestoga villagers, Franklin wrote in his *Narrative* an early articulation of racial profiling in North American history, noting that the Paxton vigilantes had taken revenge indiscriminately, punishing all and any Indians for the war time acts of some. The “only Crime of these poor Wretches,” he wrote, “seems to have been, that they had a reddish brown Skin, and black Hair” (Dunbar 2012: 63).

Franklin’s “Narrative” initiated a pamphlet war in Pennsylvania where his and the responses of other authors, published mostly anonymously, were disseminated and read aloud in taverns and coffee shops throughout Philadelphia (Kenny 2009: 172). The Anglican Reverend Thomas Barton published under his own name and gently defended the vigilantes by pointing to, among other things, the “first great Law of Nature, that of SELF-DEFENCE” (Barton 1764: 6). Going tit-for-tat on race, Barton suggested that rather than being prejudice, the Paxtons had

themselves been discriminated against by Philadelphia officials who had deemed them “unworthy of Protection” owing to their being “A Pack of insignificant SCOTCH-IRISH, who, if they were all killed, could well enough be spared” (Barton 1764: 6). Cited as a means of addressing Franklin’s piece, the words were alleged to have been spoken by the Quaker assemblyman, Nathaniel Grubb in 1756 in reference to the Indian violence on frontier settlements. Franklin had been accused of pandering in his pamphlet and elsewhere to the anti-squatter Quakers whom Barton and others charged with hypocrisy and elitism.

In a textual connection and complication between Rogers’s play and the Pennsylvania pamphlet war, Ponteach uses a serpent and egg metaphor from Shakespeare’s *Julius Caesar* to encourage his warriors to kill the captivated Hunter from the first act, Honnyman, his wife, and his children: “Who ever spar’d a Serpent in the Egg?”¹³ The line, which upset Rogers’s contemporary reviewers and stood as an exemplum of Indian ruthlessness, echoed Barton’s defense of the squatters where he wrote that while it was sad to hear that the Paxtons had killed women and children, they “no doubt” thought that “the best Way was, while their Hands were in, to kill all, lest out of the SERPENT’S EGG, there should come a COCKATRICE, and his Fruit should be a fiery flying SERPENT” (Rogers 2010: 141; Barton 1764: 17). Given its pitch and hold on the public, Rogers must have heard something about the print battle, having perhaps even engaged with its rhetoric in a tavern discussion.

Moreover, of the nine colonists in the play’s first act, he gives four of them stereotypically Celtic names.¹⁴ These are the frontiersmen, hunters and traders, all likely a

¹³ And therefore think him as a serpent’s egg—
Which, hatched, would as his kind grow mischievous—
And kill him in the shell. (2.1.32–34)

¹⁴ Susan Castillo also notices this, suggesting that Rogers’s choice of these names draws attention to status of Scottish and Irish nations, both, like America, “on the periphery of the English Empire” (2006: 216).

reference to the Paxtang vigilantes who had represented themselves as the victims as well as the agents of revenge. The remaining five colonists, already mentioned, are officers at a colonial outpost—one of which, Catchum, has been imagined a reference to Superintendent of the Northern District, Sir William Johnson.¹⁵

The most apparent reference to colonial vigilantes, and well before Honnyman's capture and torture by Indians, he and Orsbourn sit somewhere in the wilderness contemplating the unfairness of colonial law that “makes it Death/ To kill an Indian, more than to kill a Snake” (Rogers 2010: 67). To illustrate their contempt for Indian kind, the hunters portray Franklin's “white savages of Peckstang and Donegall,” decrying the revenge of Indians but simultaneously claiming it for themselves. Like the Paxton vigilantes who began their terror at the end of the war, Honnyman, asks:

What if 'tis Peace? these Dogs deserve no Mercy;

Cursed revengeful, cruel, faithless Devils!

They kill'd my Father and my eldest Brother. (Rogers 2010: 67-8)

Following this self-eating declaration of revenge on the “revengeful” Indians, he generalizes his violence to all Indians, or those who look like them: “I hate their very Looks and Name,” which Orsbourn seconds, adding that Indians had also killed his uncle and “I abhor, detest, and hate them all” (Rogers 2010: 68). Despite their passing fear of punishment from the state, the two note an opportunity to satisfy their apparent bloodthirst as two Indians approach, at which time Honnyman cautions: “[W]hat we do is secret, Or the Hangman will come in for Snacks” (Rogers 2010: 68). After the murder, they take care to “conceal the tawny Dogs,” lest they trigger the vengeance of their “blood-thirsty Countrymen.” Less concerned about English

¹⁵ Gordon Sayre 2005: 154.

law, Honnyman notes that the Indians would certainly “murder us, and cheat the Hangman too” (Rogers 2010: 69). In these scenes, the fear of Indian revenge—here produced by the exaction of colonist revenge—is paired with the justice or punishment of absentee colonial authorities.

Considering the controversy that Franklin had begun with respect to the concept of blind revenge, Rogers’s scenes seem to invite tonal ambivalence. Rather, as some critics have read them, Rogers’s hunters and traders, and their claims about Indian revenge, are simply exaggerations of the narrowness of the colonist. They add a goofy texture to Rogers’s otherwise somber critique of white settler culture.¹⁶ Yet, it is possible that Rogers simply viewed Indian and colonist violence and revenge as a symptom of pre-civil life or even as Thomas Barton had described it, the “first great Law of Nature.” Rogers’s own conduct during the War and afterward suggests that he was likely unphased by most violent acts, vengeful and not. It also suggests that he did not really care much for Indians.

His most infamous mission, for instance, the St. Francis Raid of 1759, would have certainly biased his view in this regard. During the mission, he and his scouts massacred about 30 Indigenous women and children living at the Abenaki village of St. Francis on the St. Lawrence River. It had been planned by Amherst as revenge for the capture of a previous scouting party that the villagers, while the male warriors were among them, had delivered into the hands of Montcalm. After killing the village’s inhabitants, setting fire to their homes, and filling their rations bags with valuables, Rogers’s rangers would take a young Indigenous woman along with them. Delayed on their return at the outset of winter with nothing but stolen items in their packs, the scouts would allegedly eat her on the way to the Fort at Number 4. Rogers might

¹⁶ See Marilyn Anderson 1977, Robert Rogers 2010

have agreed that it was the colonists who were the real savages, though he might have substituted “the real” with “also.”¹⁷

Indeed, Rogers was not above performing the role of low comic villain in real life. Having succeeded during his trip to England, Rogers had been granted the position of Commandant at Fort Michilimackinac in 1766. By July of 1767, he must have begun to imagine himself a little king. He had held the title for just a little over a year before he began working on a proposal that would raise him even higher, to the position of governor over a new colony, or “Civil government” in the area of the Great Lakes. In his proposal, he argued that such a colony would provide greater stability in the area of the present fort as well as a gateway to expansion and trade with the western Indians. Rogers also noted that the new colony would also make trade regulation obsolete.

Because traders at Michilimackinac and other forts in the western counties could not be controlled on their routes, which sometimes took them to Indian towns at a distance that required more than a year’s travel, crown officials, namely, Sir William Johnson, had begun in 1761 to confine trade to forts in the upper country. Despite the fact that it was invented to protect Indians from scenarios like those he had so recently written about, this policy was irksome to Rogers as it prevented him from managing the lucrative trade beyond the fort’s walls.¹⁸

“Any one of the least Sensibility,” he wrote unhappily, “may imagin something of the Pain and Chagrin that a Commandant must feel when he finds Himself obliged to Answer, that he cannot permit any Trader to come nearer to [the Indians] than this Garrison” (Rogers 1918: 48). Moreover, if English traders could not freely visit Indian towns, he argued, would this not be

¹⁷ Brumwell 2006: 183-237.

¹⁸ The policy was favored by Johnson as it forced Indians from outside of the immediate area to pass through the territory of the Iroquois confederacy. The effectively extended Iroquois power and influence in the region and with it Johnson’s power and influence with his adoptive tribe (Jackson 1930: 235).

“opening a Doar for the neighboring enemies to enter & encroach upon our Territories [?]”
 Would those enemies not excite the Indians’ “Enmity rage and brutal Revenge [...] against His
 Majestys Subjects [?]” It is well known, he added with authority, that the “revenge of a Savage is
 not Governed by reason or Justice but *falls at random upon the first object he meets with*”
 (emphasis added Rogers 1918: 44). At this invocation of non-specific Indian revenge, Rogers
 fashioned himself (it is hard to imagine unwittingly) after one of his own characters from the
 play that he had published earlier that year.

While Rogers aimed his critique at the play’s neglectful officials, land-jobbing
 proprietors and speculators of the time are unaccountably absent. For instance, when Lenape of
 the Pennsylvania backcountry sided with the French early in the French and Indian War, it was
 not only because of the persistent encroachment of squatters but because of the monumental and
 ongoing land theft perpetrated by the proprietor Thomas Penn who governed with special
 privileges granted by the crown. Penn was the son of William Penn who had fabricated a deed
 for Delaware land that led to the loss of a devastating 1.2 million acres along the Delaware
 River.¹⁹ A Lenape chief named Teedyuscung had lobbied for years against Penn and the then-
 powerful Iroquois confederacy until his death in 1763. It was possible that he had been burned to
 death in his own house by arsonists hired by either the Iroquois Confederacy and, relatedly
 Superintendent William Johnson, or the Susquehanna land speculation company.²⁰

Pontiac’s Rebellion hosted a variety of grievances under one umbrella. These included,
 but were not limited to the encroachment of squatters and land theft, largely in the Ohio country,
 frontier violence, and resentment among Indians toward the sadistic trade policies of Jeffrey

¹⁹ Fred Anderson 2000: 165.

²⁰ Fred Anderson 2000: 92.

Amherst.²¹ The complexity and importance of trade among these causes is evidenced in the speeches of the real-life Pontiac as well as the nativist anti-trade religion that sprouted in the first half of the eighteenth century, one could say, from the soil of European trade goods.

Subsequently, War belts representing four different interests circulated the Illinois and Ohio countries and the area of Detroit from 1761 to 1763 (White 2006: 276). Alerted to rumors of this activity, of unrest among the Indians, General Jeffrey Amherst dismissed these stirrings as “Meer Bugbears” and imagined that a concerted attack from Indians would be the “Greatest misfortune that befall them” (qtd in White 2006: 286). For his fatal hubris, not unrelated to his sadistic Indian policies, Amherst would be removed from his position following the outbreak of the second war. Despite his apparent sympathy for Indigenous North Americans, Rogers reproduced this opinion in the final act of *Ponteach*.

In May 1763, Indigenous resentment had come to a head and various tribes would join in a concerted assault on British forts and settlements. Among these, Captain Bull, Teedyuscung’s son, would be lumped in with the uprising at large when in October he sought his own vengeance for the death of his father and, relatedly, the fraud of Penn’s Walking Purchase. While warriors from Detroit and Illinois country captured and held forts throughout the upper country, Captain Bull, one among countless local leaders, led a group of Lenape warriors against Wyoming settlers.²²

1.3. “...Such Giant Mischiefs would not gather round me...”

Imitating the dizzying number of grievances and groups involved in the War of 1763, the final scene of *Ponteach* ends in an overdetermination of causes that leads to its tragic conclusion.

²¹ Pontiac would sharply detail these in his Detroit speech delivered May 5, 1763.

²² See Marilyn Anderson 1977: 535.

Critics have described it as an awkward and “amazingly unwieldy” confusion of events that “would have left most readers blinking in bewilderment” (Castillo 2006: 221). Another way to describe this, as I show, is as the effect of a visible disconnection between Ponteach’s character and the outcome of any action in the play’s resolution. Yet, despite this disconnection, critics have found ways of holding Ponteach unaccountably responsible.

The final scene opens as Ponteach learns of the deaths of his two sons, both subjects of the play’s revenge-romance subplot that concludes a scene before. One of the sons was his acting general, Chekitan, and the other, Philip, a schemer character who, before he dies, kills the daughter of a powerful military leader, Hendrick, “Emperor of the Mohawks.” With that, in one fell swoop, Pontiac loses sons but also the commander of his forces and the support of a crucial ally. Tenesco reports next, Ponteach has also been abandoned by his remaining allies because a French Priest has disseminated his secret plan to unify the tribes “under one common Head” and “added his own Falsehoods” (Rogers 2010: 159). This would normally be enough to constitute defeat.

Ponteach seems unconcerned or at least maintains his stoic composure when he commands his diminished troops into battle, a kind of stoic suicidal act. More brash than Cato, Ponteach summons power through resolve and attempts to replace “Numbers with our Courage [...] to conquer with our very Looks” (Rogers 2010: 159). This predictably fails. His troops routed, Ponteach ponders this final misfortune, waxing elegiacally:

Will they desert their King in such an Hour,
 When Pity might induce them to protect him?
 Kings like the Gods are valued and ador'd,
 When Men expect their Bounties in Return,

Place them in Want, destroy the giving Power,
 All Sacrifices and Regards will cease. (Rogers 2010: 161)

Among the possible causes behind Ponteach's ultimate failure, none of them, not even this one, I argue, can be traced directly to Ponteach or to some choice he has made. Nevertheless, he seems to absorb responsibility or, more specific, strict liability for them. As he declares, "Was I not Ponteach, was I not a King,/ Such Giant Mischiefs would not gather round me" (Rogers 2010: 160). The last bit of "Mischief," based on his reflection, is indeed a failure but not his. The failure of his final charge owed to Ponteach's sudden inability to provide enough compensation or "Bounties" for his warriors. And considering that Ponteach could not have expected to win in this final attempt, the fact that the battle ends as his warriors flee reflects his failure to fail, which, I argue, has been scripted into the structure of Anishinaabe leadership. We could assume, after all, that Ponteach would have given them their "Bounties" before war had he bounties to give.

A review of *Ponteach* in modern criticism reveals a pattern in perceptions of Ponteach's character and agency. There critics, seemingly aware of this disconnection, have imposed a unity on the ploy by inventing characters able to accommodate the play's action. It makes sense, then, that they have chosen doubleness or twoness of character as a way of counterintuitively, managing this incoherence. For instance, in one account, Ponteach drifts between loyal royal Indian and the "politics of self-interest" associated with British Whigism. Neglecting his loyalty to the crown for "populist politics," Ponteach finds himself alone on the battlefield or unhappily "surrounded by self-serving subjects" (Tanner and Krasner 1989: 16, 14). He fails because they do, but we can't be certain why this is his fault or in some way an emanation of his character.

Ponteach could also be a creole subject, moving “between identifications with the European colonizing power and the native, alternately invoking and suppressing the indigenous components of its symbolic economy” (Castillo 2006: 199). Because “alternation” can degenerate into “perfidy” and apparently be transmitted between generations, Philip takes after his father, ruining the day by pursuing his own self-serving projects and sabotaging the war (Castillo 2006: 220, 221).

Ponteach’s most recent editor Tiffany Potter has gathered these theories under the head, “English anxiety in disguise” and argued that they reflect a perception that Ponteach is unable to “construct any consistent identity” of his own (Rogers 2010: 34). She then argues that Ponteach is a “subaltern,” or a colonial subject trapped in and silenced by colonialist discourses. He is “the product of a compulsory savagism imposed upon him by the negotiated fictions of a prescriptive culture that, in defining itself as superior, required that resistance be located in acts outside of its social and linguistic control, limiting others to marginal speech and acts of violence or other extremity” (Rogers 2010: 34-5). All said, such readings split Ponteach in two as a means of attaching him to one or more rogue strands of mischief. Doing so they turn Ponteach (and often Rogers) into an early form of the “mixedblood,” or a “hapless” victim “trapped between worlds” (Owens 1992: 27).²³

Gordon Sayre has also perhaps noticed the problem of agency here and attempts to fix it by reading Ponteach through Richard White’s “middle ground,” which is essentially a metaphor of generative inter-cultural space produced by violence.²⁴ Having done that bit of historical

²³ One exception is Julie Ellison’s variation on the theme of English costume and agency. There she argues that Ponteach is a Cato figure unable to “transform exile into moral victory through suicide.” The historical Pontiac did not die so Ponteach’s fact-obsessed author had his tragic hero saunter off the stage instead of falling on his sword. By living, Ponteach is a figure of pity and a source of masculine political affect (Ellison 1999: 96). Louis Owens 1992: 3-31; Arnold Krupat 1996: 41-2.

²⁴ Philip Deloria 2006 15-22.

grounding, he argues that colonial ambivalence on the middle ground has split *Ponteach* into a good and a bad Indian. And only tragedy, or specifically “catharsis,” can reconcile “the contradictory reactions of enmity and admiration, pity, fear, and censure” that inhere in the noble savage (Sayre 2005: 5-6). Presumably catharsis amounts to an affective version of the middle ground as it also encourages, he seems to suggest, “a process of creative, and often expedient, misunderstanding[...]” (White 2006: X). Because Sayre is concerned with how tragedy works, he tracks down the fated action of the play, which is occasioned by Ponteach having a mysterious and prophetic dream.

In his dream, a large elk stands in a field “snuffing the empty Air in seeming Sport/Tossing his Head aloft.” As the elk moves through the woods, it increases in size and scorns all the other animals who gather round it and attack (Rogers 2010: 94-5). Despite their effort, the Elk is victorious and runs off the other forest creatures. What Ponteach wants to know about this is simple: which one is he? Elk or cuddly woodland creature? Tragically, Sayre notes, he asks his sons.

Ponteach’s peace-loving son, Chekitan urges his father to adopt caution because no good can come of the dream, while, Philip, the hotter-tempered of the two, suggests that elks are an important feature of Indian life and therefore could never mean something unlucky. He is not wrong, Rogers might add, chiming in over a shoulder and asking us if we’ve bought his book yet. After all, in the *Account*, he wrote that the elk is a venerated animal among the Indians, as venerable as it is “dangerous for its flailing hooves and horns when approached” (Rogers 2007: 188). After a short discussion, Ponteach seems to prefer Philip’s interpretation as he moves forward with the plan of direct confrontation with colonist forces, which is perhaps the moment that begins his tragic fall.

Sayre adds that “Ponteach's tragic hubris [...] comes not, from a superstitious dread of the omen or from a stubborn defiance of it but [...] from his decision to follow the martial confidence of one son rather than the cautious warnings of the other” (Sayre 2005: 20). Rather, Ponteach’s choice is his own, Sayre prosecutes, his decision is “conscious and rational” because while the “dream follows the trope” of the Indian dream (which Rogers of course included in his Account²⁵) it is not the dream itself that decides Ponteach but his decision to ask his sons to advise him (Sayre 2005: 21). By the end of the play, it becomes apparent that Chekitan’s reading was superior; the elk was the British who should not be confronted. As Northrop Frye offers, “Greek, Christian, or undefined, tragedy seems to lead up to an epiphany of law” (Frye 2000: 208). As such, we learn the following: you should not ask your meanest son about how to govern and, if follows, you ought *never* to go to war with the British Empire.

Contrary to Sayre’s description, I doubt that there is any agency for Rogers’s Ponteach. This is not only because his deference to the wrong son is a kind of trope but, as I show, Ponteach’s tragic flaw, as it would be for any Anishinaabe leader among English readers, is not that he defers to the judgement of the wrong son but that he defers to the judgement of his sons at all regarding such an important matter of state. As I argue, every tragic flaw that Ponteach has is tied to his being Anishinaabe.

Following Ponteach’s decision to follow Philip’s advice, Rogers illustrates why Philip was the wrong choice but also why Philip is no choice at all. In an “Indian senate” session, Ponteach declares his intentions to an assembly of tribal leaders, which include Philip, and Tenesco. “[*Taking up the hatchet*]” as the stage direction reads, he delivers his speech in blank

²⁵ “The Indians depend much upon their dreams,” Rogers wrote, “and really believe that they dream the whole history of their future life, or what it may be collected from in their youth, for which reason they make dreaming a kind of religious ceremony when they come to sufficient years, which is thus performed” (Rogers 2007: 157).

verse (mostly) touching on colonists and his personal will to punish them (Rogers 2010: 113). By clarifying his own will in the matter he does not impose on theirs, declaring: “Tho’ I should stand alone, I’ll try my power/ To punish their Encroachments, Frauds, and Pride” as it is better “to die than be despis’d” (Rogers 2010: 113). In what has been considered some of the best verse in the play, Ponteach strings together metaphors and imagery that evoke stoic Roman heroes for his readers.

Throughout, his rhetoric continually returns to form a request, drawing his listeners into the fight though his repetitive use of the pronoun “who.” “Who is it don't prefer a Death in War/ To this impending Wretchedness and Shame?” he asks the chiefs, “Who is it loves his Country, Friends, or Self,/ And does not feel Resentment in his Soul?” (Rogers 2010: 114). Continuing on like this, Ponteach’s rhetoric is calculated to produce a political form of shame should its listeners reply “not I.” In the same mood, Ponteach ends his speech curious “to hear your Minds” (Rogers 2010: 115).

Then Philip stands up with a ferocity that seems excessive, declaring flippantly that whether it be revenge or formal war, he only desired violence: “Public or private Wrongs, no matter which.” Performing a less polished version of Ponteach’s repetitive questioning, he continues: “I think our Hunters ought to be reveng'd; [...]/ But who doubts they were kill'd by Englishmen?” (Rogers 2010: 116). Not so open-ended or audience-leaning as Ponteach’s speech, Philip ends with a colorful description of his blood thirst:

Oh! how I long to tear their mangled Limbs!

Yes, I could eat their Hearts, and drink their Blood,

And revel in their Torments, Pains, and Tortures;

And, though I go alone, I'll seek Revenge. (Rogers 2010: 116)

In a later act, Philip will go out with a war party, presumably to satiate his need for blood. Capturing the murderer Honnyman, Philip and his warriors torture him and his family in a scene that reviewers have found the most off-putting of all others in the play. As such, Philip seems to add to the causes of open war with colonists as he ventures out on a private excursion to the detriment of the public. Viewed this way, as a social liability, he is also presumably a poor source of advice. Or, as a chief in the assembly, Astinaco addresses Philip, “This is the Fire and Madness of your Youth,/And must be curb'd to do your Country Service” (Rogers 2010: 116).

Yet, readers of Rogers’s *Account* might have been pleased by this portrayal of the Anishinaabe’s radical warrior element, less because of Rogers’s dramatic skill but their recognition of Philip as a representative of what might be called the Anishinaabe warrior estate. That is, as evidenced in the *Account*, Philip represented a culturally scripted aspect of violence authentic to Indian culture. As Rogers wrote there, the Indian “method of declaring war is very solemn and pompous, attended with many ceremonies of terror”:

In the first place, they call an assembly of the Sachems and Chief Warriors, to deliberate upon the affair, and determine upon matters, how, when, and in what manner it shall be entered upon and prosecuted, [...] When they are assembled, the President or chief Sachem proposes the affair they have met to consult upon, and, taking up the hatchet (which lies with him) says, Who among you will go and fight against such a nation? [...] He having thus said; one of the principal warriors rises, and harangues the whole assembly; and then address himself to the young men, and inquires, who among them will go along with him and fight their enemies? (Rogers 2007: 160).

While marked by Indian ferocity and blood thirst, there is nothing to fear here. The Indian is simply going through the movements. Though the play was never performed, if it had been, Ponteach might have carried with him the diplomatic hatchet. And arising amid the assembled senate, Philip might have indeed looked somewhat Whiggish and untrustworthy. Yet, to audience members in the know, he would have been recognized as a constituent part of the Indian senate, not an outlier.

Philip's capture of Honnyman in a later scene is however not just an excuse to depict Indians doing Indian things—though that seems to be largely the point of the play. Instead, Honnyman's torture is staged to form a flattering contrast between Indians and white colonists. Of course, it was also an excuse to show Indians doing Indian things. As Rogers wrote in his *Account* Indians often enjoy an occasion for “bloodshed and murder”, and they go off on private expeditions “without the knowledge or consent of war. These private excursions are winked at, excused, and encouraged, as means of keeping their young men alert, and of acquainting them with the discipline and exercises of war” (Rogers 2007: 159). As such, Philip leaves with a group of braves and returns with Honnyman, his wife, and their children.

Honnyman is the only colonist to be featured in the play's later acts, only to be the focus of a grotesque spectacle. Bound and beaten, Honnyman uncharacteristically surrenders to his fate, but pleads to have his wife and children spared. Confessing to his crime, he suddenly pleads with the warriors “Take your Revenge by all the Arts of Torment/But spare this innocent afflicted Woman, [...] /Those smiling Babes who never yet thought Ill” (Rogers 2010: 140). Unmoved by his pleas, Philip, the most belligerent of Ponteach's sons, notes that the whole family must die as “They are akin to you,/Well learnt to hunt and murder” (Rogers 2010: 141).

As Susan Castillo notes, Honnyman's character reversal is conspicuous; he joked mercilessly only scenes before about brutally murdering an innocent Indian in the woods without concern for the effects of his actions. His later break in character is abrupt, his pleas for his family and children "strains credibility given his previous actions" (2006: 221). Yet, if this scene suggests anything, it is that Honnyman, as low and immoral as he is in the first act, is able to respond with an appropriate measure of human fear given the thought of his own death but, more chilling, that of his entire family. In his final moments, he adopts a qualified or probabilistic altruism, begs for peace, and submits to his violent fate to ensure the continuation of his bloodline. Given its gruesomeness, Honnyman is meant to be heard crying out at the end of the scene as he is set upon by "*various instruments of torture*" (Rogers 2010: 142). In this way, Honnyman's torture seems to have been intended to produce a certain kind of unsettling feeling in its audience that might have been mixed with pleasure.

Ponteach's sons, the "young men," represent the embodiment of disorder that has been raised to the status of an estate in indigenous society. For this reason, Rogers may have chosen the name Philip as a direct reference to a revered figure of lawlessness. It is likely a reference to King Philip or Metacom, the storied Indian "King" of New England's King Philip's War who, in the tradition attached to him by New Englanders and their descendants, spurned all diplomacy and attacked the English colonists unprovoked. Having grown up in New England among people who possibly remembered or even mythologized some of the participants in that conflict, Rogers likely imagined Philip to be the perfect name for his ruthless Indian warrior who spurns cooler heads and starts a war out of bloodlust and his desire to conceal the machinations of personal revenge. The War's leader and his reasons for going to battle are less important than the aura of

terror that clothed its storied history. Rather, Rogers' suggestive naming evokes a seminal use of political fear that pervaded the written and remembered history of the War for New Englanders.

Jill Lepore has argued that King Philip's War marked a unique change in the rhetoric of Indian-colonist dealings. Rather than religious sentiments or simple justifications about the righteousness of their cause, English writers monopolized the written history of the conflict and framed it as a triangulation between themselves, their Indian allies, and their enemies as "[b]eing the man in the middle, however horrifying, ma[de] more sense to them, to their sense of themselves" (Lepore 1999: 4). In her analysis of 29 publications written about the conflict, exceeding the output from any other New World conflict to that time, Lepore isolates the rhetorical pattern which she calls the "circle of spectatorship," a device marked by the exaggeration of disgust and terror (often second hand) at the barbarous atrocities of Indians.

A common scene in these records is the gauntlet or scenes of public torture in which writers often affect *aposiopesis* as they claimed to be so struck by the horror of it all. Many who wrote about these scenes of terror had not even been there to see any of it firsthand. Yet, they are rendered textually and histrionically silent, at least for a moment, a line, or ellipse in which they find themselves unable to relate the scene without choking up. As Lepore notes, the English seemed to derive a "safe pleasure" from scenes of Indian-authored torture, displacing their involvement in the conflict onto their Indian allies (Lepore 1999: 5). As she suggests, by watching such scenes, scenes like Honnyman's torture, the English were less Indian. They were more English when terrified by the violence of Indians who were, in turn, made more Indian.

1.4. "...only for Us, in our Name..."

In the summer of 1763, the Lords of Trade, the king's advisory board for trade-related matters in North America, assembled to address some of this unrest between colonists and Indians in the upper country. They also had begun to hear rumors about the Indians preparing for war and had taken them seriously. Because Amherst had not, they would vote to have him removed in August, following the first battles of the Rebellion. Since July the Lords had worked on a plan to address land theft, the abuses of traders in Indian territories, and the encroachment of squatters.

The plan was designed, at any rate, to “conciliat[e] the minds of the Indians,” in the words of Charles Wyndham, Lord Egremont, who had written the Lords about the king's wishes in May (Berthold 1853: 520). Expressing the king's thoughts on the matter of Indian unrest, the spirit of the plan, as Egremont described, included the need to establish some protection for the “persons and property” of the Indians, “securing to them all the possessions rights and Privileges they have hitherto enjoyed [...] against any Invasion or Occupation of their hunting Lands, the possession of which is to be acquired by fair purchase only” (Berthold 1853: 520-1). In short, the policy to follow would assure the Indians that the British were not going to take their land.

The British desire to fix their approach to diplomacy in North America had emerged just as their old approach ignited a war that unified three regions of the interior. In the week after Egremont's letter left Whitehall, unknown to him or the Lords, an inter-tribal collection of 300 warriors, in response to trade inequities, colonist encroachment, and other acts of land-taking, would attempt a surprise attack on Fort Detroit. By the time Egremont's letter had arrived, the pan-Indigenous war it had cautioned about was well underway.

While news of the war trickled in, the Lords hastily framed a solution that would assure the Indians that they were not after their land—despite all the evidence to the contrary. The result was the Proclamation of 1763, an attempt to regulate land sales and to halt unlicensed trespass

for trade or settlement beyond a boundary marked by the Appalachian Mountain range and four new colonies it established. Regarding land sales, they were thereafter to be treaty-based and therefore conducted solely between official units of Indigenous and colonist governments.

The Proclamation was, however, only a paper wall between the British colonies and what would thereafter be called “Indian country”; authorities did or could not halt squatting or even the traffic of unlicensed traders given such a vast geography to police. The same issue pertained to its assertion that fugitives fleeing colonial justice would be apprehended and returned to colonies. Moreover, the proprietors were included as empowered or sovereign units so the frauds perpetrated by Penn would have still been valid and possible even after the Proclamation. Nevertheless, land sales, the crown proclaimed, were “only for Us, in our Name, at some public Meeting or Assembly of the said Indians.” While flawed or largely unenforceable, the Proclamation nevertheless created the impression that all land sales for British subjects would be mediated thereafter by the crown’s officials.

Confining land sales to government-to-government meetings, the Proclamation marked a transformation in structure, “from contract to treaty,” or from sales based on exchange between private individuals to sales based on the authority of sovereigns (Banner 2005: 85-95). In part, this meant that the market for Indigenous land would now occupy a larger and, in some sense, more theatrical stage—its negotiators now imagined to be representatives of the general will of a people. Relatedly, the proclamation, by stipulating a treaty-based relationship, initiated a shift in the Indigenous subject of law. This marked not a shift from contract subject to treaty subject as much as a displacement of contract subject by a wholly new perception of Indians. Over time, rank-and-file Euro-American settlers came to read this “fetter on settler rights,” or the right to

purchase Indian land, as an Indian rather than a settler disability (Banner 2005: 109; Ford 2010: 136).

The major difference between contracts and treaties was the political standing of their parties. Eighteenth-century contractors represented themselves while treaty signers represented a people, group, or nation.²⁶ Treaties also, arguably, had more typological variations compared to formal contracts, which were often market oriented, structuring the exchange of goods and or services—land for rum, brass kettles, or gunpowder, for instance. Contract was increasingly incompatible with the status distinctions that structured, for instance, “contracts” between masters and servants, or husbands and wives well into the nineteenth century. By contrast, treaties could take a number of conventional forms outside of “parity treaties” or treaties that, like (liberal) contracts, were predicated on the equality of the participants. Non-parity treaties (also known as “vassal treaties” or “subordination treaties”) were asymmetrical agreements, including capitulation or peace treaties in which a dominant force or occupier might impose unfair terms under duress (Sulyok 2014: 2).²⁷

The inclusion or exclusion of contractors depended on whether those contractors satisfied a level of self-possession. The English Jurist William Blackstone, for instance, would exclude children and married women from participating in contracts for their own protection or to “fecure them from hurting themfelves by their own improvident acts” (Blackstone 1966: 452). Under “coverture,” a married woman’s legal identity was subsumed by her husband’s so, should a man make a contract with his wife, it “would be only to covenant with himfelf” (Blackstone

²⁶ The English word “treaty” was taken to mean “writing,” “inscription,” or something “treated” in writing from about the fourteenth to the middle of the seventeenth century; in other European countries it had meant something like “to deal with in person and face to face”; following the Peace of Westphalia, the word “treaty” throughout Europe meant “agreement” (Seed 2001: 25-6).

²⁷ Notably, “classical contract” thinkers like Hobbes and to a lesser extend Pufendorf and Grotius saw some compatibility between contract and duress (Pateman 1988: 47).

1966: 430). As it was in the case of marriage, legitimate rulers making treaties were only so because they represented others whose identity was subsumed under that of their sovereign by their (ideally) freely given consent. For contractarians like Thomas Hobbes, political legitimacy was more durable where consent could be imagined to be tacit. Why would a citizen ever withhold consent, he suggested, given the preferability of life in the civil state compared to life in the natural state?²⁸

Political legitimacy for the British of the Eighteenth century could be found in its perfected form in Blackstone's *Commentaries on the Laws of England* (1765-70). There he described the state as an institution combining plotting the interests of the people as a negative function of authority ("execution" or "strength"). Democracies represented a perfection of the former and monarchies that of the latter. Aristocracies were presumably somewhere in between, wise but dishonest. Looking at each extreme, he declared that democracies were "foolish in their contrivance, and weak in their execution; but generally mean to do the thing that is right and just"; monarchs were comparatively good at execution though they operated always under the "imminent danger of his employing that strength to improvident or oppressive purposes" (Blackstone 1966: 49-50). Overall, Blackstone's formula imagined monarchical and aristocratic forms to be a necessary evil; legitimacy lay closer to the democratic form or to honesty. Yet, without an executive, the state could do nothing and therefore its legitimacy would be meaningless.

To support this, he offered a protracted metaphor of the state as "a collective body, composed of a multitude of individuals, united for their safety and convenience, and intending to

²⁸ Consent to Hobbes's civil society just as consent from a slave to a violent master could, for instance, be given without freedom of choice as "preservation of life being the end, for which one man becomes subject to another, [...] is supposed to promise obedience, to him [...] in whose power it is to save, or destroy him" (Pateman 1988: 45, 47, 68).

act together as one man.” The problem of democracy arose, he noted, with regard to action since “to act as one man,” the body-state

ought to act by one uniform will. But, inasmuch as political communities are made up of many natural persons, each of whom has his particular will and inclination, these several wills cannot by any natural union be joined together, or tempered and disposed into a lasting harmony, so as to constitute and produce that one uniform will of the whole.

(Blackstone 1966: 52)

The solution to the problem of uniting so many disparate wills, that is, the problem of execution, then, was “political union” achieved by “the consent of all persons to submit their own private wills to the will of one man [...] to whom the supreme authority is entrusted” (Blackstone 1966: 52). Blackstone’s political imagery was somewhat Hobbesian as it used the sovereign body, or the body of the sovereign, to symbolize a multitude of wills. Blackstone imagined English government to be the perfection of this typology as it contained all these elements, a king, a wise and aristocratic House of Lords, and a House of Commons in which the people’s interest lived. In short, England’s political legitimacy was supported by the best of all worlds. Yet, the political legitimacy of Indigenous North Americans under English jurisprudence was somewhat shaky, resembling Blackstone’s “collective body” or the disembodied will of the people, dispersed and incapable of action.

In practice, it had not been hard to treat with the Indians before the Proclamation. When chiefs or their constituents were displeased with treaties or transactions, these could be enforced by the threat of violence or simply walked back by colonists. Before the Proclamation, then, private contracts had taken the form of treaties of capitulation as settlers in the backcountry

made deals or encroached on Indigenous land only to call on British authorities for help when things went sideways. In this way, writes Stuart Banner, “settlers could enjoy all the gains from occupying Indian land while externalizing a portion of the costs. By fighting sporadic Indian wars, the British government was in effect subsidizing the illegal occupation of the Indians’ land” (Banner 2005: 99). The Proclamation, unlike previous proclamations that had been issued on the local level, represented an attempt to communicate more than regulate.

It signaled to Indians that it would not take their lands and to colonists that, despite leaving the nature or legitimacy of their dealings inarticulate, the crown favored a sovereign-to-sovereign relationship with Indigenous North Americans. Having no small effect on the Indians, the Proclamation outraged colonists who began to see how their rights were being fettered by people who did not understand them. Some like George Washington saw the proclamation as an opportunity, a comparative advantage over other less wealthy settlers who could not afford to dabble in illegal trade. Upon hearing of the new law, he sent his secretary to buy up as much Indian land as he could.²⁹

Because the law made such purchases worthless, there was always a chance that the Proclamation would be overturned by something in the future. Said another way, Washington, among other colonial speculators of the time, tied his investment risk to the narrow chance that the British would change their minds or leave the continent. A little over a decade later, citing various other hinderances such as a lack of representation in the mother country, the Proclamation tied Rogers’s two colonist groups, poor immigrants and British elites together under the common cause of liberty.

²⁹ Worthington Ford 1900: 133-149.

1.5. “...a chief to symbolize a people...”

The king and his ministers had proclaimed favor for the idea of Indigenous political legitimacy, though they had not and probably could not have described it. Hobbes and other contractarians of the seventeenth and early eighteenth centuries understood Indigenous people as pre-civil and therefore pre-political. Despite claims that Hobbes and other philosophers of the state of nature concept did not mean “state of nature” literally, Indigenous North Americans are often seen as an exceptional example of the early state by figures such as Hobbes and Rousseau. Moreover, drawn within the parameters of the typical state of nature story, Indians were individuals who not only had the power or capacity to consent to subjection under a king but probably, given their uncertain lifestyle, desired it.

Rogers seems to favor the idea that Indians wanted to be subjects of George III, or he at least wanted to be perceived that way. Throughout *Ponteach*, his Indians lament the king’s absence amid the violence and corruption of colonists. He wrote in his *Account* that Pontiac “often intimated to me, that he could be content to reign in his country in subordination to the King of Great Britain” (Rogers 2007: 173). Yet, he also intimated there that Pontiac was the “perfect King or Emperor” of the Indians (Rogers 2007: 171). While he probably did not set out to reconcile this contradiction in his own writing or to fit *Ponteach* into a political theory, his play nevertheless offers a strange account of Indigenous legitimacy that seems to have survived its poor initial reception. As I’ve suggested above, Rogers seems to have portrayed *Ponteach* as something both sovereign and compromised by warrior figures like Philip. As such, *Ponteach* is nearly a king to a society of democratic caricatures.

Indigenous communities in the area of Detroit (i.e. largely Ottawa, Ojibwe, Potawatomi) were observed by Europeans in the seventeenth and eighteenth centuries to have been politically

decentralized and the power of their leaders, non-coercive. Or, as Rogers wrote in his *Account*, “the great and fundamental principals of their policy are, that every man is naturally free and independent” (Rogers 2007: 167). And though there is evidence to suggest that Indigenous North Americans knew and maintained geographical boundaries, their understanding of law and territory was generally much more malleable than European ideas which would tend toward the imposition of concepts like jurisdictional uniformity.

On the political power of leaders, a Chippewa civil chief or *okama* named Chigabe offered perspective to the Governor of New France, Louis de Buade de Frontenac in 1694: “Father: It is not the same with us as with you. When you command, all the French obey and go to war. But I shall not be heeded and obeyed by my nation in a like manner. Therefore, I cannot answer except for myself and for those immediately allied or related to me” (White 2006: 37). The French officer, Louis-Antoine Comte de Bougainville, stationed under Montcalm during the French and Indian War noted that even during the best of times “‘there is only voluntary subordination’ among the western Indians. ‘Each person is free to do as he pleases. The village chiefs and war chiefs can have influence, but they do not have authority” (White 2006: 206). As White notes, in Algonquian village societies, political power was imagined as “arising from outside” from manitous or spirits who could be associated with an “individual or group” (White 2006: 38). Other sources of power included the visions of ancestors and other such traditions which might become associated with a ritual bundle containing objects related to the original vision.

Outside of local and spiritual influences, chiefly power was cemented through the redistribution of resources such that the powers of Anishinaabe chiefs fluctuated with their success in trade negotiations and their receipt of diplomatic gifts and other goods. Chiefly

persuasion was bolstered by goods, which secured the influence of leaders over their young men, “depend[ing] upon how much they exert it, and upon their attention to keeping their kettles full, so to say” (White 2006: 206). Again, Rogers joined this collection of commentators in his *Account*, remarking on the limited power of war chiefs, conflating them with village chiefs, who govern “without any real authority, [...and] by advice only, not by orders” (Rogers 2007: 231). In *Ponteach*, Rogers attempted to represent Indian kingship in a number of ways, through Ponteach’s position in meetings of the “Indian Senate,” his interaction with corrupt British officials, and that with the warriors who are controlled, in agreement with his *Account*, by his son Philip—presumably a war chief, or, as Rogers discerned, “principal warrior” (Rogers 2007: 160).

During the the Honnyman torture scene above, for instance, Ponteach intervenes and reveals his textbook Indian leadership style. Coming in between the young men and their quarry, Ponteach exerts his authority the only way he can—through persuasion. In what was probably meant to be a powerful and persuasive argument, Ponteach declares:

Stop: Are we-not unwise to kill this Woman?

Or sacrifice her Children to our Vengeance?

They have not wrong'd us; can't do present Mischief.

I know her Friends; they're rich and powerful,

And in their Turn will take severe Revenge:

But if we spare, they'll hold themselves oblig'd,

And purchase their Redemption with rich Presents. (Rogers 2010: 141)

His short practical appeal to the warriors, headed by Philip, convinces them to relent and respond, “Your Counsel's wise, and much deserves our Praise/They shall be spar'd” (Rogers

2010: 141). Again, to European onlookers, the scene would have represented the political precariousness of tribal life. The decision to kill or spare an external foe is split between the war party and Ponteach who offers his “advice only” and must hold out the possibility of a ransom to get his way. As such, Philip and the warriors perform some of the same work as they do above as they reduce Indigenous society to a trope of violence which Indians, the play suggests, call government.

As Ponteach appears troublingly beholden to a group of reckless thugs, the scene would certainly have represented the opposite of British social order to English readers—though his preceding treatment of English murderers, the Paxton-like hunters murdering Indians in secret, might have muddied English perceptions of the strength and reach of British social order. It is just as likely that Rogers’s intention was both to depict Indigenous society as politically tenuous but also to depict Ponteach as exemplary in his ability to bring it to order. This is at least the impression he and other British officials had of Ponteach by the end of the war that later bore his name.

Treaties with Indigenous groups had never required a king, *per se*. In practice, a chief elected to speak by his people had and would suffice. Yet, near the end of the war in 1765, perhaps under the influence of the Proclamation, and/or exhausted by the need to make peace with so many different tribes, authorities began to imagine a leader who could speak for and broker peace with all the tribes of the upper country at once. Even near the end of the War, Pontiac was distinct among leaders and still claimed to speak for a group that cut through tribal distinctions. The belts he carried were not those of “tribes or nations but the villages that followed him” (White 2006: 296). One-hundred-sixty-four to two-hundred-ten villages across the Detroit or Great Lakes area had allegedly allied with Pontiac.

Moreover, in early 1765, groups from the Ohio country moved to make a separate peace with the British. This initiated peace talks with the chiefs of Detroit, which Pontiac had absented himself from. Upon receiving Pontiac's peace belt, Colonel John Bradstreet profanely cut it up in light of the missing chief's audacity. Bradstreet had also been tempted by the great lakes and imagined himself a little king there. His domineering persona and delusions of grandeur (he had written up his own treaty and had the Indians sign it, thereby swearing fealty to him as his "subjects") gave Pontiac a late war political boost among Indigenous groups of Detroit. Bradstreet reinforced their faith in Pontiac's anti-British message (Anderson 2000: 623).

A year before, the famous backcountry trader George Croghan had written that Pontiac "commands more respect among those Nations (i.e. the Wabash villages), than any Indian I ever saw could do amongst his own Tribe" (White 2006: 296). While tribes and officials sought peace, Rogers reported to English readers of his *Account* that among the "Indians of the lakes," Pontiac was a "perfect King or Emperor, who has certainly the largest empire and greatest authority of any Indian Chief that has appeared on the continent since our acquaintance with it. He puts on an air of majesty and princely grandeur, and is greatly honored and revered by his subjects" (Rogers 2007: 171). To Rogers, Pontiac was exemplary, though there is reason to believe that Rogers had been effusive about the leader only to raise his own status.³⁰

Early in 1765, the peoples of the Ohio country had made a separate peace, leaving only those of Detroit and Illinois country where another leader named Charlot Kaské had garnered a following that rivaled Pontiac's. As Kaské was younger and allegedly more radically anti-British than Pontiac, the choice for the British was obvious.³¹ Early in 1765 Thomas Gage wrote Pontiac with offers of peace and the promise to raise him to the status he had held, and would only hold,

³⁰ Gordon Sayre 2005: 155.

³¹ Fred Anderson 2000: 626.

in text. And seeing the Illinois country lost under the radical leadership of Kaské, Gage intended to subdue them with the help of Pontiac. In return, Fred Anderson describes, he would become “the most powerful Indian leader in America [...in] a kind of supreme chieftainship of the western Indians” (Anderson 2000: 629).

Trying to ride this oncoming gravy train, Rogers added a story to his *Account* about his acquaintance with the Ottawa leader, which begun, he claimed, when the had tried to pass through his territory. After this, Rogers alludes to a years-long acquaintance with the Ottawa king beginning in 1760. The short narrative then ends with a story about Rogers having sent a bottle of brandy to Pontiac in 1763. Though his advisors warn Pontiac that he should not drink it as it might be poisoned, Pontiac “laughs at their suspicions” saying that Rogers was incapable of killing him considering he owed the chief his life (Rogers 2007: 174). Read through seventeenth- and eighteenth-century political theory, this seemingly innocuous bit of name dropping suggests that Rogers was not only very good friends with Pontiac but that the latter was very powerful (or presumptuous) enough to assume that Rogers was under his protection. In seventeenth century speak, this had come to mean sovereignty.

While echoing the sentiment behind the George III’s recent Proclamation, Rogers’s need to convert Ponteach into a legitimate monarch owed most of all to his plans for personal advancement as well as, and relatedly, the need to posture expertise about the nature of the Indians and their recent war. Rogers knew something about the former, but the latter was a bewildering mix of peoples and grievances. Rogers arguably failed to completely submit fact to imagination, though he can be seen trying, as Richard White notes, to invent a “chief to symbolize a people” (White 2006: 270).

1.6. Conclusion

As White tells the story, the British delusion about Pontiac's kingship seemed to be self-supporting as he had negotiated the end of the Rebellion despite that fact that it had already lost much of its inertia. At first, this stood as proof of Pontiac's usefulness, both to him and his constituents. And "impressed by his own success [...Pontiac had] his head turned by British attentions and began to conduct himself like a king" (White 2006: 312). He would later declare at a 1766 conference in Ontario that he commanded "all nations" to the west, a message that Rogers's play and guidebook were more-or-less simultaneously disseminating in England (White 2006: 312). As White notes, this was the action that led to Pontiac's real-life fall. The tragic end of Pontiac, so-called king or "emperor" of the Ottawa, owed to the fact that he had "made the fatal mistake of acting the part. Pontiac himself began to speak in a tone that was utterly at odds with Algonquian understandings of leadership and subordination" (White 2006: 312). Becoming a grandiose personality, Pontiac's noticeable hubris caused many in his tribe to ask for another representative and by 1768, Pontiac enjoyed a celebrity among the British that was wholly meaningless among the Ottawa.

Attempting to rally the political forces in his tribe on his name alone, "The young warriors openly threatened him, denied he was a chief, and, on several occasions, beat him" (White 2006: 313). Finding life in his own community intolerable, he went to live with relatives in Illinois country where, not too long after, he was clubbed to death and stabbed by a Peoria chief. White calls the true-life story of Pontiac "a monument to the limits of chieftainship" (White 2006: 313). The difference between Rogers's Pontiac and White's is instructive.

White's version of Pontiac's tragedy is, I argue, more satisfying than Rogers's as in it Pontiac is held accountable for transgressing the values of his own community, not those smuggled into it by Rogers. Moreover, hearing of Pontiac's tragedy we hear that he was human who saw and reached for things that exceeded those permissible within (a textual rendering) of his Ottawa society. As Creek critic Craig Womack notes, stories of transgression can be a powerful creative force in this way as they not only create better stories but they renew and reimagine the norms of the community their deviants call into question: "[n]o [...] endeavor, can survive solely on conformity" (Womack 2010: 299). With provocative phrasing, Womack suggests that the "power of such stories is their deviation—they will always sneak outside of their own jurisdictions" (Womack 2010: 315). The contrast of the two tragedies of Pontiac is in this way instructive as Ponteach never deviates in Rogers' telling from the norms of his own Ottawa jurisdiction; the norms Ponteach in fact transgresses are implicitly European.

Chapter 2: Romance of Land Conveyance: Marriage, Custom, and Honor in Sarah

Wentworth Morton's *Ouâbi: Or the Virtues of Nature*

2.1. Introduction

[While after the period I treat in this chapter, Patricia Seed offers an example drawn from a correspondence between Governor of New York, George Clinton, and several Oneida chiefs in 1790. While emphasizing the ritual dimension of the deal, that they had smoked their “pipes together,” Clinton holds them to a land sale that, orally, the Oneida leaders had understood as a lease. In their letter, the leaders note they had returned from the negotiations, “possessed with an Idea that we had leased our Country to the People of the State, reserving a Rent which was to increase with the increase of the Settlements on our Lands until the whole Country was settled, and then to remain a standing Rent forever.” Yet, after reviewing the “Writings” and having them “explained” they noticed that “our Hopes and Expectations blasted and disappointed in every particular. Instead of leasing our Country to you for a respectable Rent, we find that we have ceded and granted it

In 1779, acting Secretary of State, John Jay wrote to Governor and part-time land speculator, George Clinton about the attitude prevailing among Americans who “have affected to speake of that Country as a conquered one,” at least with regard to the country occupied by Indigenous nations (including Onondaga, Mohawk, Seneca, Cherokee, and Muscogee) who had formerly been British allies during the American Revolution. “I should not be surprised” he continued, “if they (Americans) should next proceed to insist that it belongs to the united States, by whose Arms it was won from independent Nations in the Course and by the Fortune of War” (*sic* Banner 2005: 122). Reproducing these sentiments, General Philip Schuyler proclaimed to an assembly of the fragmented Six Nations in New York in 1783 that the American government he represented should now be considered “Masters of this Island” and thereby able to “dispose of the lands as we think proper or most convenient to ourselves” (Hazard 1877: 64). Schuyler’s

bombast marked the first chapter of Indigenous North Americans' dealings with an American government free of British tyranny. At this time, the 1780s, the new government would "dictate," in Stuart Banner's words, a series of treaties that amounted to not much more than the forceful seizure of Indigenous land.³²

Entailed by this characterization of America's founding is a revision to the long-standing mythos underwriting American identity. Rather, the American Revolution is often discussed as a conflict catalyzed variously by the class interests of British subjects in the colonies seeking freedom, as an outgrowth of the everyday experience of status inequity, or as a battle waged over ideological principles. Yet, these histories appear rather hidebound considering the immediate legacy of the revolution, marked most prominently by a voraciousness for Indigenous land among settlers of all statuses. Indeed, the withdrawal of British forces signaled more than a reprieve from British taxation, which largely served to allay the cost of maintaining standing British forces against Indigenous aggressors. The American Revolution also meant the removal of British sanctions such as the Royal Proclamation of 1763, the sanction barring westward settlement against which so many land-hungry Americans bristled at the outbreak of Pontiac's Rebellion.³³ With the departure of its British guardians, the soil was presumably free to seize, barring, importantly, the persistence of its Indigenous possessors.

Sarah Wentworth Morton's (1790) *Ouâbi: Or the Virtues of Nature; An Indian Tale in Four Cantos* marks this change of negotiators, of Imperial for Indigenous guardians. In plot and style, it offered readers a provisional fantasy of land acquisition, creating Indigenous subjects motivated primarily by custom that Morton represents as compatible with settler ambitions. At a

³² Stuart Banner 2005: 112-49.

³³ See Fred Anderson 2007: 641-708.

glance, *Ouâbi* is about an illicit courtship between Celario, a British outlaw, and Azâkia, the young wife of an Illinois chief, which concludes as the chief, Ouâbi bestows his wife on Celario as a means of rewarding the latter for his valor and integrity. In this moment and following Ouâbi's inexplicable death, Celario will seemingly assume control of the tribe as well as Ouâbi's household. This love triangle and subsequent conveyance of wife and property offered readers in its time a pleasing way to re-think land acquisition in the last decade of the eighteenth century. Importantly, however, *Ouâbi* pioneered a documentary style in ethnographic footnotes below its verse that represented settler land-taking as an amiable, or, as I will explain, "honorable" practice that would be welcomed by Indigenous possessors as it was agreeable to Indigenous custom.

Land taking in the 1780s was led by states seeking to defray their revolutionary war debts, expand their land bases, and appease powerful speculator interests. Though states variously continued to enforce a version of the Proclamation on individual citizens, settlers of every ilk pursued the dispossession of Indigenous landowners with little regard for the economic and military consequences. Governor Rawlins Lowndes of South Carolina wrote that "Sharing the Indian Lands [with Indigenous possessors] renders a War with those People a desirable Object not considering or Caring what expence is incured or by what means it is defrayed" (qtd in Banner 2005: 121). States with large potential land bases, states like Georgia, for instance, were most adamant about expanding their borders. In doing so, they displaced Indigenous nations that, without the assistance of their imperial factor, took up arms to defend their lands. In the years that followed, embattled states would call upon the federal government to assist in defending their borders from 'hostile' Indian nations understandably unwilling to concede that they had been recently conquered.

As they sought to curtail various costly conflicts emerging up and down the Mississippi, officials such as then war secretary Henry Knox sought more diplomatic methods for acquiring Indian land. The resulting policy has been famously called by historian Robert Berkhofer “expansion with honor,” which he traced to Article III of the Northwest Ordinance that Knox penned in 1787: “The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and, in their property, rights, and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress” (United States 1867: 61). While outwardly benevolent, “making American expansion contingent upon Indian consent” the policy, which reached beyond the Ordinance, recast the federal government as the British following the Royal Proclamation, pronouncing that the only valid transactions would be those conducted between governing units of Indigenous groups and federally authorized officials (Berkhofer 2011: 152).³⁴ Settlers could have their land, but only after the federal government made it available for purchase by buying it from tribes first.

Overall, the policy was rather equivocal and contradictory, based largely on the hopeful notion that settlers could eventually lay claim to land that Indians would willingly vacate, or that

³⁴ The Trade and Intercourse Acts were a repetition of the policy and rationale underpinning The Royal Proclamation and it could be argued that the Proclamation was really nothing more than a reissue of similar prohibitions on unauthorized land sales beginning with Article 15 of the Virginia Colony’s Dale’s Code, a code of martial law issued by Sir Thomas Dale in 1612 which stated quite harshly (many of its punishments were death) that “[n]o man of what condition soever shall barter, truck or trade with the Indians, except he be thereunto appointed by lawful authority, upon pain of death” (Virginia 13). Decades later, Plymouth Colony proved that the lesson was slow to take as a bloody conflict had broken out with the Wompanoag sachem, King Philip over colonist policies inextricable from land and settler imposition. In 1676, Governor John Winslow assured Increase Mather, “I think I can clearly say, that before these present troubles broke out, the English did not possess one foot of Land in this Colony, but what was fairly obtained by honest purchase of the Indian Proprietors” (Richard Slotkin 2000: 146). Winslow explained the rationale behind that law, that “because some of our people are of a covetous disposition, and the Indians are in their Streits easily prevailed with to part with their Lands, we first made a Law that none should purchase or receive of gift any Land of the Indians, without the knowledge and allowance of our Court, and penalty of a fine, five pound per Acre, for all that should be so bought or obtained” (Richard Slotkin 2000: 146).

“Indian tribes would be ready to sell whenever Whites were ready to buy” (Berkhofer 2011: 152). Yet, this was merely fantasy; Indigenous people would not so willingly or so frequently surrender their land to federal officials any more than their constituents, despite how impatient both were to hold title to it.

“Expansion with honor” was something of a stopgap, which manifested outside of the Northwest Territory in a series of laws called the Trade and Intercourse Acts beginning in 1790. These laws, combined with constitutional provisions in articles I and VI, were enacted and interpreted, respectively, as bestowing on the federal government the right to “preempt” purchases made by settlers, becoming cumulatively part of what is referred to as federal preemption policy with regard to the purchase of Indian land. The first of the acts, the Non-Intercourse Act stated as general law the provisions of the Northwest Ordinance, that no Indian lands could be transacted between any parties but those recognized as governing officials, both American and Indian. Rather, private persons, Indian and American, were barred from making valid transactions with each other or without the formation of a “public treaty.” Again, preemption or expansion with honor was not a wholesale prohibition on the white ownership of (formerly) Indian land, but a means of ensuring that these transactions were fair or “honorable.” As I argue below, Morton’s *Ouâbi* offered an answer to “honor” as a governing federal principle. In its setting and narrative structure, the poem presents Indigenous land as the location of fantasy, an escape from federal supremacy. Moreover, its portrayal of land exchange between individual settlers and Indians is framed as a romance between a white man and Indian woman, showing that land conveyance could be both fair and indeed “honorable.”

Through a mixture of poetry and positivistic facts that fictionalized the surrender of Indigenous property, land conveyance is seemingly ordained by Indigenous custom and

transformed stylistically into consent, studiously or positivistically corroborated in footnotes throughout her poem. As such, Morton's documentation sanctions the "honorable" exchange of Ouâbi's wife, Azâkia, between men, stylistically replacing the interior lives of Indigenous people with a preponderance of positive cultural facts gathered by European ethnographers and presented below the text by Morton. What was tacit in Rogers' play about Indigenous social roles, converted essentially into Indigenous psychology, is here textualized and externalized in direct descriptions of poetic events. All said, Morton's poem produces an unavoidable connection with federal Indian policy in its day as it creates an association between marriage and commercial contracts, extending a time-honored metaphor among white, European colonists and explorers in which the female body is substituted with land.

Important to my reading of *Ouâbi* is its use of footnotes to carry a significant portion of the meaning for its verse. Morton's footnotes indicate a turn toward empiricism in scholarship and law of the nineteenth century. Before this turn, Anthony Grafton notes, "the historical footnote was a high form of literary art," associated with the playful documentation of historians like Edward Gibbon (1997: 1). By contrast, Grafton sees later empiricist formulations of footnoting as tragic.³⁵ Gone in the footnotes of modern scholars were the playful and ironic references to the main text, Grafton suggests, which gave way in the nineteenth century to dry documentation familiar to scholars in the present. This new mode of documentation, at best, told readers a second narrative about the research process itself and, at worst, merely created a kind

³⁵ Most of Grafton's *The Footnote: A Curious History* identifies in numerous entertaining examples of leading figures who shaped the destiny of the footnote. Yet, his erudite work lacks any particularly definitive or totalizing thesis about the destiny of the footnote. Ernst A. Breisach has therefore attempted to extract a theme from the various titles given to the book in Germany and France. "The word "tragic" likens the tension between text and footnote in historical accounts to that between the action in a Greek tragedy and the comments on it by the chorus. In the face of the seeming solidity of the text, the footnote serves as a reminder of the contingency of life as well as the precariousness of the text's construction. Not surprisingly, Grafton regrets the diminution of the footnote to a technical item for archival documentation" (Breisach 1998:1553).

of “reality effect” by letting documentation “overwhelm the text in order to prove history's reliability” (Breisach 1998: 1553). Morton’s notes, with her posture of authority, are certainly the latter kind.

Exclusively about Indigenous subjects and their habits, Morton’s notes seem to say “we are the real” compared to her romantic verse. Note reify settler interpretations of Indigenous custom while also holding them out as complete explanations of Indigenous subjectivity. Roughly tandem and related to this movement in documentation was a greater emphasis on textualization in the law, the publication of codes and statutes under the pretense that they provided more certainty *qua* justice to an emergent American legal system. As I will argue, Morton's footnotes work similarly with their content, pleasing her readers by conflating Indigenous desire and action while constraining freer interpretations of her verse passages about her Indigenous characters.

On the whole, recent critics have ignored Morton’s notes. Gordon Sayre offers simply that footnotes were not uncommon in natural history poems of the period and cites three works including James Grainger’s 1764 *The Sugar-Cane*. Yet, Sayre perhaps fails to recognize the unsettling comparison this produces, between the botany knowledge or “natural history” in Grainger’s poem, and, in *Ouâbi*, the interior lives of Indigenous subjects attached to ethnographic facts.

Morton’s footnotes did not go unmentioned by her contemporary readers, who sometimes admired the content of the poem’s footnotes as much as its verse. A 1793 reviewer of the poem remarked, for instance, on its “many illustrative notes containing curious information respecting the customs and manners of the Aborigines of North America in the perusal of which, the reader may sometimes be led to great admiration of the superior excellence of savage virtue” (*Monthly*

Review 1793: 73). In particular, the reviewer wished to applaud the superhuman obedience of Indigenous women who, “in the practice [...] of virtue they appear to surpass many European wives” (*Monthly Review* 1793: 73). Another reviewer of Morton’s work admired the poet who was certainly “conscious of the dignity of truth, even in the state of nature,” as she “wisely rejected even the appearances of improbability,” presumably another reference to Morton’s constant footnotes (*Monthly Museum* 1790: 759). “[T]he reader’s soul of consequence,” the review continues, “is doubly interested in all that happens” (*Monthly Museum* 1790: 759). What is here called the reader’s “soul of consequence” describes the feeling that *Ouâbi*, a story about a man educated by nature surrendering his wife to a wandering outlaw, contained more truth than fancy. Reducing Indigenous intention to documentation, Morton’s work supported the agenda of land speculators in the Early Republic and, as I argue, provided documentary evidence that Indigenous custom permitted the substitution of Indigenous for white, settler desire.

Ouâbi provided a hopeful story about land conveyance to white settlers who in the last two decades of the eighteenth century were as impatient as the poem’s white outlaw, Celario to receive “all his claim.” As I describe, this impatience was produced for white settlers by federal sanctions on the purchase of Indian land, which led speculators to imagine a variety of ways to accelerate their acquisition of Indian land such as intermarriage and the virtual market in what was called preemption rights. In large part, settler solutions to the Indian land problem rested on a construction of Indigenous people as easily manipulated and/or willing/unwitting participants in white settler schemes—an impression that led settlers to gradually dismiss the legal competence of Indigenous title holders and the validity of their *actual* titles. The fantasy of preemption rights, which were essentially provisional or virtual titles to Indigenous land, were predicated on a vision of white cultural mobility that was imagined to be lacking in communities

of individuals who were culturally Indian. Morton's *Ouâbi* offered a romantic solution to the Indian land problem in narrative but, more importantly, I argue, at the level of style, in its compelling use of documentary facts.

Following my discussion of settler land schemes in the 1790s, I examine Morton's frequent use of documentation to carry the meaning of her romantic verse. In this examination, I offer the uniquely textual history of British colonization, not only for its use of romantic themes to advance an imperialistic agenda but for the way British officials worked those themes into what would be called Anglo-Hindu Law, an innovation in colonization studied by various historians of British and American colonization and postcoloniality. In this section, I point to consistencies between Morton's use of ethnographic information to supplement her romantic verse and the British transcription of Indigenous culture into positive law for the purpose of managing Indigenous populations in India. As Anglo-Hindu law proved a brilliant device for manipulating Indigenous populations and history itself, Morton's notes offered empirical proof of Indigenous consent to American territorial expansion, bolstering late eighteenth-century legal innovations that served the project of North American territorial expansion.

2.2. Marriage and Mobility

In the 1790s, settlers reimagined an Indigenous subject in response to new legal and political demands imposed by the federal government. The primary feature of this new subject was cultural immutability that complimented settler fantasies of escape from the edicts of federal policy. In *Ouâbi*, this immutability is constructed against the mutability of its white outsider, Celario, whose ability to enter and influence Indigenous society is contrasted with the rigidity of that society and its subjects.

Critics have imagined Celario's escape into the wilderness to be a key feature of the poem, though they have understood the poem as a whole to be a more personal expression than a commentary on political or legal events of its day. For these critics, *Ouâbi* is a *poème à clef*, or a poem that transfigured the scandalous affair between Morton's sister Fanny and her husband Perez, a scandal that left Fanny dead and Perez implicated by the coroner in her suicide. As such, scholars have characterized the poem as a primitivist escape from the sexual mores of settler society but also an act of personal empowerment, an appeal for marriage reform, and a simple, expressive revision of the scandal itself, in all cases sequestering the poem to the Morton home or to domestic significance. Helen Carr argues that Morton may have written the poem simply to reimagine her "story of her humiliation," choosing Indians because of their liberating connection to "eighteenth-century primitivist sensibility" or their moral malleability (1996: 91). Morton's romantic wilderness offered her readers a welcome release from the stuffy and sexually repressed spaces of settler society. Carr adds that "her knowledge of the Indians as suffering and oppressed echoe[d] her own suffering and oppression as a woman" (1996: 91). In Carr's evaluation, Azâkia chooses the "blemished" Celario over *Ouâbi* because the latter, perhaps an analogue for Morton, is "unbearably good" (1996: 92); the world of corruption and scandal is too fallen for the likes of *Ouâbi* and his creator, she argues, and so pristinely natural *Ouâbi* must leave it in the poem's final elegy (1996: 97).

Similarly, Julie Ellison writes that *Ouâbi* was Morton's "literary response to the scandal [that] combined dignified public loyalty to her husband with significant personal estrangement" (1999: 136). For Ellison, Morton's reaction to scandal was to write a naturalistic and poetic argument in favor of extramarital love since Indigenous society, or European fantasies of it, were "flexible enough to permit the satisfaction of both desire and honor" (1999: 136). In this view,

the scandal led Morton to fictionally posit the divorce of Azâkia and Ouâbi as a solution to her personal misery (her marriage) after the fact, or as a simple solution that might possibly have prevented Fanny's death. As Ellison notes pithily, "*Ouâbi* is in some ways the pointed antithesis of the novel of seduction" as it teaches that extramarital romance need not end in tragedy (1999: 137). The poem in Ellison's reading is a narrative of manly friendship between Celario and Ouâbi which is meant to provoke change in the culture of the former by the virtuous example of the latter and its casual attitudes toward divorce.

Perhaps the most forceful reading of *Ouâbi* as *poeme à clef* is Gordon Sayre's interpretation of it as a reproof of illicit love and specifically of the attitudes of white, male colonists. Colonist writers were drawn to a North American setting, Sayre explains, because of their associations between Indians and sexual liberation or the "supposed absence of the laws and taboos that constrained sex and romance among Europeans" (2003: 331). Accordingly, Morton disparages those associations and makes Perez into a colonist who has inappropriately intruded into the Aphthorp sisterhood (Sayre 2003: 331). Placing each character in their fictional roles, Sayre suggests that Ouâbi is Sarah, Azâkia is Fanny, and Celario, interloper into the happy Aphthorp family, is Perez. In this reading, Morton parallels her own gullibility to Ouâbi's, donning the idealized Indigenous costume of eighteenth century naturalism in a very personal (and rueful, perhaps) act of apologia. She notes in her introduction that Ouâbi has "a degree of sensibility [...] incompatible to the greatness and superiority of his character" (2010: v). Morton adds, referencing the prevailing eighteenth-century discourse of naturalism that "the mind unpracticed in deception"—a vice identified early in the poem as an outgrowth of civilized society—"can never be capable of suspicion" (2010: v).

Whether Morton's poem represents a call for marriage reform or a very personal entanglement of her personal scandal with the narrative tendencies in male travel narratives it is impossible to say. All critics seem to agree in some way with the fact that the poem offered a welcome escape from the rules of settler society for its civilized readers. Yet, escape motif aside, the poem is "politically and emotionally ambivalent," and will not be clarified through any shuffling of the poem's characters and real-life referents (Carr 1996: 76). Despite any personal intention of Morton's, *Ouâbi* was in all likelihood popular because of its fantasy of primitivist escape as well as its flattened depiction of the intentions of her Indigenous characters. And while I agree that it is important to examine the poem's engagement with the politics of emergent Republican domesticity and its ambivalent detractors, it is equally important to understand how *Ouâbi*'s use of Indigenous characters implicates it, unwittingly or not, in a discourse of colonization, albeit a gendered one. The poem is therefore not unrelated to the political strivings of white women seeking an escape from state-sanctioned marriage inequality in eighteenth and early nineteenth centuries. Yet, as I argue, Morton's poem tells a larger, imperialistic story that describes in great and seductive detail the accommodation of Indigenous people to the desires of European outsiders.

Moreover, regarding the theme of escape, the poem's setting offers another interpretation and a more illuminating engagement with the events that would have affected Morton's Indigenous characters and Morton's society at the time. As I mention above, the honorable or consent-driven treatment of the Indians featured in the Northwest Ordinance installed an obstacle between settlers and "unsettled" lands to the west. And while the rhetoric of the Ordinance was instrumental in producing the general policy mood, the policy itself was more forcefully imposed in the Trade and Intercourse Act of 1790, a legal sanction on all non-official economic dealings

with Indians. Importantly, as numerous historians have noted, British and later American sanctions on trade with the Indians—sanctions meant to curtail the activities or legal capacities of settlers—instead took on the character of a disability for Indigenous sellers. This was a curious turn that would lead gradually to the erosion of the concept of Indigenous possessory rights. The law under federal preemption policy, the notion that land was only purchasable from the federal government, not from Indians, had led to the twisted assumption that “Indian property rights [were] something short of full ownership” (Banner 2005: 189).³⁶ This shift in perspective was gradual, however, as British, and then American sanctions on the purchase of Indian land continued to present impatient colonist speculators with a difficult barrier to legitimate title.

To escape the federal prohibitions on the settlement and purchase of land in the Trade and Intercourse Act, discussed above, American speculators moved their commerce into a new space, inventing something comparable to a futures market in land patents called “preemption rights.” Short of a guarantee, preemption rights entitled the purchaser to Indigenous land as soon as the rights of Indigenous occupants had been extinguished. As expressed in *Marshall v. Clark*, a 1791 decision of the Virginia Supreme Court, settlers could truck in what were essentially fantasy titles to Indian land as long as they “risque the event of the Indian claim” or that the Indian claim would persevere (*Marshall*, 1791: 8 Va. at 273). Remarking on the peculiarity of the practice, the Seneca orator *Sago-ye-wa-tha* spoke in May of 1811 to a representative of “certain gentlemen” in New York, a man identified as “Mr. Richardson,” about his employers who had purchased “preemption rights” for Seneca land from the Holland land speculation

³⁶ As Lisa Ford comments in her discussion of the Supreme Court case *Johnson v. M'Intosh*, the “Court, here, created a new judicial philosophy of Indigenous subordination. The court need not have read the doctrine of preemption (by which settlers could only take title in land from the Crown) as an Indigenous legal disability. It might simply have read preemption as a fetter on settler rights” (2010: 136).

company. “The white people buy and sell false rights to our lands” *Sago-ye-wa-tha*, prodded (qtd in Blaisdell 2012: 47). “Your employers have, you say, paid a great price for their right: they must have plenty of money, to spend it in buying false rights to lands belonging to Indians” (qtd in Blaisdell 2012: 47).

Importantly, preemption rights were one among many other law and policy innovations that worked in the first four decades of American history to erode the concept of Indigenous possessory rights. Specifically, preemption offered a powerful fantasy that millions of acres occupied by Indian nations, pending the extinguishment of Indigenous title, already belonged to the white settler holders of said “rights.” Indigenous sellers were the only obstacle between speculators and *their* land.

Like speculators to other tribes, Richardson had come to politely inquire about the possibility of the Seneca soon extinguishing their title to their lands, which was probably not an uncommon experience for tribes of the late eighteenth and early nineteenth centuries. And, during such visits, the honorable comportment of their white visitors most likely obscured greater machinations at work. An Englishman traveling around Albany in 1791, William Strickland, commented on the market in Indian land futures that “are carried on,” he wrote, “to a degree of madness” (Strickland 1794: 165). All absorbed into the legal fantasy of preemption rights, there was “scarcely any land in the vast extent of the Western country that is not patented,” though “legally,” Indigenous nations still “owned” it (Strickland 1794: 166). In Albany, Strickland described a group of speculators and a Mr. Goodrich from Connecticut then also eyeing Seneca land in upstate New York, representing perhaps the first wave of entreaties to the Seneca. Their plan, he wrote, was for the agents of the company to infiltrate the Seneca or “become adopted by the nation” and to “settle along with them, and thus induce the nation to

dispose of the greatest part of their lands” (Strickland 1794: 166). By living among or becoming one of the Seneca, presumably by intermarriage, so went the plan, it would be easier to gain their trust and thereby the extinguishment of their title—at which point the land would devolve to those holding the preemption right. By means of intermarriage, again, the most common route to adoption, the fantasy carried by preemption rights would become reality. Notably, only a year prior to this episode of Strickland’s tour along the Atlantic Seaboard, Sarah Morton in Boston had written a strikingly similar narrative in which a British émigré speculates on the love of a taken Indian woman and receives the whole Illinois nation in exchange for his risk.

Despite the prevailing racism among colonists of the time, who were particularly shrill in their condemnation of inter-marriage, a plan to intermarry with Indians (as a means of dispossessing them) was not as radical as it sounds. In fact, Patrick Henry had only seven years before proposed interracial marriage as a solution, albeit a vague one, to the “Indian question.” An interrogation of the provisions in Henry’s bill offers a means to speculate on how intermarriage might have served the colonial project in the minds of colonists.

In the “bill for the encouragement of marriages with the Indians,” (which failed in its third draft) any white male who married an Indian woman, “of lawful age” and also, “under no precontract to any Indian male,” would receive a grant of ten pounds from the State of Virginia (Wirt 1847: 241n). As imagined in the bill, the Indian woman would become an “inhabitant of this commonwealth” and would thereafter live “in the character of a wife” (Wirt 1847: 241n). Conversely, the bill contained an unusual (for its time) provision for white women marrying Indian men. It is notable that this part of the bill made no mention of Indian men’s naturalization into the commonwealth.

This provision was fascinating for its application of the doctrine of coverture to the topic of naturalization (the assimilation of Indigenous tribes to the ways of white settler society seems to have been here less important than the maintenance of white patriarchy in settler society) as well as its halving of the bounty for white, female marriage contractors. Moreover, the bill contained incentives to adopt a white, agrarian lifestyle including “the purchase of livestock, for his and her use,” and “[five] pounds, to be paid as aforesaid, and laid out under the direction of the said court, in the purchase of clothes for his use” (Wirt 1847: 258-9). In accordance with the principle of coverture, though not specifically articulated in the bill, white brides presumably lost their American citizenship (their legal identity) in the union. Yet, the bill then oddly stipulates that all children produced in this marriage (each producing another bounty of three pounds per child) enjoy, “the same rights and privileges, under the laws of this commonwealth, as if they had proceeded from intermarriages among free white inhabitants thereof” (Wirt 1847: 259). Rather, while an Indian man and white wife would become or remain subjects of the tribe of the former, the offspring of this union would automatically become citizens.

According to Henry’s biographer, William Wirt, retainer for the Cherokee for two of the three Marshall Trilogy cases, Henry’s bill had no other ulterior motive. It was simply intended “to implant kind affections” in the hearts of white settlers “which at present were filled only with reciprocal and deadly hatred” (Wirt 1847: 258). Yet, it bears notice that along with a change of heart, the bill also promoted a change of fortunes, good and bad, for all parties involved. On the one hand, apropos of Goodrich and his company of speculators, the marriages between white men and Indigenous women promised to quickly produce a caucus for speculator interests in the tribe. On the other hand, marriage between white women and Indian men could potentially serve the colonial project by eroding the tribal trust structure in one generation; all the descendants of

Indian men would automatically become citizens and potentially capable of selling their land without the consent of the tribe—the single strongest barrier between white purchasers and title to Indigenous land. Presumably, the politically American, mixed-blood offspring of interracial unions would at some point outnumber any politically Indian leaders.

At first blush, marriages between white men and Indigenous women were more advantageous, or at least much quicker to effect the desired change compared to marriages between Indigenous men and white women. Indeed, this was not only because most Americans saw the latter kind of marriage as repulsive, but because Indigenous men in these marriages retained their political/legal status in the interaction (maintaining the principle of coverture). This presumably left Indigenous marriage contractors unassimilated and the state of their tribal land holdings unchanged. Yet, as I have suggested, even these marriages promised the eventual possession of all Indian land. In 1817, Andrew Jackson offered another way to utilize these kinds of marriages. Once a young lawyer in Tennessee who also engaged in the traffic of “preemption rights,” Jackson wrote to James Monroe suggesting eminent domain as a solution to the Indian problem. “The wisdom of the Government,” he wrote, “has wisely provided, that the property of a Citizen can be taken for public use, on just compensation being made” (qtd in Banner 2005: 197). Jackson’s plan hung on the power of the federal government to dispossess its citizens, though Jackson unrealistically inflated this power by suggesting that it could have been used against American citizens as a means of taking and redistributing the land of some (brown) citizens for the benefit of its other (white) citizens. Perhaps what strained Jackson’s logic the most, however, was that Indians were not actually citizens of the United States.³⁷

³⁷ See Jackson, et al. 1980: 95. Also, for a discussion of Jackson’s flawed legal logic and this proposal generally, see Merrill and Paterson 2009: 197-8; Banner 2005: 202.

At any rate, intermarriage was one way, and perhaps the most popular way of imagining the conveyance of Indigenous land into the hands of whites. Alternatively, another means of fulfilling this fantasy of land conveyance, William Strickland noted, involved wishing—that is, wishing for “a fortunate war, or invasion of smallpox” (1794: 168). The innovation of “preemption rights,” he notes, “prove[d] a strong inducement to these unhallowed purchasers to extirpate the much-injured owners of the soil and in too many instances their destruction [was] pursued with remorseless perseverance and their annihilation spoken of with atrocious pleasure” (1794: 168). As Stuart Banner characterizes, the market in preemption rights had “the perverse effect of bringing speculators’ financial incentives into alignment with their racism” (2005: 161). As I argue, however, according to the prevailing policy mood and very real federal sanctions on the buying and selling of Indian land, settlers of the 1790s sought fantastically to align their desires for land with Indigenous consent. One means of doing that was intermarriage.

As I have suggested, the events of Morton’s poem in large part parallel the plan of Goodrich’s speculators as Celario also enters the tribe as an outsider, is adopted by the Illinois, and eventually becomes both Azâkia’s new husband and sachem. Taking this position, in a Euro-American view of the matter, Celario becomes proprietor of the tribe’s lands. In this parallel, I argue, Morton’s *Ouâbi* extended but also perfected the logic of speculators’ romantic legal fantasy, stylistically validating the unreasonable optimism that underwrote it. It did this by reimagining Indigenous custom as a function of Indigenous consent, reducing the former to a set of footnotes containing ethnographic facts about Indigenous conduct and culturally proscribed intention. As such, I argue, Morton catered to the tastes of Americans contemplating the question of Indigenous possessory rights by couching her sylvan romance of Indigenous society in the emergent impulse toward legal positivity and legal uniformity (the uniform textualization and

systematization of laws). As I will discuss, writtenness was increasingly viewed by Americans as a guarantor of just outcomes, of freedom and equality in government which would be, as John Adams famously described it, “an empire of laws, and not of men” (Adams 1776: 194). Morton’s poem and its emphasis on positive facts about Indigenous societal rules was therefore an innovation, offering an interpretation of Indigenous custom that made the despoiling of Indigenous land a lawful and notably honorable eventuality.

Though marriage in one way or another facilitated the replacement of Indigenous with white voices, settlers seeking Indian land were still beset by the problem of consent. Rather, why should Indigenous women, and perhaps even men, consent to any (ultimately asymmetrical) dealing, matrimonial or otherwise with white settlers? Morton’s innovation was the notion that the interior lives of Indigenous people were rigid or exhausted by customary facts, that trust might be gained through the satisfaction of a set of conditions or the emulation of predictable rules of conduct in Indigenous culture. While whites might freely move onto the reservation and live double lives, pretending to be Indian, Indians were, conversely imagined to be rigid thinkers and superstitious prisoners of their cultures. In the poem’s third canto, which opens on Azâkia waiting for the return of her husband Ouâbi who has been captured by Hurons and is presumed dead, she is visited in a “murderous dream” by her husband’s spirit. Turning to Celario for sympathy, she reveals that this visitation demands her suicide in accordance with Indian custom. “Last night the beaming warrior came,/Envelop'd in surrounding flame,” she laments:

If once again he greets my sight,

And calls me to the realms of light,

This killing draught will waft me o'er

The terrors of the win'try shore [...]. (Morton 2010: 34)

In the intimate scene of confession between Celario and Azâkia alone, Azâkia's short speech seems a bit like a call for help, sounding a little insincere and even coquettish. And though her plea is made for her sachem husband, it could be inferred that Azâkia is not pleading for her husband's rescue so much as inviting Celario to take part in it. Indeed, Azâkia's worry about her impending ritual suicide might be muddled oddly with desire for Celario if it weren't for the correction that Morton adds with a passively constructed footnote: "It is said to have been anciently a custom among the Indians, if in the space of forty days, a woman, who had lost her husband, saw and conversed with him twice in a dream, to infer from thence, that he required her presence in the land of spirits; and nothing could dispense with her putting herself to death" (Morton 2010: 32n). As it is here, Morton throughout the poem will perform the authority of her sometimes-under-documented facts with passive constructions like this one that posture authority for fact without attributing them to a source.

To return to Ellison's comment about the poem as a "pointed antithesis of a novel of seduction," in this scene specifically, textual formations of the seduction novel are shelved and Azâkia's coquettishness is stripped away from her by documentation (Ellison 1999: 137). Her motives become an ethnographic certainty rather than a matter of unrepugnant, moral feebleness. It would be easy enough to simply keep her dream to herself and thereby avoid suicide; yet, Azâkia is also entertainingly transparent, disclosing her interior obligingly. Readers need not wonder about Azâkia's intentions as her warning in the verse portion about the "killing draught" suggests that custom and the poison itself, rather than any faculty or private intention, are eminently responsible for her imminent death. Her execution of custom is automatic and unconscious; if Ouâbi visits her again from the land of the dead, "nothing" can stop her from killing herself.

Azâkia's submissiveness or absolute willingness to end her own life to obey her dead husband makes her a particularly striking, and perhaps prototypical example of successive fictional Indians also incapable of interpreting the signs before them in any other but severe and life-threatening ways. Often, their fated interpretations are proscribed by cultural facts or their native superstition. A decade later, for instance, Rene Chateaubriand's hugely popular *Atala* and its confused heroine reflected the same Indigenous severity and inability to separate volition from customary obligation. Chateaubriand's Indian girl, Atala poisons herself because she falls in love with an Indian boy named Chactas. A devout Catholic convert, Atala believes she must die because she will inevitably fail to honor a vow she made to her mother to forsake all intimacy with Indian men or "plunge your mother's soul into everlasting woe" (1952: 59). She tells Chactas and a priest, Père Aubry that all help is futile because "the Indians themselves, with all their skill in poisons, know of no antidote for the [poison] I have taken" (1952: 63). As Atala dies, Père Aubry laments Atala's excess passion and extreme literal mindedness, "all your sorrows are born of ignorance. It was your primitive education and lack of necessary teaching which brought on this calamity" (1952: 64). Père's voice performs a choral function similar to Morton's footnotes when he tells the dying Atala, "Religion does not exact superhuman sacrifices. Its genuine feelings and temperate virtues are far loftier than the impassioned feelings and extreme virtues of so-called heroism" (1952: 61).

Like Morton, perhaps, Chateaubriand constructs Indian rigidity as a particularly attractive vehicle for directing corrective energy at doctrinaire moralists. Yet, Morton's Indians are not Catholic and subsequently they are not vessels of European values. Morton's romance among the Illinois holds the potential for a critique of judgmental Boston society, but only if one accepts the naturalist's premise that Indian society is pre-civil and thereby natural and ambivalently morally

superior. Morton establishes that this is so in her first Canto as Celario enumerates the many marks of degeneration in European society where “unnumber'd demons reign,/Led by TERROR, GUILT and PAIN” (Morton 2010: 17). Yet, more than this, Morton chooses a very literal understanding of the notion that customs and moral character are in some way fused, or, from her introduction, “from the customs and laws of the country its manners and morals are derived” (Morton 2010: vi). Morton’s intention was probably to borrow the authority of natural law to make her radical claim about divorce and to defend it against criticism with positive proof. Yet, the thing produced is markedly different. The world she creates, like the countless representations of Indigenous people that follow, is predicated on the entertaining equivalence of custom and desire represented by authoritative ethnographic footnotes below her verse.

While Azâkia’s threat of suicide illustrates the collapse of custom and desire among Morton’s Illinois, the scene also provides the opportunity for Morton to contrast Indigenous with European interiority. Before Azâkia can take her life, Celario jumps at the opportunity to offer his service in the rescue of Ouâbi. He also offers to confirm the fact of his death, suggesting that his rescue effort grows out of concern for Azâkia rather than concern for her husband. Rather, Celario’s declaration ““Till great Ouâbi’s fate is known, /Thou wilt not dare to touch thy own,” is suggestive of the fact that he values Ouâbi’s life only in so far as it will save Azâkia’s (2010: 35). Here Celario could be interpreted as subordinating his private interest in Azâkia for Ouâbi’s sake instead of, conversely, agreeing to the rescue only to please and preserve her. It is impossible to know for sure, however, because Morton offers no gloss for his emotion. Indeed, the verse is multivalenced, a fact about most works of literature that would be typically unworthy of mention if it were not for Morton’s constant documentary glosses of passages concerning Azâkia and Ouâbi. That is to say, Morton’s poetic description of Celario is open to interpretation.

Throughout the poem, Celario's intentions are never once flattened to a footnote because, presumably, his will is plainly explained by his opaque, human (white) desire rather than the binding custom of the Illinois or of his own society that he has abandoned.

In fact, Celario's actions are only glossed once, in a footnote that Morton later uses ostensibly to comment on the limits of her poetic language and to describe Ouâbi's inherent simplicity. As Ouâbi bestows his wife on Celario, the latter, hearing the proposal, politely refuses and offers a point of identification for readers that not only serves to enrich Celario's interior but comforts readers who would have been mildly repulsed by the idea of giving one's wife away. Over a series of comparisons, Celario over-describes the impossibility of his own consent to the exchange and subsequent divorce of Ouâbi from Azâkia. Offering a classical *impossibilia*,³⁸ Celario argues that before he will take Azâkia from Ouâbi, "first shall the sun forget to lave/His bright beams in the red'ning wave" (2010: 43). Rather, the planets should fall out of alignment, "The Pleiades shall forsake their sphere,/And midst the blaze of noon appear" before he will condone the divorce and conveyance of Ouâbi's wife (2010: 43). He ends his chain of inflated comparisons by telling the sachem that he will take his wife barring only the enumerated impossibilities: "Ere thy Celario hails the day,/ In which he tears thy soul away" (2010: 43).

Celario's *impossibilia* is actually a line borrowed from the 1651 Elizabethan romance *The Chaste and Lost Lovers* or *The Historie of Arcadius and Sepha* by the obscure William Bosworth.³⁹ Celario's claim that "First shall the sun forget to lave" transfigures him oddly into

³⁸ The rhetorical device Morton uses is called "adynaton," from the Greek, (adunatos), "unable, impossible," was a common feature of poetry in the classical period that returned with most force during the romantic era. Interestingly, the impossibility of description was a common feature of travel writing.

³⁹ "Sepha" is a variant of "Sappho," the title that Morton would come to be known by, along with her *nom de plume*, Philenia. This might produce a confusion about whether Morton would have identified herself with Sappho (Celario) or Arcadius (Ouâbi) if it were not for the fact that the title was not bestowed on Morton (she did not call herself this) until a full year after her poem's debut, in a December 1791 issue of the *Massachusetts Magazine*. See Pendleton and Ellis 1931: 52. Also, for a discussion of the poem and its treatment of the Sappho story, see Greene 1996: 111-12.

the character of Bosworth's young Sepha talking to Arcadius about her heartfelt affection: "First shall the Sun forget his course to fly/And Pindus' hills soar about the sky" (Saintsbury 1921: 593). This oath constitutes Sepha's poetic guarantee of her fidelity and a prelude to the marriage of the two.⁴⁰ In Bosworth's romance, the young Sepha (here Celario) falls in love with Arcadius (here Ouâbi) though Arcadius suspects her to be inconstant until she re-affirms her fidelity in *impossibilia*. In Bosworth's poem, the two decide to be married after the exchange, Arcadius' proposal delivered as a "debt" or "joy he did repay" (Saintsbury 1921: 593). Notably, like Ouâbi, Arcadius dies, though at the hand of a rival prince who longs for Sepha and attacks the wedding party in a line that substitutes marriage for conquest by the sword: "Uweapon'd we, for battles are refused/On wedding days, and other weapons us'd" (Saintsbury 1921: 594). This inter-textual link and its image of a blushing Celario infatuated with his jealous but knightly lover is interesting, but it is not as interesting as the footnote that Morton appends to Celario's oration about impossibility and the movement of the planets.

Seemingly undermining the reference, the final word on the matter of Celario's sincerity and Ouâbi's jealousy reads: "Celario will not be considered as addressing the savage in too philosophical language," she writes, "when it is remembered that people in a hunting state are necessarily acquainted with the different stars and planets, to aid their course in their excursions from, and returns to, their places of residence. As no images can with propriety be taken from culture or civil society in the dialogues, I am under the necessity of frequently repeating the most striking objects of nature" (Morton 2010: 43n). As such, the reference seems to be diegetic, a

⁴⁰ Why wilt thou then unconstant be?
T' infringe the laws of amity,
And so much disrespect my heart
To derogate from what thou art?
When in harmonious love there is
Elysian bliss. (1921: 593)

reference that Morton (or/as Celario) uses to describe the concept of impossibility in a natural register, a register that Ouâbi is capable of understanding. Morton's meaning here is simply that Celario is hesitant (in accordance with honor and decency) to violate Ouâbi's marriage with Azâkia and receive his claim. Morton also here suggests that Ouâbi is no Arcadius.

For Morton, Celario is no interloper but a refugee from civil society attempting as well as he can to communicate with the savages that have taken him in. As Gordon Sayre argues, Celario is not wholly free from the faults of his ancestors. Yet, while Morton offers lip service regarding the corrosive vices of civilization, Celario's corruption, or his potential and unconfirmed duplicity nevertheless grants him an autonomy that his Indigenous counterparts lack. Autonomy is naturalized for white society and denaturalized among the pristinely innocent Illinois. What is perhaps most significant about this Indigenous innocence, however, is the implicitly articulated relationship of Indigenous people to their native, and specifically barbarous custom. In the previous scene, Celario remains a conspicuously unexplained and complex character but also a reluctant immigrant to Indigenous culture, a culture in which men practice the repugnant ritual of giving their wives to relative strangers.

Perhaps the most famous episode of wife-giving for eighteenth-century readers was that recorded in the history of Cato the Younger, the subject of Plutarch's history of Cato the Younger and Addison's hugely popular 1712 play *Cato, a Tragedy*. In fact, the fame of Addison's play lasted up to and through the years of the American Revolution. Morton's scene of wife-giving must have resonated with elite Bostonian readers and Americans who were very well-conditioned to see parallels between Roman and Indian stoicisms. Indeed, in Addison's telling, Cato's daughter, Lucia notes of her fear when approaching Ouâbi's Roman analogue: he is "stern, and awful as a god" (Addison 2004: 92). Likewise, Morton's poetic narrator offers that

Ouâbi “was too godlike to be lov'd” (Morton 2010: 146). Though Cato in Addison’s version did not give his wife Marcia to his friend Hortensius, Plutarch’s historical Cato did, which popularly cast the historical figure as a man of excessive stoicism. However, according to Plutarch, Cato gave Marcia away as he could not take her and his daughters with him on his flight from Rome and from Caesar. In this way, Hortensius is given Cato’s household in light of his exile. As such, the comparison figures Ouâbi as both an objectionable “wife trafficker,” as Caesar would accuse, and an Indian vanishing at the approach of a new regime.

The reception of Addison’s play lays greater emphasis on the objectionability of Ouâbi’s act, however. Addison’s Cato was seen by English readers as an extremist whose stoicism reflected less an upright character and admirable attention to duty and more a lack of awareness and excessive self-regard.⁴¹ Indeed, while American patriots used rhetoric from the play to stoke the flames of the American Revolution, they probably still understood the perils of too closely emulating the famous stoic. Cato’s patriotic words, “It is not now time to talk of aught/But chains or conquest, liberty or death” rephrased by Patrick Henry, “Give me Liberty or give me death!” were understood by some to be words commemorating a moment of tragedy and lack of foresight rather than an energetic and admirable devotion to duty and freedom (Addison 2004: 44). More often for British readers, this sentiment became associated with the misplaced enthusiasm of Dissenters.⁴² The comparison of Ouâbi to Cato is not therefore as flattering as at first it might seem, suggesting that Ouâbi is inhuman or stoic to the point of callously giving his wife away in a customary celebration of Celario’s honor. Notably, the exchange and Celario’s

⁴¹J. M. Armistead notes in his re-evaluation of the play that “A fully appreciative reading of the play has always labored under the faulty assumption that its purpose is to celebrate its titular character as an exemplar of virtue.[...Cato] is rather an example of the dangers incumbent on the exaggeration of philosophical, at the expense of practical, ethics” (1981: 272-3).

⁴² *Ibid.*

reluctance is representative of an impulse that historians find in examples of primarily British legal colonization in which strategies of romantic emplotment provided colonial officials a rational for erasing barbarous Indigenous customs, all for the sake of saving Indigenous women from their lives of drudgery with Indigenous men.

2.3. The Romance of Colonialism

For its love triangle as well as its narrative conveyance of land-as-Indigenous-woman at the poem's center, *Ouâbi* is a "colonial romance." Such conveyances, in romantic narratives by colonists, were once premised only on the imagined irresistibility of white men and the repugnance of Indigenous society.⁴³ Yet, this narrative structure is changed in Morton's poem, substituted for a preponderance of ethnographic proof which operates as Indigenous consent, thereby providing an agreeable or "honorable" path to the transfer of Indigenous land into European hands.

Heidi Hutner has found the conflation of land and woman in the accounts and new world travel writings of colonist men including Hernando Cortes in the Yucatan Peninsula and Captain John Smith in Virginia. She has uncovered women converted into intermediaries, drawn by their

⁴³ Beginning with Henry Nash Smith's 1950 study, *Virgin Land*, a number of scholars have examined the peculiar association of woman and land among European settler colonists and explorers. Notable among them, Annette Kolodny, has offered a psychoanalytic interpretation that European attitudes toward the land, which she terms the "pastoral impulse." This impulse, she argues, has influenced the way Americans have discussed and used land for over three centuries. As she describes, the pastoral impulse vacillated in the eighteenth century between two contrary images: the-land-as-mother, associated with effortless bounty and leisure, and the-land-as-virgin, associated with toil and sexual energy. A woman, after all, "must be impregnated in order to be bountiful" –to be a mother (1984: 62). While Indigenous subjects figure into Kolodny's analysis in several places, it is only ever as primitivistic subjects of nature, children of the forest in the writings of the émigré farmer Crèvecoeur, Philip Freneau, and countless settlers in colonial New England. Yet, the logic of the pastoral impulse could certainly produce an interesting discussion if extended to the case of Indigenous land-taking in North America. For instance, the guilt she associates with the exploitation of the land, a guilt that settlers attempted to overcome in the nineteenth century through a strange psychosexual compromise between virgin and mother could certainly be seen to parallel the guilt of dispossessing numerous native North American communities of millions of acres of land beginning in the seventeenth century. Much more interpretive work, work that well-exceeds the scope of the present project, would need to be done to make this connection. See also Smith 1950, Montrose 1991, Pratt 2007, and Hulme 1986.

desire for “irresistible” European men to abandon Indigenous men and Indigenous culture for the superior men and culture of the invading force. In this way, in works by colonists, Indigenous women “perform[.] as a sign of the easy accommodation and acculturation of the New World to the Old” (Hutner 2001: 7). In fictional works like Dryden’s American plays, quite nearly adaptations of historical texts including Hernando Cortes’ Yucatan expedition recounted in his *Letters from Mexico* and Bernal Díaz del Castillos’ *The Conquest of New Spain*, colonial men are paragons of self-restraint and rational ambassadors from superior cultures. The appeal of white men to Indigenous women in these accounts and fictional adaptations is as natural as their conquest of the land, made to appear “inevitable and morally regenerative” (Hutner 2001: 87).

In her examination of the historical sources that created the Pocahontas story in North America, Camilla Townsend adds that the great fictionalizers of colonial encounters like Richard Hakylut, writing non-fiction, of course, never deviated from the underlying premise that “foreign women and the foreign lands wanted, even needed, these men, for such men were more than desirable. They were deeply good, right in all they did, blessed by God” (Townsend 2005: 29). In the first accounts of European colonization, in “taking an Indian woman, one took a continent, metaphorically speaking” (Townsend 2005: 27).⁴⁴ Technically or literally speaking, however, to take an Indian woman in these accounts was, in the European imagination, to take her from an Indigenous man; and in this calculation, Indigenous men are the rejected lovers but also metaphorical vessels of Indigenous culture, competitors for and wholly extricable from land, and rejected suitors in the semic thematics of romantic emplotment.⁴⁵

⁴⁴ An incredible number of sources document the use of Indigenous women as both the silent and adoring symbol of colonization or metaphor for land. These sources have been examined by countless critics and historians.

⁴⁵ The play of semic opposites is often attributed to literary romance among the otherwise mercurial theories of the “mode.” See Jameson 2013: 140.

In instances of colonial romance, colonists imagined brown men as oppressors of Indigenous women and, most importantly, the recipients of every benefit from their barbarous and oppressive customs. In this way, brown women's adoration is made to appear natural, an escape from drudgery and violence to the security that can be provided only by sensible and enlightened Europeans. As Gayatri Spivak has argued with regard to British legal transformation in colonial India, the conversion and censorship of Hindu custom was carried by the romantic fantasy that "[w]hite men are saving the brown women from brown men," a fantasy that depended implicitly on Indigenous women's "voicelessness" and their naturalized consent to colonization—their desire to be saved (1988: 92-3).

Compared to Spivak's articulation and other works marked by colonial romance, *Ouâbi* is exceptional for two reasons. First, the poem idealizes rather than denigrates Celario's competitor, an idealization that, I suggest, represents the policy of "honorable expansion" Americans adopted in the late eighteenth century, a course of territorial expansion in which Americans would treat Indians with "the utmost good faith". Second, and most important in the following analysis, this honorable course was made possible through Morton's use of positive ethnographic facts which work to authenticate Morton's poem but also to stabilize or manage interpretations of the Indigenous characters in her romantic verse. Together, these features create a representation in which Ouâbi need not be demonized as were his forebears in the accounts of Cortes and the like. While Azâkia's desire for Celario continues to naturalize the superiority of white culture, the exchange itself is no longer premised on the rejection or the heroic rescue of Indian maidens but on the presentation of the rules Morton has derived from Ouâbi's own culture—a culture rendered throughout the poem as agreeable with the agenda of white colonization, as positive, binding, and coextensive with Ouâbi's consent.

Not the least important of Morton's footnotes is one that qualifies Ouâbi's' and Azâkia's divorce at the poem's center. The note reads, "[t]he marriage contract of the North American Indians is *not necessarily during life* but while the parties continue agreeable to each other. The ceremony is performed by their mutually breaking small shivers or sticks of wood in the presence of their friends, which are carefully deposited in some safe place, till they wish a separation [and they] are thrown into the sacred fires" (2010: 24n).⁴⁶ Morton not only adopts the appearance of authority or authenticity for her romantic narrative about Indian life, but also offers proof of a *rule* that Indians do not marry for life, a phenomenon that would have been shockingly foreign to her readers for whom actual court-granted divorces were not at all common. Indeed, many eighteenth-century marriage contracts were upheld despite evidence of abuse and neglect.⁴⁷ Morton's poem, while offering readers a fantasy exchange between white men and Indians, also offered readers, and perhaps Morton herself, the fantasy of no-fault divorce.

Grounding her poetic action in positive ethnographic facts, Morton's poem features what Marianne Constable calls "propositional representation," a mode of representation that seeks to capture as propositions of positive law the organic or informal social and legal practices of a society. For Constable, propositional representation marks all legal transformations of colonized societies in which non-positive custom is codified or textualized into Anglo-European-derived positive law. In this way, colonization was not merely a matter of domination but of indirect rule

⁴⁶ This description of the transitory marriage customs of Indigenous people is only half attributed to a source only ever known as Ms. Brooks, who, according to Morton "observes, that the greatest obstruction to the conversion of the Canadian Indians to christianity, was their reluctance at forming marriages for life" (2010: 24n).

⁴⁷ Hendrik Hartog offers an illustration of this point through the history of an eighteenth-century wife, Abigail Bailey who obtained a legal and importantly moral justification for separation when her husband Asa Bailey molested their daughter Phoebe. The legal rationale for her final separation from Asa was that she should be apart from his moral corruption. If she remained, she "risked assuming the moral colors of her husband. The right to separate offered an escape from that disaster, offered the possibility of continuity and protection from the chaos of a fallen life" (2002: 40).

by textual management, cultural erasure, and forgetting.⁴⁸ Like many professed modes of colonization (e.g. the civilizing mission, assimilation) propositional representation is not outwardly malicious. As Neil MacCormack notes, written codes and statutes represent “an institutional response to the ideology of the Rule of Law as a condition of liberty” (2005: 25). By their writtenness and circulation, citizens’ consent may be presumed, warranting “public interventions in private lives” (2005: 25). The earliest use of written codes in America, Lawrence Friedman offers, stemmed from a republican impulse as “[t]he desire for a code was, among other things, a desire to limit autocracy. The codes were reactions to the power and discretion of the magistrates” (2005: 50-1). In 1791, a year after the publication of *Ouâbi*, Supreme Court justice, James Wilson joined a chorus of voices that would peak in the mid-nineteenth century all recommending the codification of rules as a means to legal certainty and, by extension, the guarantee of republican liberty. Very much a product of enlightenment thought, Wilson wrote against common law and for the possibility of a transparent legal code: “[i]t is high time that law should be rescued from this injurious imputation. Like the other sciences, it should now enjoy the advantages of light” (qtd in Lewis 1907: 217).

India of the early nineteenth century furnishes the best example of this style of thought. Under British colonial rule, codification was undertaken to “restrict the freedom of Indigenous experts to expound 'the law' as they pleased” (Menski 2006: 245). In this way, “the British hoped initially that codification of Hindu law would lead to greater certainty” in their remote style of governing (Menski 2006: 245). The codification or the translation of Indigenous custom to written law “meant the creation of a new legal system, in which English law had an important

⁴⁸ Constable’s analysis takes as its starting place a reading of H.L.A Hart’s canonical *The Concept of Law* and its assumption that customary societies are not without what Hart called “secondary rules,” or rules that ensure the “progress” of law toward justice. The discussion is perhaps too technical to add to mine though it is key to understanding critical aspects of her argument.

influence, but the law of England did not directly apply” (Menski 2006: 242). “Influence” in this transformation often entailed the selection, editing, framing, and censorship of Indigenous customs that either served British colonization or were deemed correct or not “repugnant” to British sensibility. Applied to the conflicts between Indigenous people and settler norms, positive law was an act of incorporation that in some sense sought an honorable mode of colonization that acknowledged, albeit officiously and for white colonial domination, the long-practiced traditions of the colonized.⁴⁹

As scholars like Lauren Benton and Paul McHugh point out, the intention behind pluralistic legal conversion in the British colonies was to govern minimally, by weeding out "barbaric" practices. These included practices such as ritual suicide and wife-giving that the British romantically imagined to be a mainstay of Hindu culture and colonist authorities deemed dangerous to their practitioners.⁵⁰ Through propositional representation, the rules of a colonized society, rules that were ever-growing and inconsistently applied in ways unrecognizable for colonists, were reduced to un-complex, abstract propositions that could be managed and even

⁴⁹ Spivak famously described the effects of legal colonization, describing it as a discursive tragedy of counter-colonial resistance to “Anglo-Hindu law,” the name for the British corruption and positivization of Hindu scripture. The British codified Hindu scripture that they deemed authoritative, censoring all aspects of the text that they saw as “repugnant” to British notions of universal justice or natural law. For instance, the apparently normal custom of bereaved widows throwing themselves on the funeral pyres of their husbands, *Sati* was a practice that British officials deemed repugnant during their restructuring of Indian society. Yet, installing sanctions against it, British colonists raised *Sati*, a practice probably rarely, and maybe never actually practiced in Hindu society, to the level of everyday norm—perhaps under the assumption that the custom was automatic among Hindu widows. Tracing the deleterious effects of this transformation, Spivak offers that codification led the colonized to unconsciously reproduce the discursive or textual practices of colonial, patriarchal white supremacy, aligning de-colonization and traditionalism with a numerical resistance to British censorship. Mistaking the object of British censorship for history itself, the nostalgic Indigenous subject legitimizes the discourse of the colonizer and insists that “The women actually wanted to die” (1988: 93). In such a context, wife immolation may seem uniquely Hindu. Women among the colonized in British India are, in this way, disabled and rendered, as it were, speechless. Spivak obliquely offers that “One never encounters the testimony of the women’s voice-consciousness. Such a testimony would not be ideology-transcendent or ‘fully’ subjective, of course, but it would have constituted the ingredients for producing a counter sentence. As one goes down the grotesquely mis-transcribed names of these women, the sacrificed widows, in the police reports included in the records of the East India Company, one cannot put together a ‘voice’” (1988: 93).

⁵⁰ See Benton (2009: 128).

censored as “repugnant.” And because that reduction relied so heavily on textualization and reinterpretation, legal colonization, in Constable’s account, is a particularly subtle and literary undertaking.

At no time in American history did Americans attempt to reduce Indigenous customs into an authoritative code as did the British in India.⁵¹ In fact, in moments spanning before and after the Republican period, colonist legal imposition on Indigenous peoples more often entailed what Lawrence Freidman has termed “common-law imperialism” or the imposition of formal court procedures, not laws textualized for the occasion, on communities with different legal systems. Moreover, instances of common-law imperialism, or the forceful extension of settler norms over Indigenous people was not achievable until diplomatic and economic stability and military capability provided colonists with a more direct, aggressive, or unilateral means of imposing on Indigenous communities.⁵² All said, Morton’s poem resembles a British style of legal colonization that never happened in North America. It attempts to produce an authoritative description of Indigenous life that serves settler colonist desire, supported by ethnographic knowledge reduced tidily to rules. In India, in addition to resource extraction and labor, the desire of colonists comprised molding Indigenous habits into a nearer approximation of European civilization; in America of the 1790s, I argue, Morton’s positive inscription of

⁵¹ Scholars have written histories describing the state of struggle between Indigenous and settler legal systems. For instance, among these studies is Lisa Ford’s comparative work that contrasts legal imposition in Georgia and New South Wales. She argues that the eventual imposition of settler law was motivated by the urge to contain outlier or extra-jurisdictional crime and to thereby “perfect settler sovereignty,” imagined as a function of legal jurisdiction newly imagined as territorial circumscription.

⁵² Paul McHugh writes that the war of 1812 marked an important watershed in American history in which Americans could abandon the cautious position they had earlier adopted with regard to territorial expansion as “[t]he defeat of the British and their Indian allies [...] removed all serious threat of Indian military resistance east of the Mississippi River. The pressure on Indian land was renewed with a vengeance. The republic’s victory unleashed a huge demand for land, fuelled by the explosion of nationalism and frontier entrepreneurialism” (2004: 144).

Indigenous custom serves to support a romantic fantasy depicting the happy and “good faith” conveyance of Indigenous land into European hands.

Morton captures this moment of conveyance, Ouâbi’s surrender of Azâkia to Celario, after the chief tenderly thanks the latter in high-styled verse for his noble deeds. In the beginning of the poem, he rescued Azâkia from Hurons and in the middle, from herself while she pines on about Ouâbi, held captive by Huron warriors. Ouâbi gushes to the white hero:

From thee this arm its strength receives
 By thee this form in freedom lives;
 By thee was bright Azâkia's breath,
 Twice rescu'd from the blast of death;
 Each time a greater blessing gave
 Than twice Ouâbi's life to save. (Morton 2010: 42)

Morton here offers readers dialogue that provides a rationale for divorce before the poem’s divorce proceedings. Ouâbi gladly and obediently pays Celario with his wife for having saved his life twice. The “life” of the last line refers not just to Ouâbi’s life, and perhaps not to his life at all, which has only really been saved once, but to Azâkia’s. From one vantage, that of settler society, Azâkia’s “life” would be legally, or metonymically no different from Ouâbi’s under the tradition of coverture, the legal tradition of suspending a wife’s legal capacities as they are “covered-over” by those of her husband. Or rather, Azâkia’s life would be only Ouâbi’s life. In another way, Ouâbi’s seemingly sentimental figurative union of his to his wife’s life refers to Celario’s first rescue of Azâkia from Hurons and from herself when she attempts to take her own life following her prophetic dream in the middle of the poem. In this way, Celario rescued Azâkia from herself by rescuing Ouâbi from Hurons. And for that heroic act, it seems, Ouâbi has

sentimentally pledged his own life—or that which, in one interpretation, gives it meaning. As it is throughout the poem, however, Morton’s footnote tells a slightly different story, reducing Ouâbi’s sentimental metonymy to a matter of custom:

Ouâbi does not simply mean to compliment Azâkia in this expression, but alludes to a custom of his country, which in most cases admits the payment of a fine, as an expiation for murder. If the deceased be a woman, the fine is double; and the reason they give for this partiality for that sex, is, that they are capable of bringing warriors to the nation. See Wm. Penn's Letters. This law of expiating murder by pecuniary compensation has, I believe, been observed by every uncivilized nation upon earth (Morton 2010: 42n).

Morton’s annotation corrects Ouâbi’s intention and thereby the tone of Ouâbi’s seemingly panegyric sentiment, reducing it to matter-of-fact customary adherence. That is, Azâkia is mere property that Ouâbi, lofty feelings or not, is obligated to surrender by the rules of his society. Ouâbi essentially gives Azâkia to Celario for being an admirable person but also for being his creditor under the customs of Indigenous society. And, importantly, because Indigenous custom is automatic or thoughtless for Ouâbi, the conveyance is one he has consented to. While Ouâbi may not be referencing coverture, readers could have suspected that Azâkia’s transfer to Celario would entail the suspension of her legal identity or its absorption into Celario’s. Notwithstanding, the exchange of Azâkia, the climax of the poem, manages to increase Celario’s honor while decreasing Ouâbi’s, and all in accord with Indigenous custom—as Morton presents it.

A pronounced difference between America and the British colonies of India (and Africa) comes from the fact that the Indigenous populations in North America, their voices and

governing structures, were displaced in the nineteenth century by power, not text. In some sense, Morton's poem marks the difference between American settler and British extractive colonialism. As I explain above, British colonists undertook the codification of Indigenous law in India with the purpose of restricting the interpretive freedom of Indigenous adjudicators. As historians and commentators note, the hybrid system produced, Anglo-Hindu law became complexly imbricated in the history of the country. In several ways, Anglo-Hindu law had the effect of not only restricting the interpretive excesses of natives but of silencing or displacing some of their voices altogether, in particular, the voices of women. Undertaking the textualization of ethnographic facts to tell a story about Indigenous people, Morton's poem is unlike British strategies for indirect rule. It was not pitched to an Indigenous readership but to genteel Americans who might pour over her neoclassical couplets in their parlors and closets. Principally, Morton's poem was an act of provisional silencing, not realizable until American fortunes had turned, permitting the unilateral removal of Indigenous people westwards, a period I turn to in the next chapter.

2.4. Conclusion

Ouâbi is a unique work in that it contains positivized customary facts assembled to tell the story of a transaction. It textualizes the Indigenous interior as a means of rendering Indigenous consent visible and, as I have argued, conducive to the policy mood of America in late eighteenth century. Morton's textualization of Indigenous custom permitted her to tell the story of Ouâbi's consent to Azâkia's and Celario's marriage, a consent with narrative implications, as I have argued, for Indigenous possessory rights and white supremacy. Though mostly forgotten in the nineteenth century and then misattributed to the authorship of William

Hill Brown, the poem was very popular at the time of its publication, earning Morton acclamation among her literary peers in Boston and the title of “American Sappho.”⁵³ *Ouâbi*’s popularity, I speculate, may have been attributable to the pleasure readers must have associated with Morton’s positive use of custom, comparable to what Camilla Townsend has called the “pornographic vision of events,” a mode of analysis she associates with literary and anthropological research. In the pornographic vision of events, scholars “privilege Native American’s cultural framework in assessing their actions” (Townsend 2005: 189-90n). And while done with “the best of intentions,” such an interpretation nonetheless carries with it the assumption that Indians lacked, or lack “the ability to change their worldviews and their methods when faced with entirely new conditions” (Townsend 2005: 189-90n32).

The “pornographic vision” is so called, Townsend suggests, because it displaces colonial violence and its effects, with which scholars and scholarship are always nebulously and directly entangled, with an exaggerated preoccupation with cultural facts. “What most males say they find so enticing about pornography,” notes Townsend, “is not violent imagery—which after all takes center stage relatively rarely—but rather the idea that the female is not concerned about any potential for violence or indeed any problematic social inequalities or personal disagreements but instead enthusiastically and unquestioningly adores—even worships—the male” (Townsend 2003: 660).

To illustrate, Townsend offers the notable example of scholarship on Moctezuma and the emperor’s assumption that Cortes and his party were gods. In this account, Moctezuma tragically invited his own death and the subjugation of his people based entirely on cosmological grounds

⁵³ The success of *Ouâbi* propelled Morton to a short-lived fame during which she would acquire the title of “American Sappho” and write two other works, *The African Chief* two years later and her more celebrated *Beacon Hill: A Local Poem* in 1797.

and his naïve/native acceptance of prophetic advice from his priests. Townsend notes, “it perhaps comes as no surprise that the relatively powerful conquistadors and their cultural heirs should prefer to dwell on the Indians' adulation for them,” culturally constructed from factoids about Indigenous religion or custom, “rather than on their pain, rage, or attempted military defense” (Townsend 2003: 660). Tying together both the colonial variant of romance and the operation of Morton’s positivistic ethnographic footnotes, this account of one particular kind of ethnographic intervention casts light on how narratives of conquest produce pleasure and how Indigenous positivistic ethnography can and still constitutes an authoritative and comforting means of reimagining indigeneity.

Morton’s poem about the illicit love between a British outlaw and the wife of an Indian chief is, as I’ve argued, a colonial romance, resembling the travel narratives of white European colonists primarily of the sixteenth and seventeenth century. As such, *Ouâbi* seems to perform at the level of plot, as did those narratives, an implicit vindication of European colonization in North America, naturalizing the desire of Indigenous women for European men. As various critics have argued, in these stories the Indigenous woman of the new world was more than a lover on a distant shore. She was a metaphor for the land itself. And by taking her from Indigenous men, as Celario takes Azâkia, European men appeared to take possession of the continent.

The similarity between Morton’s poem and the travel narratives of white explorers of the colonial period was certainly owing to the fact that *Ouâbi* was inspired by the anonymous translation of Nicolas Bricaire de la Dixmerie’s French language story, “Azâkia: Anecdote Huronne” or “Azakia; a Canadian story” which ran in the September issue of the *American Museum* the previous year. Morton mentions this piece in her introduction and explains that she

set out to improve on it, finding its opening scene of Azâkia's assault by Huron warriors "rather deficient in decency, and the conclusion, in my opinion, very little interesting" (2010: vi). For Diximere's part, he likely used details about Huron marriage customs recorded in Baron de Lahontan's 1703 *Nouveaux voyages dans l'Amérique Septentrionale*, an early record of Indigenous society and customs from the perspective of a French aristocrat abroad. Richard White comments on Lahontan's account and urges caution regarding his descriptions of Indigenous marriage practices and sexual freedom that, resembling Morton's, were likely "mere vehicles for his own critique" of Western society (2006: 64). Lahontan's story of wife giving, based on his own eyewitness account, might have been imagined to be more true or authentic than Morton's. Yet, as I have argued, Morton's work, while clearly fictional, is corroborated by a preponderance of documentary proof, a marker of empirical truth in the nineteenth century.

I have compared stories of colonial romance to preemption rights, the legal innovations or as I have suggestively described them, provisional instruments produced by colonists desirous of circumventing federal restrictions on the purchase of Indian land. Importantly, preemption rights were merely provisional proof of ownership that would only appreciate in the event that Indigenous sellers extinguished their title or fell victim to misfortune such as plague or war. As such, preemption rights were only a fantasy with no ready means of fulfillment. They were instruments of fantasy and their holders sometimes resorted to fantasy in lieu of real Indian consent.

For Stuart Banner, the invention of preemption rights was the most important of three currents that transformed Indigenous possessory rights. For instance, following the American Revolution, Americans were imagined victors over Indigenous nations, and Indigenous land to be the property of the federal government by right of conquest. One aspect of this emerged from

federalism. The superior power of the federal government over state governments with regard to land dealings with Indigenous nations produced the impression that the Federal government in some sense held title superior to that held by Indigenous North Americans. A third strike against Indigenous possessory rights emerged in strength during the first decades of the nineteenth century in the notion that the Indigenous people of North America were inherently uncivilized or, specifically, pre-civil. Calculated specifically to defeat prevailing legal and political theories of property ownership, Indigenous subjects were imagined thereby incapable of “improving” property and of integrating into American civilization without the help of whites. This particular strategy was marked by a convergence of interests between American bigots and alleged friends of the Indians groups of the early nineteenth century and the so-called removal period. In the following chapter, I examine the logic of removal in Lydia Maria Child’s *Hobomok* as a pluralistic one through which proponents of the policy adopted a new version of the substitution of Indigenous for settler desire I have traced above.

Chapter 3: Domestic Dependents: Coverture and the Colonization of the Indigenous

Interior

3.1. Introduction

In an 1873 letter to Sara B. Shaw, Lydia Maria Child grieved the violent removal of the “poor Indians,” the Seminole, despite their “adopting civilized modes of life” and agriculture. “The pages you send,” she wrote to Shaw, “contain the cool remark that the seizure of Osceola’s beautiful wife was an unfortunate affair.’ God of heaven grant me patience! What would [Jackson] call it if the Indians had seized and carried off his beautiful wife, to sell her in the market for a mistress” (Child, 1882: 218-19). Though decades after the removal itself, which marked the conclusion of the second Seminole War, Child railed against federal Indian policy, spending little space on the larger, myriad consequences of Seminole land loss or removal, and more on the psychic effect and injustice of breaking up Seminole families and sending them into slavery. As such, she built on the paratactical union of “civilization” and Seminole land rights, making one a condition for the other. Her fixation on the separation of Osceola from his wife suggests that only after understanding the severity such a separation, its psychic impact on Osceola, could Jackson have understood the full weight of what he had done.⁵⁴

As I argue, Child’s first novel, *Hobomok; A Tale of Early Times* (1824), created a similar link between marriage and the so-called Indian question, justifying Indian removal by imagining the Indigenous interior as undomestic or internally, that is, *ontologically*, incapable of maintaining the gendered divisions of white domestic space. For this reason, it is Osceola’s domestic interior, produced by the loss of his wife (and Child’s omission that he had two wives), that energizes her outrage over Seminole removal.⁵⁵ Child’s first novel effectively

⁵⁴ See Mulford 1993: 354.

⁵⁵ See Wickman 2006: 26.

“domesticated” the Indian question in order to prove the cultural unfitness of the Indian, specifically the Indian male, for a particular configuration of domestic space. By “domestication” I mean to point to Child’s metaphorical linking of the Indian question, its legal and political extensions, and the rights, rituals, and gender asymmetries of American households of the early nineteenth century.

The idea was not so foreign to Indigenous leaders of the nineteenth century who earlier in the century mulled over the connection between civilization and land in much the same terms. Cherokee statesman John Ridge wrote in 1824 to former Treasury Secretary Albert Gallatin regarding the latter’s inquiry about Indigenous North American culture, offering him a description of the Cherokee’s progress toward civilization. They had, Ridge wrote, given up the hunt for the farm, adopted the rule of law, imposed upon themselves a European style of commerce, and accepted a gendered division of labor. That the Cherokee had adopted Anglo-European gender norms is ostensibly the least important in this list of “achievements.” Yet, by including them, Ridge aimed at the heart of American colonizing discourse in the nineteenth century that included longstanding settler rhetoric about the drudgery of Indian women forced into the fields along with its counterpart, the shiftlessness of Indian men.⁵⁶ Men were now the farmers and women, he assured Gallatin, “sew, [...] weave, [...] spin, [...] cook our meals and act well the duties assigned to them by Nature as mothers.” The Cherokee were equals to the citizens of settler society, he meant, nearly if not just as “civilized” as whites—barring a few caveats. Ridge, however, could not decisively counter the fact that the Cherokee had not yet formally curtailed the practice of polygamy. No law had been passed for its regulation, he

⁵⁶ See Thomas Jefferson 1999: 96.

apologized, but Cherokee men and women were becoming increasingly moral, and “matrimonial happiness is fast consuming this last vestige of our ignorance” (Perdue and Green 2005: 41).

Nearly a decade after Ridge’s exchange with Gallatin, and only three years before Ridge’s people were finally forced from what remained of their Cherokee homelands by the U.S. Army—the Sauk military leader *Ma-ka-tai-me-she-kia-kiak* (known as Black Hawk) insisted that his wife, *As-she-we-qua*, was “the only wife I ever had or ever will have. She is a good woman, and teaches my boys to be brave” (2008: 32). Accruing some unexpected celebrity following his surrender to U.S. troops and his tour of the states, Blackhawk leveraged his new traction with rank-and-file Americans to challenge the unfairness of Sauk removal, including this brief assurance of his commitment to monogamy alongside descriptions of scheming and ineffectual American officials, violent settlers and white land-jobbing traders that had forced him to revolt.⁵⁷

Ridge’s defense of Cherokee domesticity and Blackhawk’s insistence on his preference for monogamy evidence a concern about marriage and its associated rites and practices among Indigenous leaders in the 1820s and 30s. It is unlikely, however, that their interest was that of zealous proponents of monogamous Christian marriage. Instead, in their disciplined discussion of monogamy, both leaders reveal an understanding of the link between domesticity and “civilization.” Their claims about the composition of Indigenous households reveal that they understood what whites in the nineteenth-century meant when they held up Christian marriage as an exemplary institution: monogamous Christian marriage was an important precondition of retaining their homelands contiguous to white settlements. And, if tribes wished to continue living on them, it would depend in part on whether they had wholly adopted the teachings of white settler society, not least of which was the form of marriage enjoyed by white Americans.

⁵⁷ See Black Hawk 2008: xiv.

For Ridge, more than Blackhawk, who spoke after the forceful removal of his people, the adoption of white domestic civilization held the possibility that the Cherokee could retain possession of their lands and find relief from the violence of land-hungry Georgians.

Only a year before Ridge spoke, the U.S. Supreme Court evidenced another attempt to rule out the possibility of intermarriage as a gateway to civilization by declaring in the *orbiter dicta* (or inessential writing) of Chief Justice John Marshall that Indigenous North Americans were “people *with whom it was impossible to mix*, and who could not be governed as a distinct society” (my emphasis 1823: 21 U. S. 590).⁵⁸ In *Johnson v. M’Intosh* (1823), the court effectively curtailed Indigenous land rights by turning tribes into lessees on their own land, incapable—because unmarriageable—of selling and therefore truly owning their land or at least of preparing a deed of sale that any U.S. court would uphold. The exact way intermarriage could or could not produce the conveyance of land, however, is absent in the decision, though it would appear in a historical romance by Lydia Maria Child a year later.

Child’s first novel hazarded a narrative description of the link between marriage and civilization by connecting the former with property. Plotting the brief and unnatural courtship, marriage, and divorce of an Indian, the novel’s eponymous Hobomok, and a white woman, the novel’s heroine, Mary Conant, *Hobomok* places marriage at the center of efforts to civilize or remove Indigenous North Americans. As Priscilla Wald notes, Child’s solution to the Indian question was superior to the Court’s as it was able to “play out a scenario that Marshall could only imply” (1992: 90). In her fictional scenario, Child linked possessory rights to nineteenth-century readers’ uneasy impressions of Indigenous male and white female coupling, making

⁵⁸ Johnathan Seifert reviews Marshall’s literary borrowings in *Johnson*, counting among those Virgil’s *Aeneid* and his own biography, *The Life of George Washington* “almost verbatim” (2004: 300).

rights contingent upon the reproduction of a race and gender-specific configuration of domestic and, by extension, national space.

Set in Puritan New England before the outbreak of the Pequot War, *Hobomok* portrays intermarriage between whites and their culturally Indian lovers as unfeasible under Anglo-European marriage norms, specifically, coverture, wherein all legal power and property is concentrated in male heads of house. Given coverture's patriarchal structure, rooted in naturalized conceptions of sex-based differences in labor and property rights, male heads of the so-called "republican household" were imagined to be self-possessed agents in a culture of property commonly associated with John Locke. The novel champions the dispossession of Indigenous North Americans through a quasi-governmental domestic logic that relies on the concept of sexually-specific or "-dimorphic" labor in domestic space. Linking race to culture, and culture to republican constructions of domestic space, *Hobomok* offers readers a sexually dimorphic articulation of race and culture. Under these lights, Hobomok, and anyone culturally Indian was seen as incapable of marriage—or any form of proprietorship. As a potential mate for Mary, Hobomok becomes a proof of concept whose lack of self-possession, portrayed most notably through his resemblance to Mary, makes him incapable of improving, and, by extension, owning a wife. This formula uses Hobomok's inadequate capacity for husbandry to explain why he eventually leaves Mary to pursue a nomadic life in lands to the west, stoically choosing exile when Mary's more suitable, white mate appears. Hobomok's marriage and divorce from Mary is merely an aberration on her natural course to her true love Brown who holds fee simple title to Mary's heart. Hobomok, by contrast, rents.

Child's ideas about property and indigeneity depend on a series of provocative connections between the oppressions and liberations experienced, unequally, by both white

women and Indigenous North Americans in the nineteenth century. Both groups struggled under incapacitating legal structures, coverture, for women, and federal Indian law for Indians. Child's novel transposes the two, arguing simultaneously and casuistically for two senses of what the last of Marshall's so-called trilogy of federal Indian law cases coined "domestic dependency."

Unlike other "domestications" traced by scholars such as Karen Sanchez-Eppler in the work of "abolitionist feminists" (among whom we can count Child), Child's domestication of removal and federal Indian law does not attempt to challenge but champion the asymmetries of marriage, rationalizing the political and legal movements of federal Indian law by pointing to the asymmetrical structures of marriage she and other nineteenth-century writers considered to be a reflection of nature. Peculiar to this transposition, and to settler constructions of indigeneity, is a focus on the interior rather than the exterior or the body—a mainstay, according to Sanchez-Eppler, of slavery's fictional domestications (1993: 18).

Assuming a didactic purpose for the novel, its depiction of marriage between Mary and Hobomok is an extravagant but also racist attempt to prove a point about the deleterious effect of harsh and smothering paternalism: be too stern with your daughters and, to everyone's horror, Child seems to argue, they may go off and marry Indians. And readers in Child's time probably did not need much convincing to see that Hobomok was an unsuitable husband. The novel created a small amount of controversy for some nineteenth-century readers, one of whom wrote in the *North American Review* that its denouement flowed from a "train of events" that is "not only unnatural, but revolting, we conceive, to every feeling of delicacy in man or woman" (Anonymous 1824: 262). The lateness and brevity of the marriage also suggests that it exists only as proof its unsustainability due to the absence of coverture's asymmetrical structure.

The idea of coverture reflected a point of ambivalence in American law that despite vigorous opposition from some, persisted into the nineteenth century as unshakable orthodoxy.⁵⁹ A holdover of feudalism's opaque description of the relationship between sovereign and subject, mid-century defenders, including Child, often viewed the strictures of coverture as "elaborations on the Biblical truth that the married twain shall be one flesh." (Hartog 2002: 117). Meaning to "cover over," men under *coverture* were the only individuals capable of taking anything "out of the hands of nature" with their labor (Locke 1689: V.29), as they were transformed into property-holding heads of household over propertyless wives. With the rise of legal modernity in the eighteenth and nineteenth centuries, marriage designed by coverture was secularized, and given the appearance of contract governed by domestic reciprocity. William Blackstone was among the first to formulate the concept for men of the founding generation in his influential (1765) *Commentaries on the Laws of England*, describing *coverture* as an arrangement in which "the husband and wife are one person in law" and "the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband; under whose wing, protection, and *cover*, [the wife] performs everything" (Katz 1979: 430). Acting as both protector and governor, the husband was permitted "to restrain a wife of her liberty in case of any gross misbehavior" (Katz 1979: 433). Essentially the suspension of a wife's legal capacity, the arrangement was for her "protection and benefit" as she posed a danger to herself. Removing her from danger entailed removing her ability to make contracts and, subsequently, to own and manage property of her own. *Coverture* therefore linked property to marriage by linking all property in the marriage to the husband. Projecting an image of the female as deeply incapable and dependent, and men as powerful shrewd protectors was

⁵⁹ See Hartog 2002: 118-19.

important to this conjunction soon imagined as a world divided into public and private “spheres.”⁶⁰ In *Hobomok*, Child borrowed these images to imagine the interior of Indigenous North Americans, transforming federal policy into a domestic issue and, in effect, making the Indian the dependent of in the national family.

3.2. “...sex in souls...”

Coverture was a paradox in the nineteenth century, coexisting with new attitudes about marriage as a liberal institution governed by norms of contract. The use of contract to describe marriage produced a discursive overlap between the concepts of property and marriage with regard to the Lockean notion of property in which self-possession is the key element in the production of validity and value. Marriage in the eighteenth century toggled between conceptions of women as property and women as proprietors: “marriage was essentially a property transfer between father-in-law and suitor or a sacred contract between lovers” (Fliegelman 1982: 135). In either case—the bride-as-product or the bride-as-producer—marriage would be a transaction governed by rules of exchange. Women would be property themselves, belonging to fathers who had raised and “improved” them, or contractors who later, under the theory of liberal contract, were imagined to be self-possessed and able to claim that they had themselves to bargain. In the nineteenth century, legal minds in Anglo-European societies had decided that women were contractors, a change marked by what Lawrence Stone named, “affective individualism,” the marriage and courting equivalent to the so-called (self) possessive individualism of liberal contract. Amy Dru Stanley calls this emphasis on contract in marriage “something of a misstatement” given the obvious fact that *coverture* was an asymmetrical

⁶⁰ See Davidson and Hatcher 2002: 7.

institution. “No other contract,” she writes, “contained a rule obliterating the identity and autonomy of one party to the contract” (1998: 11). Indeed, as married women under *coverture* could not own property that was not subsumed under the legal identity of their husbands, the connection between land and property pertained most practically to the connection between marriage and the norms of a gendered status hierarchy that marriage maintained.

Coverture was a venerated aspect of matrimony among judges and some women in Child’s generation. Among many of its proponents, it was regarded as a privilege rather than a disability.⁶¹ This was certainly an echo of Blackstone’s original definition where he dismissed *coverture*’s legal maiming of the wife because of the greater freedom and protection she earned in the balance. In the final paragraph of his chapter on marriage, he wrote that “[s]o great a favourite is the female sex of the laws of England,” by which he meant that while *coverture* kept wives from the benefits of legal activity, it also *protected* them, in turn, from legal responsibility. Importantly, Blackstone saw *coverture* as a legal concept belonging to the family of municipal or man-made laws, not to the laws established by “God and Nature.” Yet, as Hartog notes, many of Blackstone’s American readers thought the reverse and in their translation of Blackstone’s “lapidary paragraphs” into American law, “they reified what had been an evolving and changing—and limited—body of English law. Parts of that law extended back into a distant, partially mythical, medieval past” (Hartog 2002: 118).

Child’s thematization of *coverture* in her stories of Indians marrying whites produced an answer to the Indian question buttressed by one about the configuration of the American

⁶¹ Amy Dru Stanley writes that *coverture* registered so strongly as a kind of freedom in America that abolitionists of the 1830s were oblivious to the practical connection between slavery and domestic servitude, suggesting that black men, in their bondage had lost, above all, their “manhood rights”—the right to own wives. Emancipation paradoxically bestowed *coverture* on freedwomen as a feature of liberation, or, as Assistant commissioner of the Freedmen’s Bureau Clinton Fisk described it as “woman’s grand shield, MATRIMONY” (1998: 29).

household. As such, the republican construction of the home and its gendered division of labor was made even more cozy as it was posited against the opening up of fertile lands to colonist families—premised of course on the removal of Indigenous communities. Rather than championing the cause of women and/or Indians, as some critics have variously argued, Child's *Hobomok* seems to advocate the removal of one group as the price of domestic servitude for the other.⁶²

In her fiction and also her private correspondence, Child gives an impression of domestic labor that bolsters the importance of housekeeping and mothering, and in so doing reveals a strain of thinking consistent with *coverture*'s disabling doctrine. Like other commentators in America, Child raised *coverture* and the gendered household it maintained to the status of natural law. In a letter to an acquaintance, Francis Wright who had asked her about her position on the women's movement, she wrote that men and women are "distinctive in ways that cannot be eliminated without damage to the 'truth'." She was "not one of those," she continued, "who maintain that there is no sex in souls; nor do I like the results deducible from that doctrine" (Child 1843: 237-8). Similarly, writing to her friend, Sarah B. Shaw in 1878, 50 years after the publication of her first novel, Child envisioned a society adhering to gendered traits on individual and larger social levels, "perfected" she wrote, "just in proportion to the combination, and cooperation, of masculine and feminine elements of character." She explained, "[h]e is the most perfect man who is affectionate as well as intellectual; and she is the most perfect woman who is intellectual as well as affectionate" (Child 1882: 243). While Child offers a description of

⁶² In Child's (1838: 242) *History of the Condition of Women*: "Though marriage subjects [women] to many cares and privations," she wrote concerning women in her examination of cultures spanning China to the Americas, "it gives them in some respects a greater degree of freedom and consideration; it likewise generally insures protection and support, and is almost the only way in which a woman can rise above her natural condition, with regard to wealth and rank" (See also: Ryan 2010: 36; Karcher in Child 1986: xxx; Gusman 1995: 68; Woods Weierman 2005: 62-3, 90-98).

‘affection’ and ‘intellect’ that are similar in degree, it is important to note that these qualities are nevertheless dissimilar to Child in kind, producing a division of intellectual labor that naturalizes marital union on a complimentary and sexually dimorphic axis. “Not of marriage only may it be justly said,” Child adds, quoting Mathew 19, “What God has joined together, let not man put asunder” in as much as “God intended a participation of the masculine and feminine element in every relation and every duty of life” (Child 1882: 244). The author of several books on female self-improvement, Child was not merely a conduit of the domesticity but added significantly to it. Her influence in American homes was considerable and extended into spaces that registered as foreign among her readers.

In her parenting guide, the *Mother’s Book*, she deals subtle blows to the image of the self-possessed female contractor, alluding to the men she would or would not let her imagined daughter marry. As Nancy Cott notes, Child’s *Mother’s Book*, among its contemporaries—other guides on the topic of child rearing—is a work that speciously portrays motherhood as “women’s self-fulfillment” because it is “manifested [...] in self-denial” (Cott 1997: 91). As a vocation, she writes, domesticity in the time meant “that woman’s work role imitated mans” or was halfheartedly raised to the level of man’s work, “while lacking his means of escape’ and overall personal freedom” (Cott 1997: 74). Child remarks in one anecdote on the fact of young people falling too quickly in love with those immediately around them. “I should myself recollect the possibility of such a circumstance,” she wrote, “and would not therefore encourage an acquaintance with any man, whom I should be very unwilling to see her husband” (Child 1831: 168). She elsewhere comments on men who are kind to the elderly, adding that “[h]ad I a beloved daughter, I would choose such a man for her husband” (Child 1831: 116). That is, if Child had a fondness for what critics have called “affective individualism,” the nineteenth-

century convergence of liberal contract and marriage, which viewed courtship as one step in contract negotiation between consenting individuals, it was certainly a mild one, represented most in her insistence throughout *Hobomok* on Mary's obviously impaired judgement. Indeed, during the ceremony in which Hobomok and Mary wed, she is described as distant and brooding. Mouthing her consent to the union in the Indian fashion, Mary says "yes" but "turn[s] from [Hobomok], as if a sudden pang had passed through her heart" (Child 1986: 124). In this moment, Hobomok's mother whispers "she is mad." Delivering her solemn vows a page later, Mary does not say "I do" but, instead, "I love him better than any body living" (Child 1986: 125). In a manner of speaking, Child's first work was about a young woman who flouts parental guidance and consents to a marriage that she does not really want while she noticeably lacks the self-possession to do so.

Elsewhere in the *Mother's Book*, Child deburs domestic space and woman's servile role in it noting the gendered household "should be described as, – what it really is, – the home of woman's affections, and her pleasantest sphere of duty," cautioning the parent concerned with its reproduction that "[y]our daughter should never hear her own marriage speculated or jested upon; but the subject in general should be associated in her mind with everything pure, bright, and cheerful" (Child 1831: 166). In another anecdote, Child remarks that "a girl" who is "brought up in ignorance of household duties" is "very likely to fret, when she is first obliged to attend to them": "Will not her want of practice decidedly interfere with the domestic comfort of her family, and will it not likewise be a very serious trial to her own temper?" She continues,

I have known many instances where young married women have been perplexed, discouraged, and miserable, under a sense of domestic cares, which, being so entirely new to them, seemed absolutely insupportable. The spirit of complaint to which this

naturally gives rise is not very complimentary to the husband; and it is not wonderful if he becomes dissatisfied with a wife, whom he cannot render happy. (Child 1831: 148)

In what appears to be a wrinkle or an elided step in Child's logic, she here makes the matter of domestic chores into something that, circuited through the husband, (magically) creates happiness for the wife. Rather, a husband is unable to make a wife happy who does not know how to properly perform her domestic chores. Her frequent references to wifely duty suggest that she had thoroughly adopted the complexly perverse ideology of the so-called republican household and its façade of organic unity through which *coverture* promised domestic stability.

3.3. "...For your father's lands..."

More striking than her discussion of *coverture* in American homes, however, is her creative extension of the doctrine in her other fictional work about Indians. There, as in *Hobomok*, Child builds narrative from the interplay of Indigenous and Anglo-European marital norms. Five years after her first novel, Child wrote "The Legend of the Falls of St. Anthony" about a white man who marries an Indian chief's daughter to defraud her of her lands. Her tragic Indian heroine, *Zah-gah-see-ga-quay* (translated "Sunbeams breaking through a Cloud" or "Clouded Sunbeam") is portrayed the victim of impermanent or informal marriage, what was simply referred to as "common law marriage" in America of the nineteenth century, while her name signifies something eclipsed or "covered over," a metaphor for her eventual disappearance as well as her marital status. The story's villain, villain, Jerome de Rancé (a cognate for "rancid" and its meaning in French) is a frontiersman who becomes the exploiter of the gap between Indigenous and Anglo-European jurisdictions. Inverting the genders and races of *Hobomok*,

which some readers found “revolting,” “The Legend” was better received and was in fact reprinted it in three separate publications over the course of a decade.⁶³ By comparing “The Legend” to *Hobomok*, Child clarified her ideas about marriage and Indigeneity, offering the ideal domestic configuration, Indian woman and white man, only to show that the informality of Indian marriage would also confound intermarriage. Even more closely retracing mainstream pro-removal arguments, “The Legend” suggests that peaceful coexistence between white and Indian would require no less than the complete Indian surrender to nineteenth-century Anglo-European marriage norms. In this way, “The Legend” fuses liberal contract to illiberal coverture, showing them to be compatible when set against an Indigenous landscape.

Throughout the nineteenth century, marital relationships were increasingly formalized in legal documents and officials and other commentators increasingly viewed Indian marriage as uncomfortably relaxed and, in fact, a form of polygamy. An Indian agent under Jackson wrote his frustration at trying to locate Indian heads of household for land allotment, “[s]ome of the Indians have several wives, who sometimes live in different towns, and at a considerable distance from each other.” As their system permitted them to “at any time dissolve their marriage contracts” he found that it would be “extremely difficult to determine who amongst them will be entitled to reserves.”⁶⁴ In her *History*, Child characterized Indian marriage, writing that “generally speaking, new connections are formed without any formal dissolution of the old one” (Child 1838: 231). Black Hawk reacted to this kind of rhetoric, explaining the point of marriage customs in his tribe, and noting that the newly married spend a year determining “whether they

⁶³ “The Indian Wife” was published three times, first in an 1828 issue of *The Legendary*, in Child’s anthology titled *The Coronal* in 1832, and finally in her 1846 collection, *Fact and Fiction* under the title “A Legend of the Falls of St. Anthony.”

⁶⁴ Jackson-appointed Indian superintendent and Methodist minister, Judge Leonard Tarrant wrote from Juniper Springs Alabama, in, May 15, 1833.

can agree with each other and be happy, if not they separate and each looks for another companion.” Adversarially, he added that “[i]f we were to live together and disagree, we would be as foolish as the whites” (Black Hawk 2008: 43). Carolyn Karcher has written that Child’s knowledge of Indian marriage ceremonies came from firsthand experience as her *History* alludes to the possibility that she witnessed the marriage of two young Penobscott Indians in person. Yet, Morton’s popularization of the Indian marriage trope could have been equally if not more influential for Child and all readers of Child’s generation; it was certainly an important feature of the early nineteenth-century fascination with Indian custom and Indian subjectivity (Child 1986: 169). Pitting European marriage norms against those of the Indian, “The Legend” characterizes the latter as impermanent and dangerously flawed, offering a lesson on the perils of the contiguity or mixing of Indian and European legal jurisdictions. Indians’ only protection from European encroachment, the story suggests, is the renunciation of Indigenous for European culture and its more binding marriage laws.

“The Legend’s” villainous antagonist, the French seducer Jerome de Rancé, “secretly rejoice[s] over the illegality of an Indian marriage.” He is notably a man of specious appearances, or “highly civilized”; he, “of course,” lies in his courtship with Clouded Sunbeam making the “most solemn protestations of undying love and everlasting good faith” (1849: 264). Omitted from later versions of the story, in the which Clouded Sunbeam is named Tahmiroo (or “Startled Fawn”) is dialog in which she pleads with de Rancé “oh! Why did you marry me?” who gives her his callously “cool” answer: “For your father’s lands” (1832: 174). While de Rancé is the villain of the story, the institution or non-institution of Indian marriage is what permits him to carry out his scheme, not the law of *coverture*, which grants him control of Clouded Sunbeam’s property. American readers steeped in the primitivist tradition and its

associations with indigeneity would have connected de Rancé's villainy to the fact that he is "highly civilized," seeing his scheming, as an indicator of his ambivalent corruption by modernity. And, invoking his legal advantage, the presumed invalidity of his marriage under American law, or his ability to dissolve it under Indian law, De Rancé absconds with Clouded Sunbeam's land as well as their daughter to start anew in Canada with little loss to his public reputation in settler society.⁶⁵ While de Rancé banks on the invalidity of Indian marriage, his right to Clouded Sunbeam's property under *coverture* is unquestioned, presumably because it is a feature of nature and need not be enforced.

The popularity of the "The Legend of the Falls of St. Anthony" may have owed to both its melodramatic plot as much as its familiar, implicit reference to Indigenous ethnography to corroborate its tale. In the story's final moments, Clouded Sunbeam commits suicide in desperation, rowing herself and her young remaining son off a waterfall in a boat, the falls of St. Anthony. As did Sarah Wentworth Morton before her, Child plucked the conclusion of this story out of various ethnographic factoids about Indigenous people that continued to circulate in settler society, one of them appearing most strikingly in her *History*, an exhaustive collection of descriptions and anecdotes that Child must have been compiling for years before its publication. As Karcher notes, the collection was applauded by later feminists seeking to begin comparative work on the oppression of women (Child 1986: xii-xiii). In her section titled "America," she writes that "[s]uicide is common among the women of these savage tribes. When thwarted in love, or driven to desperation by ill usage, they frequently hang themselves to the branch of a tree, rush into the sea, or throw themselves from a precipice" (Child 1838: 230). That Clouded

⁶⁵ Sylvia Van Kirk (1983: 50-1) remarks on the commonplace frontier custom of "turning off" describing fur traders returning to Europe with their fortunes and without their Indigenous wives. While not the rule, "there were undoubtedly some traders who unfeelingly exploited this attitude to suit their own purposes."

Sunbeam should take one of her sons with her is also perhaps indicative of Child's studious adherence to the generalized notion that I've already mentioned, that Indian children assumed identity with their mother's clan rather than their father's.

In "The Legend of the Falls of St. Anthony," as in *Hobomok*, Child offers fictional commentary on the legal and political developments of the day. "The Legend" richly depicts the way in which Indigenous peoples, who are identified with their customs, experience harm by their mere proximity to whites. The price of holding onto their land would be their adoption of Anglo-European civilization, imagined to be an inoculation against exploitation by whites. Without this, Indians were doomed. This notion figured into a great deal of pro-removal rhetoric in the decades preceding the passage of the Removal Act.⁶⁶

As most commentators of the time would agree, Indians would need time and space to develop, far away from scheming de Rancé's. This was the tragic necessity of removal, which Superintendent of Indian Trade, Thomas McKenny, described in his appeal to Congress in 1828. Posing a question of justice, McKenny asked whether Indians should be left to "linger out a wretched and degraded existence" among white settlements and "within the districts of country already surrounded and pressed upon by a population whose anxiety and efforts to get rid of them are not less restless and persevering [...]." Rather than permit them to be harmed (or married) by scheming white settlers, McKenny suggested, Indians ought to be removed from their "certain destruction" among whites and placed "in a situation where, by the adoption of a suitable system for their security, preservation, and improvement [...] they may be saved and

⁶⁶ The third case of Marshall's trilogy, *Worcester v. Georgia* (31 U.S. 517: 1832), also contained this sentiment, added into a discussion of federal jurisdiction the prosecution of Samuel Worcester. Marshall noted that federal authority served to protect Indigenous people from white society as otherwise "agents of foreign powers [...] might seduct them into foreign alliances." Indians' susceptibility to the manipulations of those cleverer than themselves was reason enough for keeping them away from white civilization.

blest [...]” (Banner 2005: 208). For his apparently pro-Indian notions, as internally incoherent as they were, McKenney was removed from his position by Andrew Jackson, who borrowed and intensified his rhetoric in his 1835 address to Congress noting that “All preceding experiments for the improvement of the Indians have failed. It seems now to be an established fact that they can not live in contact with a civilized community and prosper.” As Lucy Maddox writes, such extreme declarations, which marked writing and speaking about Indians in the removal period, “almost inevitably conclude with the posing of either-or statements” (Maddox 1991: 8).

3.4 Empire of The Mother

The connection I have been detailing projects domesticity outside the space of the American home. It sees in *coverture* a means of naturalizing U.S. territorial expansion and enacting the contradiction of freedom that, as Amy Kaplan notes, “expand[s] female influence beyond the home and the nation while simultaneously contracting woman's sphere to police domestic boundaries against the threat of foreignness both within and without” (Kaplan 2002: 187). As Nancy Cott has argued, the founding generation held beliefs about marriage that had a tremendous impact on American policy and law. “Christian monogamy,” bound up with the concept of *coverture* and checked by the concept of reciprocal duties between husband and wife, evoked a very particular vision of the American polity, namely a “voluntary union based on consent” (Cott 2009: 10). Constructed in treatises and law, marriage and its associated rites, principles, and practices offered American leaders a means of categorically excluding various groups such as slaves and immigrants from the privileges of citizenship and political and legal recognition. In the exclusion of others from the national body Americans formed a national self-identity predicated on the norms associated with domestic space. As I’ve argued, the inclusion of

Indigenous north Americans in this complex also served the broader goal of westward territorial expansion.

American conceptions of marriage, insofar as they were produced by conceptions of domesticity or the proper configuration of domestic space, were powerful tools used by Americans to reimagine the connection between the domestic and the foreign in the nineteenth century, a time, explains Kaplan, “when [U.S.] geopolitical borders were expanding rapidly through violent confrontations with Indians, Mexicans, and European empires” (2002: 185). As she argues, the construction of domestic space, in combination with the much-discussed concept of “separate spheres,” of private and public space, was an “ambiguous third realm between the national and the foreign” (2002: 186). For Kaplan, the most powerful concept associated with domestic space has been that of “domestication,” whereby monolithic ideals carried into and imposed on foreign spaces are proscribed by the gendered division of labor in the American home. The “colonial trope” in which colonized people are infantilized produces an obvious association between the labor of mothering and the work of imperialism, casting also, “white children as young savages in need of civilizing” (2002: 191). It follows that “[t]he empire of the mother shares the logic of the American empire; both follow a double compulsion to conquer and domesticate the foreign, thus incorporating and controlling a threatening foreignness within the borders of the home and nation” (2002: 193). Lydia Maria Child’s *Hobomok* offered its readers a slightly different image of Indigenous North Americans as not only undomesticated, in Kaplan’s terminology, but, in fact, undomesticatable.

Unfit for domestic co-habitation with Mary, Hobomok is depicted unfit for possessory rights. Incapable of improving a republic-styled homestead, of which a subordinate wife or *femme covert* was a constituent part, Hobomok is imagined to be in an immutable place between

familiarity and otherness, domestically or conjugally foreign while paradoxically, territorially, domestic. Child accomplishes this by flattening her Indigenous characters and using ethnographic information as narrative struts. The divorce of Mary and Hobomok and Mary's re-marriage to her true love Brown builds a narrative from Child's notions of sexual difference, portraying the subtle intersection between race, gender, and possessory rights. Hobomok's unsuitability as a lover for Mary is attributed to his unsuitability as a man, which is anathema to his native qualities, his lack of awareness, and his superstition. Hobomok's later doubling by the character of Charles Brown, Mary's true (white) love, further emphasizes the notion that Hobomok's qualities are inborn. As Ezra Tawil describes, Brown's return suggests the renewal of Mary's "natural desire" as well as the "irreducible minimum of whiteness" portrayed in the passage of time and the differential comparison of Brown and Hobomok (Child 1986: 110).⁶⁷ Hobomok seems to understand this point and disappears into the western wilderness of his own volition.

As I've argued, not only was Child fond of the doctrine of female coverture, seeing the dependency and servitude of domestic space to be in some way liberating for women, she seems to have imagined that coverture was a natural outgrowth of faculties particular to each sex. Withholding those qualities from Hobomok, she seems also to argue that the faculties of each sex are also particular to race. For instance, in *Hobomok*, Child compares the Indian interior to that of her Puritan characters, all the latter considered ancient progenitors of contemporary Americans and of Child herself—Child claimed to have derived much of the story's content from the writings of a mysterious ancestor. In contrast to the hand full of Indians in the novel, Child's

⁶⁷ Ezra Tawil explains Mary's choice as a passive described as a "hydraulics of desire" through which Mary experiences a "systematic redirection" or misdirection "of her natural desire," denaturalizing her marriage to Hobomok (2006: 110).

Puritans are superstitious and sometimes callous but ultimately redeemable or capable of self-improvement with the right mate. In Mary Conant, feminine dependency is given a concrete, determining historical quality as superstition and fancy: her need for a strong man in her life is reflected in her lack of reason and her propensity for letting her mind wander, which, in the novel, is the metaphysical equivalent of being Indian.

Characterized as having “no small share of the superstition of the times,” Mary is throughout the novel driven by little more than an innate, child-like belief in arcane forces or “the ethereal visions of imagination,” only one of the qualities attributed to the Puritans generally whose “stern piety” was otherwise “lofty and genuine” (Child 1986: 115, 116, 91). The novel begins when Mary is thrown into a love triangle with Hobomok and Charles Brown after having bungled a pagan love ritual in the woods. Hoping to reveal the man she is destined to be with, Mary marks out a large circle and walks around it three times, intoning: “Whoever’s to claim a husband’s power,/Come to me in the moonlight hour” (Child 1986: 13). Immediately after this, to her horror, Hobomok unwittingly steps into the circle, foreshadowing their marriage. The two greet each other and Mary learns that Hobomok is likewise involved in an Indian ritual that she had interrupted, a ceremonious act of throwing a ritual offering upon a pile of “spirit rocks,” an *authentic* ritual that Child explains in a footnote. Hobomok then disappears into the woods, as he will by the story’s conclusion, omitting the actual moment of his departure and offering only the residual sign that “his heavy tread was lost in the distance” (Child 1986: 14).

3.5. Friends and Lovers

While some critics have emphasized the importance of Child’s doubling of Hobomok and Brown, the most significant doubling in the novel is that of Mary and Hobomok, who, in this

early moment are united by their esteem for pagan superstition and its secondary associations of childishness and immaturity. This immaturity protects against the possibility of adult affection between a white woman and Indian man, removing romantic elements from the account of Mary and Hobomok's courtship and marriage. As the story makes clear, the two are joined in ignorance rather than mature love and affection. Maddox offers that "because he is an Indian, Hobomok can never be more than a sort of older protective playmate for Mary; he is the gentle friend of her childhood, and her marriage to him is unnatural, preventing her from assuming her natural place as a mature white woman, living among her own kind" (1991: 100). Following her pagan ritual, Mary grows close to Brown, who seems like he will become her husband. Yet, Brown is spurned by Mary's father for his Episcopalianism and, for the same reason, expelled from the colony by a Puritan tribunal. Devastated by Brown's exile and then his (assumed) death at sea. Combined with her father's stolid zeal and her mother's death, Mary sinks into depression, which spirals into madness and marriage with Hobomok.

In her degeneration, Mary becomes absorbed in signs and omens, "increasingly submitting herself to fate that, she is willing to assume, has been supernaturally determined" (Maddox 1991: 100). These moments offer Child not only the novel's course to intermarriage but a means of portraying the corrective effect of Brown on her childish or female mind. Before he is alleged to have died, his memory keeps Mary's negative thoughts at bay. Whenever overcome by a "shuddering superstition" or provoked by the "thought of [Hobomok's] sudden appearance in the mystic circle," she is brought to her senses at the thought of Brown, "sigh[ing] at the vast distance which separated her from her lover" (Child 1986: 85). Moreover, the marriage that follows suggests that Brown is the only obstacle preventing Mary from her natural state of delusion. Without him, she is led by apparent signs and omens to assume marriage to

Hobomok a matter of inescapable fate. Mary's Puritan community aggravates her condition as they exchange supernatural stories, including one about a ghostly light at the foot of a man's bed. The sign is determined to be an omen connected to the traveling soul of one recently departed Mr. Johnson. Yet, Mary, fearing the worst of Brown—and, relatedly, of Hobomok—imagines herself as its recipient. “There is a great facility,” writes Child's narrator, “in appropriating any thing uncommon to our own situation and circumstances” and Mary, upon hearing the story “believed that the extraordinary phantom was meant for herself only; and she immediately conjectured it foreboded evil tidings from her lover” (Child 1986: 166). It is “not surprising” the narrator adds, “that superstition exerted her full force over a mind so prone to revel in the ethereal visions of imagination” (Child 1986: 116). Brown is reported to have drowned on an East India Company ship on the following page, validating Mary's superstitions.

Laura Mielke has suggested that Child's writings about indigeneity often take the form of tableaux, repeating and revising national narratives and representing “abstract concepts in physical and spatial terms” (2008: 33). One of these tableaux furnishes a visual example of Mary's dependence on Brown, giving the psychological dependence of Mary on Brown a physical or spatial appearance. As Mary wanders alone, Eve-like in the moonlit woods, she breaks into a protracted soliloquy about the moon and faraway places:

‘Fair planet,’ [...] ‘how various are the scenes thou passest over in thy shining course. The solitary nun, in the recesses of her cloister, looks on thee as I do now; mayhap too, the courtly circle of king Charles are watching the motion of thy silver chariot. The standard of war is fluttering in thy beams, and the busy merchantman breaks thy radiance on the ocean. Thou hast kissed the cross-crowned turrets of the Catholic, and the proud spires of the Episcopalian. Thou hast smiled on distant mosques and temples, and now

thou art shedding the same light on the sacrifice heap of the Indian, and the rude dwellings of the Calvinist. And can it be, as my father says, that of all the multitude of people who view thy cheering rays, so small a remnant only are pleasing in the sight of God? Oh, no. It cannot be thus. Would that my vision, like thine, could extend through the universe, that I might look down unmoved on the birth and decay of human passions, hopes, and prejudices.’ (Child 1986: 48)

Her reflection on the fact that there is nothing new under the moon tends toward a subversive interrogation of Puritan theology on the theory of the elect. Her purple tone and style, unprecedented in the novel, depict an instance of feminine distraction or wandering—a leitmotif for Mary. The dark woods of earliest America were Eden to commentators of the time, making Mary into Eve as she questions the heavens in lofty poetic prose. Her soliloquy could in this way be construed as an expression of creative fancy that, for Eve, provoked God’s warning in Milton’s version: “be lowly wise/Think only what concerns thee, and thy being;/Dream not of other worlds, what creatures there/Live, in what state, condition, or degree” (Milton 2005: 186). Eve’s response, however, was not to God but to Adam, “My author and disposer, what thou bid'st /Unargu'd I obey; so God ordained. /God is thy law, thou mine: to know no more/ Is woman's happiest knowledge, and her praise” (Milton 2005: 106). Distracted as she was, Eve, like Mary, would be perfect if she could be joined to a suitable Adam.

Writing to her brother on June 5, 1817, a very young Lydia Maria Francis reflected on this passage in Milton’s *Paradise Lost*, asking “But don't you think that Milton asserts the superiority of his own sex in rather too lordly a manner?” (Child 1882: 1). While the rhetoric of young Lydia seems to reflect the proto-liberal feminist that other critics have found in her, it is

important to add that Child's vision of male and female equity grew into one based not on equality under the law but on a unique concept of dimorphic complementarity or the notion of "sex in souls," which Child cited scripture to support. She may have objected to the notion that Adam's sovereignty was second only to God's for Eve, but she seemed to have no problem with the legal extension of this thinking to the doctrine of coverture. Indeed, as Child's writings seem to suggest, she may have rectified the "too lordly" subordination of Eve with the republican ethos of domestic reciprocity.

As Maura Smyth notes, Eve's mental wandering and God's warning were for Milton a conceptualization of the popular faculty theory of fancy, imagined as early as the seventeenth century to be the feminine compliment to the masculine faculty of reason—or of a masculine kind of fancy, restricted in its imagining to only what *is* rather than what *might be*. Eve's feminine fancy carries the threat of self-absorption and, as Smyth reads it, a threat to "the sovereignty of God's system" or the possibility of imagining "a world where [Eve] is not derived from, and does not need, Adam" (Smyth 2017: 105). Mary's flight of fancy is something more conservative. Rather, Mary's speculation on the heavens affords an opportunity for Child to complete her tableau of gendered (inter-) dependence.

Mary does not provoke the stern warnings of God, though she does provoke an interruption of Brown who is standing guard nearby and hears her talking to the air. "[I]nterrupted by [his] appearance," Brown's sudden materialization on the footpath pulls Mary her out of her dream of other worlds, of "the lordly places and blooming gardens of good old England" (Child 1986: 48). As he courts her in the moonlight, Brown promises to *actually* take her to the worlds of her musing, to England, offering real, over imagined mobility predicated on Mary's eventual marriage and dependency. This tableau is enriched when Mary characteristically

worries aloud to Brown about her sick mother. The narrator offers, “I know not why it is, but, in minds of a certain tone, the richest melody of love is always mingled with notes of sadness” (Child 186: 49).

Here Child’s tableau is completed and “in the full communion of unreserved tenderness, the maiden *leaned her head upon the shoulder of the young man*, and wept in silence” (emphasis mine Child 1986: 49). Brown offers stern reassurances, urging Mary “it is not well to be melancholy. We both ought to recollect that there is One above who will defend us, though every earthly friend be taken” (Child 1986: 50). He then quotes a composite of passages from the first book of Spencer’s *Faerie Queene* by which he compares either Mary or her home, Naumkeak, to the shelter of a “shady grove” in which he is happy to be trapped, left to “wander too and fro in ways unknowne” (Child 1986: 49).⁶⁸ Brown performs his masculine capacity for recall until “[a] smiling glance from the bright eye of the maiden gave an answer of silent eloquence,” signaling that she had been put at ease by her (quite literal for Child) other half. When he dies, their plane and Mary’s longing for other lands are replaced with her dissociative or ‘deranged’ desire to “go to a land of strangers.” Brown is horrifically replaced by Hobomok whose “uncultivated mind” is as predisposed to wandering as Mary’s.

Throughout the novel, Child offers evidence that Mary is not merely prone to fancy but also self-estrangement or, using the Lockean terms of legal modernity, a lack of self-possession. Mary is instead, apparently, possessed. After the banishment of Brown she is caught in one moment musing in a “fairy dream,” her memory of Brown, before the “stern voice of duty” interrupts her thoughts and “command[s] her to depart from her country and her kindred, and to go to a land of strangers” (Child 1986: 78), simply because her father has told her she cannot

⁶⁸ The passage that Brown recites is from the first canto of Book I, at vii.

marry whom she wished to. And, upon hearing of Brown's death: "[t]hat single act decided the fluctuating fate of his child [...whose] mind was just in that vacillating state when a breath would have turned her from her purpose, or confirmed it forever." Again, Mary's thwarted courtship with Brown causes her to turn to Hobomok out of juvenile desperation, when "[h]er heart writhing and convulsed as it was, was gentle still; [she] now craved one look of tenderness, one expression of love" (Child 1986: 122). Mary's family, friends, and even her Indian husband confirm her incapacity throughout the latter half of the novel. Immediately before she runs away to marry Hobomok, her friend dame Willett suggests, "I fear you are not altogether yourself" (Child 1986: 120). She assures the dame that she is sound of mind, though, "Notwithstanding this declaration," says the narrator, "there was a partial derangement of Mary's faculties. A bewilderment of despair that almost amounted to insanity" (Child 1986: 120). Lonely as she is, Mary seeks out Hobomok because he is simple. His "language was brief, figurative, and poetic, and [his] nature was unwarped by the artifices of civilized life." In her despair, she commits to the melodramatic notion that he is "the only being in the wide world who was left to love her" (Child 1986: 211). Their courtship is described as a "broken and confused mass [...] in which a sense of sudden bereavement, deep and bitter reproaches against her father, and a blind belief in fatality were alone conspicuous" (Child 1986: 121).

Once the two are married, Mary has a qualified appreciation for Hobomok and "welcom[ing] his return with something like affection." Not quite love, or rather "something like affection," the lukewarm connection between Hobomok and Mary is based in their mutual lack of cultivation. It allays her misery over the loss of Brown as Hobomok's kindness and the "rich[ness]" of "his uncultivated mind in native imagination" appeal to her on some level (Child 1986: 135). Helen Thompson describes heroines in domestic novels as dutiful wives who helped

to smooth the paradox of wifely self-subjection for readers, making the wife of such stories a confusingly active but nonetheless subordinate subject modeled imperfectly on the Lockean male subject whose desire aligned with civic duty. Like the Lockean husband who is passionate about virtue, the “ingenuous” wife actively complies with her subjection to “modernize her husband” (Thompson 2011: 6). Yet, the only terms used to describe Hobomok are those that foreclose the possibility of his modernization. While Hobomok is described by Mary’s friend later in the novel as having become more and more like an Englishman, it is precisely Hobomok’s lack of modernity that Mary admires in him. If the perfect domestic female subject was a wife who assumed her domestic duties with will and virtue aligned, Mary Conant is a subject whose passion and duty are irreconcilable—at least while she remains married to Hobomok.

Uncultivated as he is, Hobomok detects signs of Mary’s mental disassociation, or “the dreadful ruins of mind” he had seen “in his own tribe.” “[T]he fear of her insanity more than once occurred to him” though he allows himself to be reassured by her apparent alertness and responses which are “so prompt and rational, that he could not admit the doubt” (Child 1986: 123). Nineteenth-century readers, wishing to see Mary as a self-possessed marriage “contractor” in this moment, might pause on evidence of mental incapacity. In Blackstone’s interpretation, the marriage “contract” was foremost a mutual agreement between two consenting individuals who were capable of giving their consent. Normatively traceable to Roman conceptions of legal competence, the nuptial prerequisite “prevented incompetent persons from being compelled to enter a relationship they could not comprehend and frustrated those who preyed on incompetents to gain access to their property” (Grossberg 1985: 114). Applying this rule, “judges eschewed medical definitions of sanity for contractual ones” (Grossberg 1985: 114). Yet, this was all theoretical and, as one writer in the *New York Legal Observer* cheekily remarked in 1845, “[I]f

want of reason really prevented a marriage from taking place, there would be an end to half the matches that are entered into” (qtd in Grossberg 1985:116). That Hobomok overlooks clear signs of mental instability in Mary—signs which almost every commentator on the novel has remarked on—does not make him into the more pragmatic or illiberal suitor that most American suitors showed themselves to be. Hobomok’s diagnosis is produced directly by his own immature superstition. Child clarifies that both his feelings and his judgment are clouded by a naïve spirituality which leads him to conclude, somewhat laughably, that she is not unsound of mind but simply “communing with the Good Spirit” (Child 1986: 123).

Indeed, when Child offers a window into Hobomok’s mind, we learn that his characteristic manner of thinking is not unlike Mary’s, who is often depicted as both superstitious to her detriment and, relatedly, a stranger to herself. Mary is detached from her own desire by sorrow over Brown and her arcane certainty that nothing other than fate has ordained her marriage to Hobomok. She begs the deceased Brown’s celestial forgiveness for her action, seemingly performed against her will: “if thy pure spirit is looking down upon this action, forgive me, in that I do but submit to my fate” (Child 1986: 123). Hobomok’s thinking is depicted only a handful of times in the novel, revealing a character enveloped by superstition who finds his own desires mysterious. In addition to his captivation by his superstitious cultural beliefs, the few glimpses of Hobomok’s interior that Child provides all involve a sudden realization about something that he might have plainly discovered otherwise.

Hobomok is sent in one scene to determine the allegiances of Sagamore John, Chief of Saugus. Hobomok runs a rival warrior, Corbitant, who accuses him of wearing the “war-belt of the Owanux (English)” and of “counting his beaver for the white man’s squaw.” This odd bit of Indian-speak, as Child studiously explains in a footnote, means initiating his customary courtship

practices for a white woman: “In an Indian courtship the young man makes a present of beaver skins, and the intended bride returns venison of her own cooking” (Child 1986: 31n). Hobomok warns his rival that if the latter goes to war with the English, he will most certainly lose. And he adds, regarding his loyalty, that his “cheek [is not] pale in time of battle” (Child 1986: 31). All this produces an important realization for Hobomok as he leaves Saugus and begins to better understand his affection for Mary Conant and by extension, himself.

Contemplating a response to Corbitant’s insults and his suspicions about the chief’s “deep laid plan of vengeance,” Hobomok quickly rejects the impulse to turn back and attack his antagonist, experiencing a sudden and “undefined apprehension” about the danger posed for the Conants. Hobomok is perplexed by this, in some sense beside himself about his own doubt. He dismisses the possibility that he is merely experiencing the “love of life” and thinks, “if I should be killed in these woods, who will be left to tell *her* of her danger?” (Child 1986: 33). Confused by his concern for the Conants, “he never had thought, and *till now he never had been told*, that Mary Conant was the cause” (emphasis added Child 1986: 33).

Hobomok traces his concern to Mary’s first moments at Plymouth when she “administered cordials to his sick mother, which restored her to life after the most skilful of their priests had pronounced her hopeless; and ever since that time, he had looked upon her with reverence, which almost amounted to adoration” (Child 1986: 33). While it would at first appear that Hobomok is discovering his love for Mary, which he, for some reason, had never suspected, Child converts it into primitive “reverence” or “adoration,” making Hobomok awestruck by Mary’s Manitou, in a manner of speaking, rather than conventional qualities that Brown or another, white suitor might appreciate. His affection is circuited through the fond memory of an

exchange of services, in which Mary is a spiritual superior like the priestly practitioners of his community. His affection, as it spontaneously occurs to him, is proscribed by his cultural beliefs.

Struck often by these moments of sudden realization, what is obvious seems to be hidden from Hobomok by nothing more than his captivation by his culture. The most crucial of Hobomok's discoveries is that Brown is still alive—which leads him to a second realization, that he, Brown, is better suited for Mary. This turn of events occurs with Brown's unexpected return to Salem after Hobomok and Mary have been married for three years. When Brown appears before Hobomok, the latter immediately assumes that Brown is a spirit, "the ghost of his rival" sent to torment him, and fearfully retreats into the forest. After Brown chases Hobomok through the trees for a time, the latter is eventually convinced that he is not being haunted, though the truth is to him "more dreadful [...] than all the ghosts that could have been summoned from another world" (Child 1986: 138). After a short conversation passes (about half a page), and Hobomok contemplates ending his life, before he is struck by another, final recognition of something that he might have easily discovered before Brown's return or before his marriage to Mary: "No. . . . Mary loves him better than she does me; for even now she prays for him in her sleep. The sacrifice must be made to her" (Child 1986: 139). Hobomok conveniently resolves to departing westward so that Mary can be with the man best suited for her. He even delivers a Chief Logan-like elegy before doing so. The entire episode is very brief and very convenient.

Notably, the divorce and Hobomok's exile are both narrative affordances granted by Indian custom. In her *History*, Child described the ritual components of Indian marriage in which the bride and groom are first "seated on a mat in the centre of the room. The bride, or bridegroom, hold a rod or wand between them, while some elderly person harangues them concerning their reciprocal duties. [...] The rod is then broken, and a piece given to the witnesses

in testimony of the contract” (Child 1986: 172). A very similarly worded version of this description appears first in *Hobomok* when Hobomok references the custom in the notice he dictates to Governor Winslow, “This doth certifie that the witche hazel sticks, which were givene to the witnesses of my marriage are all burnte by my requeste: therefore by Indian laws, Hobomok and Mary Conant are divorced” (Child, 1986: 146). The burning of the stick is not used to definitively annul the marriage but is only reference in Hobomok’s filing, in nineteenth-century fashion, with the local magistrate.

3.6 Conclusion

Child’s novel makes productive use of the comparison between Hobomok and Mary, two characters who marry to celebrate their mutual incapacity but divorce in celebration of the internal logic of the republican family. This family, built on a gendered division of labor, is one to which Hobomok is unable to contribute. After all, incapacity was only acceptable for wives or *femme covers*, not husbands. In the following years, Indigenous North Americans would be absorbed into the American family, but not as husbands but as children or wives. In *Cherokee Nation v. Georgia* (1831), Marshall declared that Indians were “domestic dependents,” neither fully domestic nor fully foreign. The rights of Indians with regard to jurisdiction and legal standing were abridged, the opinion held, as they were in a “state of pupillage [...] resembl[ing] that of a ward to his guardian” (1831: 30 U. S.: 2). At the publication of this opinion, Elias Boudinot, a cousin of John Ridge and the editor of the first Cherokee newspaper, saw it as an Indian triumph, despite the fact that it was being interpreted by white Georgians as their victory (Boudinot 1996: 125). Boudinot corrected this effort to “mislead the public,” seeing the court’s decision to be a shield against the increasingly violent incursions of Georgians and the absurd

declarations of Georgia's General Assembly.⁶⁹ Despite the fact that it imagined him and other Indigenous North Americans as the legally incompetent children of the federal government, Boudinot clung to the faith that the Cherokee now stood "upon a perfectly safe ground" and "if they suffer, they will suffer unrighteously." The law had made a solemn oath to shelter them from harm as would a parent for a child or, as I've suggested, a husband for a wife. Yet, as Lisa Ford remarks, the case was equivocal, leaving the "Cherokee with a bundle of rights and no capacity to defend them" (Ford 2010: 192). Its ultimate effect, however, would be legal incapacitation or the idea that Indigenous North Americans remained in a perpetual state of tutelage. Years before the passage of the removal act, at the outset of Marshall's trilogy of Supreme Court decisions, Lydia Maria Child made the story of Indian removal legible and even necessary given the powerful logic at the foundation of the American household.

⁶⁹ Georgia passed a series of wishful laws that imagined the suspension of Cherokee sovereignty beginning in 1826 that included barring Indians from testifying in court to declaring all Cherokee lands to be the property of Georgia.

Chapter 4: “...their minds, already prepared by custom...”: The Indian Question and the Inoculation of American Democracy

4. 1. Introduction

In a Congressional report accompanying the Indian Removal Act (1830), Representative John Bell of Tennessee wrote in February of 1830 that Indians among the Cherokee and Creek Nations would be willing to adopt removal, but they were opposed by the wealthy or elite Indians who wished to “maintain their present position.” Their “present affluence” and the possibility of “future acquisition” had compelled the latter group to misrepresent the desires of the less affluent of the tribe. Speaking about the Cherokee specifically, Bell reported that the committee was unable to find out whether “the common Indians have shared any part of the annuities of the tribe since “The number of those who control the Government are understood not [to] exceed twenty-five or thirty persons” (added Congressional 1830: 23). Moreover, Bell imagined that a direct appeal to the “common Indians” would be impossible given the fact that they had “*no will or principle of action of their own*, [and] most of them yield themselves readily to the suggestions of authority among them” (emphasis added Congressional 1830: 24-5). Characterized as mental slaves, the rank-and-file Indians were captivated by their status superiors who they dared not question since, as William Walker wrote in a letter appended to the report, “Nothing is so powerful with a common Indian as the fear of his Chief” (Congressional 1830: 28).

Only one in a cacophony of opinions that justified Indian removal, this bit of rhetoric about the domination of “common Indians” by a tyrannical or undemocratic few articulated a connection between democratic principles of equality and land tenure in Indigenous North

America.⁷⁰ As Stuart Banner notes, the claim was not without some truth. Development and the goal of wealth accumulation had taken root in tribes creating inevitable wealth disparities as well as the divergence of interests between Indians who were well off and the poor (Banner 2005: 213). Yet, the rhetoric of Bell's report exceeds its representational ends, reaching for the principle of democratic equality but also preventing social intervention by constructing the Indigenous poor as incapable of resistance. Unable to give the Indians a political voice, a unilateral restructuring of Indian land holdings was the only path to Indian liberation. Given such a view and its attractive fusion with the broad principles of American democracy, it is understandable that de-tribalization, couched in democratic reform, should later in the century become the ultimate solution to the so-called Indian problem.⁷¹

In his popular 1826 *The Last of the Mohicans; A narrative of 1757*, James Fenimore Cooper imagined an Indigenous mob through the same normative democratic hermeneutic, converting the tribalized Indian into a nearly inoperable negative of democratic principles. Notably, Cooper builds these into the Indian character, forming an ontological whole that was diametrically opposed to the principles of American democracy. Lurking amid the gothic wilderness, Indians in the first half of his novel are a mentally malleable and mostly unintelligible synecdochal mass of body parts who oppress his white and Delaware adventurers as they trek toward a tragic historical massacre at Fort William Henry. In the novel's second half, however, Cooper attempts to fully realize the individual of the Indian mob through a realism based on ethnographic research and narrative form. As I argue, *The Last of the Mohicans* formed

⁷⁰ Lucy Maddox 1991: 8; Stuart Banner 2005: 201-14.

⁷¹ As Stuart Banner notes, social criticisms based on much the same democratic logic pervaded debates surrounded The Dawes General Allotment Act in 1887. Framed as a redistribution from the land rich to the land poor, "Proponents of allotment could thus think of themselves as advocates for the common man, seeking to break up land monopolies that favored a powerful few" (2005: 270).

a powerful description of Indigenous North Americans as tragic victims as well as oppressors in their own culture, sentimentalizing the oppression of individual Indians whose lives and, notably, domestic connections are threatened by their deference to Indian custom.

4.2: “...*mental independence is my object...*”

Despite being a sometimes supporter of policies that issued from Jackson and the Democratic-Republican party, Cooper did not fit or refused to fit into the mold of Democratic-Republicanism.⁷² He separated himself from party politics upon returning from France in 1834, declaring to a friend from Yale, he cared “not a pin for Mr. Jackson, Mr. Van Buren, or Mr. Any one else” and that he “detest[ed] party politics.” “I am a democrat,” he wrote, “—not a party democrat, but a real democrat—on conviction that it is the best form of government for all countries that are sufficiently enlightened to bear it” (Cooper, 1968: 59). Vague enough (as was the definition of “democrat” in 1834), Cooper’s qualification about countries “sufficiently enlightened to bear” democracy is in some sense nothing more than a declaration of Jeffersonian democracy.⁷³ Yet, the way Cooper arrived at and applied his understanding of democracy was unique to him.⁷⁴ At the center of his unique philosophy sat the looming figure of the mob and its antidote, a more capacious form of liberal self-possession that he would call “mental independence.”

In an 1831 letter to the *New Monthly Magazine*, Cooper would detail this concept through anecdote. Apparently disliking a mostly flattering article on him in the *New Monthly*’s recent

⁷² Controversy over versus McWilliams

⁷³ Thomas Jefferson added this hedge to his 1825 description of the political divide in which the people are feared or are considered the “safest depository of power.” Like most thinkers who might be termed liberal in the nineteenth century, “universal suffrage” was not a practical way to distribute power in a government, so Jefferson gave the people “powers to the exercise of which they are competent” and nothing more. See Jefferson to William Short, January 8, 1825. Helena Rosenblatt 2018: 37, 93.

⁷⁴ John P. McWilliams 1970, 670; Chris Barker 600. See McWilliams 1972, 190-1.

issue, Cooper objected to his characterization as “the rival of Walter Scott”—a version of the title “The American Scott” which was then circulating among his critics. Demanding his own independence from Scott’s shadow, he seems to have also wanted the opportunity to discuss the theme of liberty in general.

Cooper’s complaints might have been occasioned by an anecdote that the editor had attached to the phrase in a footnote. The note claimed to report about something Cooper had said while sitting for a portrait printed with the piece. Having been asked to “fix his eye on a particular point,” Cooper allegedly responded, “if I must look at any, it shall be at my master” before directing “his gaze a little higher, to a portrait of Sir Walter Scott” (Bulwer 1831: 356n). Though Cooper did not contradict this story, he did retort that “It is offensive to a gentleman to be nicknamed at all, and there is a pretension in the title, which offends me more than all the abusive reviews that ever were written.” Irritated by the insinuation of his inferiority, or that he lacked creative independence from his “master,” Cooper asserted literary patriotism and distinguished himself from Scott by declaring that America’s “mental independence is my object” (Cooper 1922: 227).

What he meant by this has been the subject of various critical examinations, largely of his nonfiction writings, accounting for mental independence as a matter of cultural and literary influence, simple political self-determination, or both.⁷⁵ As his writing reveals, particularly his fiction writing, Cooper’s concern was probably with both the political and the literary—though his idea of independence was not confined to the resistance of British culture.

The idea of mental independence was broad and applicable to various forms of mental captivity from any number of causes, both foreign and domestic. It was not the party itself, but

⁷⁵ See Chris Barker 2015: 591; McWilliams 1970: 1-2; Thomas Clark 2007: 192; Benjamin Lease 1981: 39.

the party mentality that Cooper objected to as it produced something like Plato's *akrasia* or weakness of character. As he would write in 1838, "No freeman, who really loves liberty, and who has a just perception of its dignity, will ever become a mere party man" (Cooper 2004: 166). The conceptual center of Cooper's thinking was simply a form of self-possession, which, along with most democrats and French Liberals of the time, was thought to be a pre-condition for enlightened self-government.

In this mood, Cooper spent the latter half of his letter to the editor correcting the short mention of an American "discovery ship" that appeared in an article twenty pages after the flattering sketch. There, the author had added a short line about American sailors who had "mutinied and landed their officers, 'bag and baggage,' on the coast of Peru" (Bulwer 1831: 374). Cooper stiffened this very short anecdote for its characterization of American sailors, and Americans generally, as prone to a mob mentality.

The sleight to Americans was subtle, but it was there. It had followed a claim praising English crews who were deferential to authority. "It is worthy of remark," said the writer, "how great an advantage our officers have in this respect" (Bulwer 1831: 373). An outspoken campaigner for the American Navy, Cooper rejected the insinuation and threw back that "[t]here is no seaman so easily governed (lawfully) as the American" (Cooper 1922: 227). What he meant by this was not that Americans were incapable of resistance but that they never resisted without reason. And, in the American Navy (which seems to reflect America at large for Cooper) they had no reason since "[t]hey are more protected, have confidence in that protection, and are generally of a much better origin than the European sailor. The American native is a mild and reasoning creature, and is everywhere governed without bayonets" (Cooper 1831: 373). He added to this claim the short mention of a handful of American seamen who had once resisted

impressment, being kept longer than their two-year enlistments. But this, he implied, was justified resistance and though it had been quelled by force, the law was soon changed to prevent future occurrences. In his bristling letter, Cooper grinded two sides of the same axe; mental independence and (lawful) obedience were not mutually exclusive. Americans were obedient but only because they were rational and could see that American law was just.

The theme of the mob and the self-possessed and righteous individual is a persistent feature of Cooper's fiction. The same year he coined mental independence, he also published *The Bravo*, a novel dealing directly with the tension between obedience and revolt. Set in early eighteenth-century Venice, the novel's center of gravity—which Cooper called “the hero of the tale”—is the Venetian oligarchy which controls everything. The oligarchy is itself comprised of self-interested aristocrats who in one narrative arc provoke a righteous but ultimately failed uprising (Cooper 1968: 22).⁷⁶ Angered by the killing of the humble and elderly Antonio at the hands of state actors, Antonio's fellow fishermen carry his body by boat to St. Mark's Square to confront the corrupt oligarchs.

The protest of the fishermen interrupts the insular plotting of other characters, as “[a] thousand voices...speaking at once.” As if from off stage, they appear a “floating multitude... moved by a common feeling” (Cooper 1852: 93). While Cooper renders the mob amateurish but overwhelming in their protest—they appear to be “act[ing] merely on impulse”—he also describes them as a sublime and picturesque blending of boats and, importantly, voices who shout both individually and in unison against the unjust murder. Yet, the uprising comes to little as the fishermen possess mental qualities that Cooper would associate with the “European mind” (i.e. dependence on or deference to the authority of status and a lack of political literacy); they

⁷⁶ See McWilliams 1972: 156.

are subsequently dispersed with ease by the hollow rhetoric of insincere Aristocrats (McWilliams 1972: 162). In this sense, the fishermen signify for Cooper a missed opportunity for righteous liberation from aristocratic oppression.⁷⁷

The righteousness of revolution was however a matter of context, and Cooper would vacillate over the years on the discipline of the British and the lawfulness and reasonableness of rank-and-file Americans. The theme was worked out in his first historical romance, a novel of the American Revolution, *Lionel Lincoln*. There, he imagined a “wavering hero” protagonist, Major Lionel Lincoln, who was indeed reminiscent of Scott’s Sir Everard Waverley. Given compelling evidence of America’s justness in the conflict, Lionel seems to be faced with a choice to return to England or stay in America by the novel’s end. Like many of Cooper’s characters, Lionel chooses the country where his habits are formed and loyally returns to England.

Cooper contrasts this missed opportunity with a moment of violent tragedy when Job Pray, a character whom Hawkeye would call a “non-composser,” is beaten to his eventual death by an angry throng of Royal Irish grenadiers seeking vengeance for the death of an officer in their unit.⁷⁸ After beating Job, Lionel’s friend, Captain Polwarth, attempts to mediate the violence but is drawn into it when the grenadiers flatter him and he begins to feel “the natural

⁷⁷ As Thomas Clark points out, the international reception of the novel, its readership in a “transatlantic hall of mirrors,” made such summaries difficult. It was “decoded as a veiled attack on the English (or French, or Russian) political system, an attempt either to promote or defend American democracy in Europe, and as a warning to Americans about how republican liberty could be perverted by aristocratic machinations” (2007: 187). As is obvious, I have adopted what might be called an American reading of the novel as Cooper’s.

⁷⁸ The Leatherstocking often uses this title as a clumsy colloquialization of the Latin legal distinction, *non compos mentis* which referred to those who were considered legally incompetent to stand trial or make contracts owing to an intellectual disability. While unknown in modern militaries, Cooper likely chose the grenadiers as they were selected for their physical prowess which allowed them to lob grenades to greater distances than regular soldiers. Grenadiers were also soldiers who led assaults. Owing to their reputation and physical strength, they represented a much more terrifying mob for Cooper. See Roderick Floud and Kenneth W. Wachter 1982: 424.

thirst for vengeance” (Cooper 1860: 422). Polwarth is quickly transformed from mediator of the rabble to its leader and the group begins to resemble a kangaroo court.

In grotesque irony, Cooper has made Job the voice of American reason who declares his simple faith that “The people (Americans) will teach them the law.” Deaf to this lesson, the mob instead rehearses the law of revenge, shouting continually “blood for blood” as they beat him. The scene is soon interrupted, however, by Lionel’s aunt, Mrs. Lechmere, who calls Job’s attackers “monsters in the shape of men” and, more poignantly for Cooper, “savages, worse than the beasts of the howling wilderness” (Cooper 1860: 420). Indeed, throughout his Leatherstocking pentalogy, Cooper often describes the law of revenge as a gift specific to the Indian. Cooper, like many of his contemporaries, saw women as repositories of virtue and civilization, or, as he wrote as a disinterested European bachelor in his *Notions of the Americans*, “beings whom we believe to be the repositories of the better principles of our nature” (2009: 140). It is likely that Mrs. Lechmere’s interruption of the rioters would have also registered this way for Cooper’s readers.⁷⁹

Marking a distinction between lawful Americans (Job Pray) and lawless Irish Soldiers, the episode also imagines lawlessness and obedience to be mutually constitutive as the violent mob surrenders to Polwarth and he to it. As Polwarth is himself seduced by the mob, he also is made a victim of the British or, more broadly, European mind. The cause of the mob is likewise tied to habits or mental “frailties” that produce a mutually reinforcing deference to station, a phenomenon that Cooper would later associate with various facets of monarchical societies and those infected with demagoguery. In these, flattery operates on “[p]ersonal vanity to induce[...] ordinary men to confide most in those who most flatter their frailties.” Polwarth here lacks the

⁷⁹ See Thomas Clark 2007: 202.

independence of mind that would cause him to resist the flattery of the grenadiers and to “speak [and...] act the truth,” qualities that Cooper ascribed to his “democratic gentleman,” the embodiment of his mental independence (Cooper 2004: 102). A year after publishing *Lionel Lincoln*, Cooper would offer his most throughgoing but also racialized treatment of the mob in *The Last of the Mohicans*, wherein he converted good and bad habits of mind into constitutive elements of the Indian subject.

More sinister and inhuman than his ideologically compromised fishermen or his belligerent Royal Grenadiers, the mob of Cooper’s *Mohicans* looms like *The Bravo*’s corrupt Venetian government, inverting the relationship of mob to government in a depiction of mob *as* government. By further contrast to his noble but ideologically compromised fishermen rioters, who are metonymically fashioned as an interrupting voice to petty Venetian aristocrats, the Indian rabble of *Mohicans* are voiceless; they communicate only through violence except for their “whoops,” that signify nothing but danger to his small, unlikely band of adventurers. Cooper’s Indian mob also does not arrive on picturesque fishing boats or gondolas but through the gothic shadows of a dark and impenetrable tree line, materializing as a mass of fragmented parts, “eyeballs,” “dark bodies,” and animalistic sounds described simultaneously as wilderness and leviathan.

Offering the most robust treatment of the novel’s “Mingo’s” to date, Paul A. Wallace depoliticized the Indian mob, calling it merely an extension of Cooper’s “gothic affinities” and evidence that he had “relinquish[ed] his role of critic of society and surrender[ed] himself and his readers to the delights of wonder and terror” (Wallace 1954: 423).⁸⁰ Yet, the basic emplotment of

⁸⁰ While Wallace begins a discussion of the mob, he soon undermines this path by gluing specific aspects of his mistaken portrayal of the Iroquois to his reading of John G. Heckewelder’s 1819 *Account of the History, Manners, and Customs of The Indian Nations who once Inhabited Pennsylvania and the Neighbouring States*. His account of

Cooper's *Mohicans* differed only slightly from his other works, at least with regard to his project of democratic critique, the mob, and the individual. Making nothing of such a conspicuous feature in one of the most popular literary works about Indigenous North Americans, published no less on the eve of Indian removal, is a strange oversight.

The European mind, as Cooper saw it, was simply the American mind though it lacked the habits of liberty that had given rise to the American revolution. That is, some of his European characters seem to have a choice to side with reason and independence. Yet, turning his lens on Indians in the context of the Seven Years' War, Cooper imagined an Indian mind far more deferential than the European, wholly captivated by habit, and impervious, in some ways, to the appeals of reason. In a representative scene following Cooper's depiction of the massacre at Fort William Henry, Hawkeye and his Indian companions, Chingachgook and Uncas, the titular "last of the Mohicans," meet at a distance from the rest of their party to speak about what route to take to rescue the daughters of Colonel Munro, William Henry's commander.

As he works to convince his two auditors that the best plan of pursuit is over water rather than land, Hawkeye fails, at first, owing to his white "gifts," or the "cold and artificial manner which characterizes all classes of Anglo-Americans when unexcited" (Cooper, 1985: 700). Cooper contrasts this cold white language with the "language of the Mohicans," which is "so direct and natural" that Heyward, Cooper's naïve but noble gentleman officer, watching everything from the bushes, "had but little difficulty in following the thread of their argument" (Cooper 1985: 700). Noticing the loss of his audience, Hawkeye suddenly code switches, illustrating a mutability that Cooper associates with whiteness. Assuming "the manner of an Indian," Hawkeye "adopted all the arts of native eloquence," in order to exploit the Indian

the story of the mob in Cooper is essentially that Cooper he "throws an air of historicity about [the novel] to take the place of common sense" (1954: 424).

preference for the impression, delivery, or sound of speech over its content (Cooper 1985; 700). Or, as the novel's villain, Magua notes, "the pale faces are prattling women! they have two names for each thing, while the red skin will make the *sound* of his voice speak for him" (emphasis added Cooper 1985: 575).

In a whirl of animated speech and gestures, Hawkeye augments his words through what is described as Indian sign language, making walking motions with his fingers and opening his hand to signify liberality. He continues this way until "his sentences were accompanied by the customary exclamation of commendation" from Chingachgook and Uncas, transformed into spontaneous "converts to his way of thinking, abandoning their own previously expressed opinions with a liberality and candor that, had they been the representatives of some great and civilized people, would have infallibly worked their political ruin, by destroying forever their reputation for consistency" (Cooper 1985: 701). Describing their easy conversion to Hawkeye's point of view, Cooper suggests not only that persuasion for the Indian is a mere matter of form, or of repeating the same message with a different tone or level of excitement, he also removes intellectual consistency from the Indian character. Eloquence and persuasion become a sinister motif in the novel, amounting to a magic switchboard for the minds of mentally captivated Indians. Notably, this is the only time this motif attaches to "good Indians." More often, the animation and performance of Indian oratory is associated with the "rabble" and its leader, the Huron chief, Magua, or *Le Renard Subtil*, a duplicitous figure of "fatal and artful eloquence" (Cooper 1985: 671).

A demagogue, Magua is the ultimate Cooperian villain, wielding the power of public opinion to settle a personal vendetta against the commander of Fort William Henry, Colonel Munroe. In his maniacal zeal for revenge, an Indian gift that Cooper describes as having the

appearance “of joy [...] more sinister than avarice,” Magua abducts Munro’s daughters twice and, in the course thereof, forms the intention of forcing one of them, Cora, to “live in his wigwam forever” (Cooper 1985: 585, 589). This is not a romantic proposal, however, and Magua only decides on taking Cora after learning from Heyward that among whites, “the affection of a parent for his child is never permitted to die” (Cooper 1985: 585). Misinterpreting Heyward’s figurative and sentimental rhetoric as a maxim, he decides that taking one of Munro’s daughters as a mate will inflict a deeper and more eternal torment on Munro as “The body of the gray-head would sleep among his cannon, but his heart would lie within reach of the knife of *Le Subtil*” (Cooper 1985: 585, 590). Again, not motivated by feelings conventionally associated with romance, which Cooper associates with the highest form of civilization, Magua is made to appear motivated by nothing more than the seething satisfaction he will get in exacting his revenge on Munro.

In a mixture of intimacy and sadism, Magua takes Cora aside to explain his motives to her in private while noticeably relishing her horrified reactions to his words. The predicament in which she and her fellow travelers find themselves, he offers, is retribution for his humiliation by Colonel Munro, her father, who once publicly whipped him for disobeying a seemingly trivial rule, namely: “if an Indian swallowed the fire-water, and came into the cloth wigwams of his warriors, it should not be forgotten” (Cooper 1985: 588). This introduces an apparent point of ambivalence to the story and even Cora wavers over her father’s inexplicably “imprudent severity” (Cooper 1985: 588). What if, after all, Magua is entitled to his revenge? The question resonates with Cooper’s reading of American mutiny in his short response to the *New Monthly*—though, of course, he had not written it yet.⁸¹ Like the seemingly justified resistance of American

⁸¹ There is nothing to suggest that Cooper did not feel generally the same way about law and obedience before 1831. As John P. McWilliams suggests, the greatest change to his thought between his first works and his writing of *The*

sailors to extra-legal impressment, Magua might be read as somehow justified and even righteous in his reaction. Yet, the ambivalence surrounding Magua's revenge and Munro's "imprudent severity" reveals a difference rather than a similarity between Cooper's independent thinker and his Indians.

Magua's revenge is presented as excessive. It is an obsession and an irrational end-in-itself from which he takes far too much pleasure. Moreover, to the head of the chapter containing Magua's story of woe, Cooper adds an epigraph drawn from *The Merchant of Venice*, "Cursed be my tribe,/ If I forgive him," which aligns Magua with Shakespeare's Shylock who declares his unreasonable vendetta against Antonio (Cooper 1985: 584).⁸² Irrationally, Shylock's vendetta is based on an "ancient grudge" and his disgust for Antonio's Christian-like and "publican" lending practice.

The reference may have inspired Cooper's most recent biographer, Wayne Franklin, to see the Indian villain as a fictional analogue of Robert Sedgwick who had loaned Cooper money at a usurious rate and dogged him through litigation for a decade (Franklin 2007: 450-86). Rather than damning Magua entirely, Cooper may have intended to present him as justified in his anger but not in his unlawful search for relief as his decision to seek justice by sending Heyward and Munro's daughters to their deaths, or, later, by raping Cora, is a fee disproportionate to the original debt of humiliation, even by the most expansive application of *lex talionis*.

Describing his plan to take his pound of flesh for a pittance, Magua will leave Cora and return to exciting his "gluttonous comrades" who, as Cooper describes them, have been

American Democrat in 1838 his is partial loss of trust in the democratic system owing to his diminished faith in reason among the rank-and-file. By 1838, Cooper was advocating a significant limitation on suffrage and was subsequently less willing to encourage justified resistance to unjust laws than he was in 1826. Yet, in 1831, he did just that. As John P. McWilliams notes, Cooper had become more rigid in his conception of democracy, though he still "struggle[d] to maintain his earlier political convictions in the midst of the changed conditions of his country" and to "reassert[...] nearly every tenet of [his] democratic faith" (1970: 666).

⁸² See Hugh C. MacDougall 1999.

monstrously eating the raw flesh of small game like Miltonic demons. In a moment of feminine delicacy, Cora returns to Alice choking on tears and unable to describe Magua's profane marriage proposal. And pointing wordlessly to the "dark groupe" of "lolling savages," she leads Alice to naively assume a democratic mechanism is in control and that the horde have become a jury: "read our fortunes in their faces; we shall see! we shall see!" (Cooper 1985: 590). Yet, as Magua begins his speech, accompanied by performative gestures signifying past victories and wrongs, readers are never shown their faces—just a lurking mass of bodies, and every so often a "dark countenance" that "gleamed with exultation" under the spell of Magua's skillful Indian eloquence.

4.3. "...they turned their eyes, as one man..."

As Cooper shows through more than three long descriptions of Magua's speechifying, the Indian mob is tractable to a fault. And, able to assume the posture of an Indian orator with ease, Magua is several times described tugging on the prejudices of his wild audience, "artfully blend[ing...] natural sympathies with [...] religious superstition [...so that] that their minds, already prepared by custom to sacrifice a victim to the manes of their countrymen, lost every vestige of humanity in a wish for revenge" (Cooper 1985: 760). On the surface of Cooper's Indians is a single-minded desire for violence which he here attributes to custom. Yet, throughout the novel, custom is richly associated with an invented form of absolute mental dependence that makes his Indian appear a negative of democratic freedom.

Rather than sharing a "voice," as, again, his Venetian fishermen do, the Indian mob seems only to share one gruesome body and an assortment of body parts, all animated in grotesque unison toward the violent purpose planted by Cooper's arch demagogue. Thus, under

the rhetorical prodding of Magua, the Indians “[turn] their eyes, *as one man*”; “the whole band [spring] upon their feet *as one man*”; “the Indians, [change...] their purpose by a *common impulse*”; “the whole nation [rise] to their feet by a *common impulse*” (emphasis added Cooper 1985: 569; 575; 592; 810). While mostly transformed into a single body, the mob is sometimes linked to voice, albeit a voice that wills nothing on its own. Without specific guidance, it disintegrates into demonic “imprecations” before “the whole excited multitude [breaks] from their order, and [spreads] themselves about the place in wild confusion” (Cooper 1985: 745). A figure of unhuman gothic terror, Cooper’s Indian mass are a visually as well as politically terrifying sight owing to their absolute deference to eloquent flatterers like Magua.⁸³

Cooper’s mob realized an image of the Indian that can be traced to the writings of Early American thinkers in the seventeenth century. Wondering over the alienness of Indigenous North American society, colonial observers, specifically Puritans, saw in those societies an anomalous mixture of the “anarchic and tyrannical,” imagining individual Indigenous subjects “held captive within their own communities through the persuasive force of eloquence” (Gustafson 2011: 33). In 1645, Roger Williams reported on this counterintuitive mixture of control and voluntarism in Indigenous gatherings when he observed that wherever Indian leaders were “eloquent” their followers “esteeme them Gods, as Herod among the [j]ewes” (Gustafson 2011: 33). While the idea originated two centuries before the publication of Cooper’s novel, exotic and marvelous ideas such as this one still survived among hobby linguists and in the contemporary sources he consulted for his research.⁸⁴

⁸³ Cooper wrote in his *American Democrat* that equality, specifically that of condition, was “is incompatible with civilization” as the level of equality in a civilization was, to him, a positive function of savagery. “In practice,” he continued, equality “can only mean a common misery” as he tied property to achievement and taste—things that only a naturally gifted group could appreciate (1838: 33).

⁸⁴ See Sarah Rivett 2017: 338-72.

As Cooper shows later in the novel's village scenes, the tractable Indian mob and its chaotic mass of violent bodily fragments operate under a nearly immutable habit of mind to which very few Indians (but mainly Uncas) are an exception. In such moments of exception, Cooper produces knowledge of the incoherent mass, subtended by his comparative democratic lens and, to some extent, the normative framework of "domestication" or "domestic citizenship" through which Uncas and other victims of undemocratic Indian society are made knowable.⁸⁵

Infiltrating a Huron camp to save the daughters of Munro, Heyward and David Gamut, the "psalmodist" and sometimes comic relief, come upon a group of Indian children playing on the village's outskirts. A miniature of adult Indian society, the children grotesquely take notice and

[...] the whole of the juvenile pack raised, by common consent, a shrill and warning whoop; and then sank, as it were, by magic, from before the sight of their visitors. The naked, tawny bodies of the crouching urchins blended so nicely at that hour, with the withered herbage, that at first it seemed as if the earth had, in truth, swallowed up their forms; though when surprise permitted Duncan to bend his look more curiously about the spot, he found it everywhere met by dark, quick, and rolling eyeballs. (Cooper 1985: 739)

Despite being a representation of children in the middle of a game of some kind, Cooper's Indian "urchins" reflect the political structure of their society, moving like their elders "by common consent." The distinction between their "tawny bodies" and the forest is erased as

⁸⁵ Here and later in this chapter I will use a theoretical figure developed by Amy Kaplan which she terms "the line." In her article on the late nineteenth-century realism of William Dean Howells, the line is used to explain a foregrounding of the knowable against a background "carefully composed of cataloglike descriptions that yoke together inanimate details and fragments of lower-class inhabitants and frame them in a naturalized cityscape" (1986, 74).

the Indian/wilderness becomes a glaring or seeing being, a marvelous and dangerous creature of gothic romance filled with “dark, quick, and rolling eyeballs.”⁸⁶ This works a powerful effect on the novel’s overall mood that Cooper begins to develop even before the arrival of the Leatherstocking and his Indian companions. As Magua leads the naïve city-dwelling group to their doom in the novel’s opening chapters, Cooper cultivates a feeling of insecurity as Heyward anxiously searches the wilderness for danger. Scanning the woods, he is startled by an Indian which turns out to be “some shining berry of the woods” he has taken “for the glistening eyeballs of a prowling savage” (Cooper 1985: 498). Converting the forest into a lurking savage seems also to reconfirm the savagery of its Indigenous referent. And Cooper’s use of children as an example would have elicited a knowing response from his white nineteenth-century Americans readers.⁸⁷

In similar descriptions, adult Indians appear as an attacking mass but rarely as individuals; separated from the group, they are reduced to horrific fragments of the Indian body. This is especially so in various scenes when they are tossed into rivers and chasms like rag dolls. During Cooper’s iconic attack at Glen’s Falls, a group of Indian combatants who have broken off from the mob attempt to sneak up on the party in the chaos when Hawkeye catches sight of them, “four human heads bobbing behind “a few logs of drift-wood” (Cooper 1985: 548). Amid the chaotic fighting, one of the heads is seen being carried away by the current before he/it hurtles to his/its death from the falls, “shrieking” “with uplifted arms and starting eyeballs” (Cooper 1985: 554, 548). During the fight, Hawkeye kills several Indians, leaving one who is shot and half dead

⁸⁶ Similarly, looking at Cooper’s apparent obsession with Indian eyes in the Leatherstocking pentalogy, Ezra Tawil reads this phenomenon as a metonymy between object and “Indian threat,” suggesting that what is at stake is “the Indian gaze”—which would suggest a mass interiority in *The Wept of Wish-ton-Wish* (2006: 143).

⁸⁷ I treat this theme in full in the previous chapter, but I will again point to the concept of domestic citizenship and its popular metaphorical connection with sacred private space as well as the seemingly organic foundation of an orderly government.

and “swinging in the wind” from a tree. It is only when Cooper’s Indians are removed from the mass, coextensive with their Indian society, that they are rendered more intelligible and given a slightly more human description. D.H. Lawrence presented his observation of this motif in a pithy transposition of “bird” and “spirit”; when Cooper’s “killer” shoots at birds and Indians, they “fall out of the invisible into the visible,” “bring[ing] the bird of the spirit out of the high air” (Lawrence 1923: 86).⁸⁸ The extrication of parts from the gruesome bodily mass, i.e. the background, the wilderness, or his throng of parts, often makes them intelligible to Cooper’s realism.

4.4. “...*the unerring feeling of nature...*”

In his few portrayals of Indigenous people as individuals outside of violence, Cooper presented the richest glimpses of psychological realism or “mental” depth attributed to Indians to that date. Yet, these individuals are only knowable from the mass of tawny bodies through a sentimentalized and comparative democratic hermeneutic. In these scenes, Cooper offers a rich window into his Indian society, but only as a glimpse under the hood of the mindless Indigenous mob. As it relentlessly pursues his white adventurers, it also injures itself through the destruction of individual liberty made co-extensive with the destruction of families.

Cooper suggestively linked government and domesticity in his 1821 *The Pilot*, ventriloquized through Alice Dunscombe who argues with John Paul Jones (the pilot) about the role of women and the family in the origin of government. To Jones, who has coolly accused her of “shackling nations with the ties” of domesticity, Alice responds “Are not the relations of

⁸⁸ While Lawrence suggests a parallel of realism and death, or killing, to be specific, this is merely an incisive impression he had come away with after a comparison of Cooper’s “white” and Indian novels. See Axelrad, 1987, 577.

domestic life of God's establishing, and have not nations grown from families, branches spread from the stem, till the tree overshadows the land! 'Tis an ancient and sacred tie that binds man to his nation, neither can it be severed without infamy" (Cooper 1837: 133). Alice's short declaration smuggles in a great deal of content, describing the (presumably nuclear) family as natural or pre-civil, at the origin of government or "nations," and as an institution protected, most notably, by natural sympathy. A law or custom, therefore, that protected domestic space, was a law that was naturally just.

Cooper added a more technical formulation of domesticity and government to his *Notions* wherein his disinterested European bachelor—more than a decade before Alexis de Tocqueville penned his very similar observations—described the benefits and social effects of the separation of male and female spheres of activity. The bachelor calls this the "division of employment," which was "in itself enough to produce an impression on the characters of a whole people" (2009: 141). Deviating little from how writers came to know sphere theory in the late nineteenth and twentieth centuries, Cooper's bachelor predicated the virtues of the domestic sphere on the political inequality of the wife who was pure as she had made "no bargains beyond those which supply her own little personal wants, and her heart is not early corrupted by the baneful and unfeminine vice of selfishness" produced perhaps by access to political rights and the world of business and accumulation. Kept so, the wife creates a space where "[t]he husband can retire from his own sordid struggles with the world to seek consolation and correction from one who is placed beyond their influence" (Cooper 2009: 141). While not explicitly a political theory, Cooper's *Mohicans* illustrates how undemocratic political institutions are destructive of domestic space. In his depictions of mob mentality or obedience to custom, Indian society is imagined as

lacking protections for domestic space as families are destroyed by the operation of mental deference to habit or custom.

One such depiction unfolds immediately after David and Heyward enter the Huron village to the scene of his monstrous “urchins” at play. There, Heyward sees two prisoners escorted into the camp, one of whom is Uncas and the other, a young Indian named Reed-that-bends. Forming a comparison to Uncas, Reed-that-bends is a Huron warrior who, “while pleasing to the eyes,” is said to be a coward and a braggart: his “tongue is loud in the village, but in battle it is still” (Cooper 1985: 751). And for his crime of timorously failing to answer or follow the warriors in battle, and, more recently, fleeing from Uncas in a skirmish, he is detained with his enemy pursuer and brought back to the village for judgement. In the scene that follows, Cooper attempted to describe the mental interior of his Indians, but only as a minority report on the tyranny of undemocratic Indian custom and, relatedly, the undomestic character of Indigenous communities.

As can be expected of Cooper’s Indian ideal, Uncas runs the gauntlet in a display of exceptional physical prowess, emerging without “a single sign of suffering,” while Reed-that-bends, does not move but remains, “a cringing statue, expressive of shame and disgrace” (Cooper 1985: 749, 747). Throughout the village scenes, Cooper associates statuary with lived captivity under Indigenous custom. As such, Reed-that-bends postures deference under the gaze of the Indian mass just as Uncas becomes a “finely molded statue [rather] than a man having life and volition” (Cooper 1985: 754).⁸⁹ As Magua threatens him with violence in front of the tribalized mass, Uncas portrays a tribalized outward appearance, standing admirably still and “looking at his enemy in the eye, with features that seemed superior to emotion. Marble could

⁸⁹ See also Cooper 1985: 759 and 799.

not be colder [...]” (Cooper 1985: 761). And during Magua’s captivation of the villagers with his oratory, they stand astonished, “each dusky figure [...] a breathing statue” (Cooper 1985: 759). After the tribal elders meet, Uncas is determined worthy while Reed-that-bends stiffly permits himself to be stabbed to death by an elder who pronounces his sentence to a crowd of jeering onlookers. After he is killed, his name, declares his judge, will also be forgotten.

When the knife enters his chest, an unprecedentedly complex interiority is compressed onto his face and, in his last moments, “Shame, horror, and pride struggled in its lineaments.” In this rare second of Indian humanity, Cooper obscurely permits the prisoner a final look at his family as “[h]is eye, which was contracted with inward anguish, gleamed on the persons of those whose breath was his fame; and the latter emotion for an instant predominated” (Cooper 1985: 751). Reed-that-bends’s name suggests cowardice, his quality of faltering at the onset of turbulence, but also his compliance to force, which Cooper, along with Jefferson in his *Notes on the State of Virginia*, sometimes associated with the source of authority among the Indians.⁹⁰ Case in point, Reed-that-bends becomes a signifier of the oppressed tribalized minority, formed by the custom to which he “bends” and that punishes cowardice as a capital crime.

Over the course of the chapter, Cooper examines the brutality of Indian judgement by depicting the gauntlet as another form of mob, within which “[n]othing could be distinguished but a dark mass of human forms tossed and involved in inexplicable confusion” (Cooper 1985: 746). As is his mob elsewhere, the Indian gauntlet is a synecdochal mass of parts, all “[a]rms, gleaming knives, and formidable clubs,” that signify the village whole. Yet, importantly, the mob of the village is not the mob of the battlefield. The village mob includes domestic figures,

⁹⁰ Cooper confusingly delivers this as a maxim in *Mohicans* and in other works of the pentalogy but sometimes attaches it to the physical force of individual Indians. This produces a conflict with his more complex examples of authority, i.e. habit or custom. See Jefferson 1785, 96; Cooper 1826 576; Cooper (vol II) 1986: 769.

women and, again, children. Both produce a similar effect, creating an uncannily undomestic scene of brutality.

The array of participants is horrifically inclusive: “Men, women, and children; the aged, the infirm, the active, and the strong, were alike abroad, some exclaiming aloud, others clapping their hands with a joy that seemed frantic, and all expressing their savage pleasure in some unexpected event” (Cooper 1985: 743). To the sounds of the mob, Cooper adds the “shrieks of the women” by which “the awful effect was heightened” (Cooper 1985: 746). More shocking than his “heads” and “rolling eyeballs,” readers might have been genuinely appalled by the information conveyed in the scene of women and children transformed into rioters standing in the complete equality of status through violence—an “unhallowed” democracy, as he describes them, “assembled to act their bloody lawless rites (Cooper 1985: 745).

The village mob illuminates Cooper’s relationship to his sources. In reviews of the novel, his debt to Moravian Missionary John G. Heckewelder’s 1818 *An Account of the History, Manners, and Customs of The Indian Nations who once Inhabited Pennsylvania and the Neighbouring States* was often lazily referred to as its greatest flaw. The nicest of these criticisms is probably that published by W.H. Gardiner in the *North American Review*. There, in the first long review of the book, he attributed Cooper’s unbelievable Indians to the fact that “he has relied exclusively upon the narrations of the enthusiastic and visionary Heckewelder, whose work is a mere eulogium upon the virtues of his favorite tribe” (Gardiner 1826: 105). The least kind of such reviews was written by the Governor of Michigan territory, Lewis Cass, who described Cooper as a victim who had been led unwittingly into romantic “extravagances by the authority of Mr. Heckewelder” (Cass 1828: 376). For Cass, Heckewelder, thus Cooper, had strained all credibility by affording the Indians too much sentiment or too rich an interior world.

Cass corrected Cooper's error and wrote that, in his experience, and he denied Heckewelder had any, "the objects interesting to an Indian are almost confined within the circle of his animal wants and desires. They are comparatively few, and his attention is therefore directed to them with undivided force" (Cass 1828: 376). What is either fascinating or frightening about Cass's claim is that he either seems not to have read Cooper very carefully, or he had but still maintained that Cooper, like Heckewelder, had been too kind.

Cooper's version of the gauntlet is illustrative in this regard. In Heckewelder's opinion, the cruelties of the gauntlet had been overstated. Though "this treatment is very severe when a particular revenge is to be exercised," he noted, "I can say with truth, that in many instances, it is rather a scene of amusement, than a punishment":

Much depends on the courage and presence of mind of the prisoner. On entering the village, he is shewn a painted post at the distance of from twenty to forty yards, and told to run to it and catch hold of it as quickly as he can. On each side of him stand men, women and children, with axes, sticks, and other offensive weapons, ready to strike him as he runs, in the same manner as is done in the European armies when soldiers, as it is called, run the gauntlet. If he should be so unlucky as to fall in the way, he will probably be immediately despatched by some person, longing to avenge the death of some relation or friend slain in battle; but the moment he reaches the goal, he is safe and protected from further insult until his fate is determined. (Heckewelder 1818: 107-8)

While Cooper's textual borrowing from this passage is apparent (e.g. most notably his catalog of weapons and participants), Heckewelder's measured description is still not the

horrifying scene that Cooper makes it out to be.⁹¹ Indeed, Cooper departs in the extreme from Heckewelder's tone despite making extensive use of his *Account*.⁹²

The most pronounced excess in Cooper's fictionalization of the gauntlet is his emphasis on its female participants. Mrs. Lechmere of *Lionel Lincoln* provides a simple and helpful contrast as she represents not only a repository of domestic or civilized values but interrupts a violent mob of bloodthirsty grenadiers and is heeded in her interruption. Cooper's Indian women, while also heeded by the mob, are made to appear its leaders. Perhaps a perversion of the idea that women among the Iroquois and Delaware sat in the role of arbiters over war and peace, Cooper interprets this to mean throughout the pentalogy that Indian women are belligerent provocateurs. And following Uncas's successful gauntlet run, one "crafty" woman steps out of the frenzied mob and attempts unsuccessfully to shake him with a brutal harangue so dirty that *Mohicans's* narrator is forced into *aposiopesis*: "a torrent of words, that no art of ours could commit, successfully to paper" (Cooper 1985: 747-89).⁹³ Despite the applause she gets from her audience, Uncas remains statuesque as he is described several times in the novel, the image of "self-command" and superiority in parallel to the posture of Reed-that-bends, a statue of shame.

⁹¹ The idea that captivity and the gauntlet were definite roads to death operates against the well-supported assumption that captivity also served as a vehicle for adoption and was documented to be the first of three initiation rites to absorption into some Indigenous societies (Axtell 1975: 70-1).

⁹² Information that may have been taken from Heckewelder includes, but is not limited to, Cooper's use of the term "Indian file" (Heckewelder 177 and Cooper 799); Cooper's theme that traces Indian corruption, in Magua, to the forts (Heckewelder 187, 223); Cooper's description of "jugglers" (Cooper 770 and Heckewelder 231); Gamut's sympathetic treatment among the Indians (Heckewelder 257); Cooper's discussion about Uncas's association with turtle totem (Heckewelder 257); the romance of Delaware persecution and the role of Dutch colonization (Heckewelder 71-2 and Cooper 614); and the account of the burial mounds of the "Alligewi" (Heckewelder 48-9 and Cooper 584-96). Cooper also borrows from Heckewelder's glossary of "Metaphorical Expressions," using it to put phrases into the mouths of his Indians, such as when Magua uses the expression to Tamenund in his request to be given Cora as justice in his suit: "Make him strong with is own" (834). Heckewelder writes in expression #11: "Make me very strong!" which he translates "Give me much, pay me well!" (799).

⁹³ This departs significantly from Heckewelder's account in which he writes that "on reaching the desired point, he will have the satisfaction to hear his courage and bravery applauded" (108). Notably, Cooper also added a belligerent woman character to a similar scene of his *Deerslayer* (1985).

Of all of Cooper's "extravagances," Cass may have been most triggered by the novel's rare depiction of the Indian interior that follows the gauntlet scene. A significantly more humane depiction than his scenes of murderous Indian hordes, Cooper's glimpses of Indian interiority are still not kind. Instead, they merely reflect Cooper's attempt at realistically portraying the mental interior of individuals persecuted by but also constitutive of the oppressive mob. To this Cooper adds the destructive effects such oppression has on domestic connections.

Following the ritual killing of Reed-that-bends, Magua returns early from a moose hunt to find Uncas alive. Questioned about the hunt's success, he tells those assembled to send Reed-that-bends to assist the warriors with the kill. Unwittingly in violation of a new taboo, "[a] deep and awful silence succeeded the utterance of the forbidden name" and those present suddenly look down in fear (Cooper 1985: 756). Cooper then directs narrative attention to the father of the slain coward as the younger Indians "suffered their wild and glaring eye-balls to roll in the direction of a white headed savage" named Wiss-en-tush (Cooper 1985: 756). Responding to their awkward attention, Wiss-en-tush stoically honors the taboo and insists that he "had no son" and "He who was called by that name is forgotten; his blood was pale, and it came not from the veins of a Huron; the wicked Chippewas cheated my squaw" (Cooper 1985: 756). Disowning his son, the old man attacks his lineage by claiming his "squaw" was cheated, seduced, or perhaps raped by the Chippewa. And, offering his own Loganesque elegy, he finally declares: "The Great Spirit has said, that the family of Wiss-en-tush should end; he is happy who knows that the evil of his race dies with himself" (Cooper 1985: 756). The old man then looks to his auditors "seeking commendation of his stoicism" but receives only more of the same awkwardness from the group that suspects his anguished speech to be insincere.

Cooper here again offers a short sentimental glimpse into the interior of the individual who is oppressed by the “stern customs” of the Indians which had “made too severe an exaction” on the man. Visibly holding back tears, it seems, “[t]he expression of his eye contradicted his figurative and boastful language, while every muscle in his wrinkled visage was working with anguish” (Cooper 1985: 757). Like his lost son, Wiss-en-tush is transformed into an individual through estrangement from his tribe and its cause, the destruction of his family. Shocked by his loss, his human nature is revealed by cracking the shell of habit, as Cooper understood it. Unable to endure membership in his Indian community, which, Cooper offhandedly remarks, “was composed of so few families,” Wiss-en-tush turns his back, “as if sickening at the gaze of men” and leaves the lodge, shielding his eyes from the others with his blanket (Cooper 1985:759, 757).

Witness to all of this, Heyward has been sent by Hawkeye on reconnaissance to find Alice who is being held by the Huron following the William Henry massacre (Cora is in a Delaware village). To help him blend in, Hawkeye playfully dresses the Major in “the masquerade of a buffoon,” by which he might pass for a “juggler from Ticonderoga” (Cooper 1985: 735). This title was double for Cooper, meaning both “buffoon” or side show as well as a kind of shaman or pseudo-physician. In his *Account*, Heckewelder described jugglers as “professional impostors, who, availing themselves of the superstitious prejudices of the people, acquire the name and reputation of men of superior knowledge, and possessed of supernatural powers” (Heckewelder 1818: 231). A testament to Cooper’s research that underlies so much in the novel, the meaning of “juggler” here would have been only slightly less obscure to readers of the 1820s who were familiar with Heckewelder’s popular *Account*.⁹⁴ And as Cooper seems to

⁹⁴ One of Cooper’s better-informed readers on whom this was not lost was the novelist Catherine Maria Sedgewick, began the seventh chapter of her popular 1827 *Hope Leslie* with applause for Cooper’s *Mohicans* in which Indigenous culture had “been so well described [...] that their usages have become familiar as household words” (1827: 84).

suggest, even Heyward doesn't fully understand his disguise. While allowing Heyward to blend in and, from a narrative perspective, witness various scenes in the village, his imposture in these chapters develops Cooper's earlier theme in which Hawkeye impersonated the habits of an Indian orator. Here, imposture is made to contrast with the rigid deference of custom and superstition which will echo Rogers' *Ponteach* and to some extent Chateaubriand's *Atala* as it precipitates the tragic death of a sick young woman.⁹⁵

Heyward is approached after the gauntlet in his juggler guise by a Huron chief who requests the Major use his mystical healing talents to cure his daughter. Not fully understanding what those talents are, but "possess[ing] some knowledge of the mummerly practiced among the Indians" he consents. And offering his professional response to the chief "with suitable mystery" he declares: "Spirits differ, some yield to the power of wisdom, while others are too strong" (Cooper 1985: 755). Becoming the butt of Hawkeye's joke, Duncan's lack of experience in the role of "juggler" has forced him to appear a charlatan, which, ironically, has made him a convincing example of a "professional imposter."⁹⁶ The scene could be understood by way of the discourse of "gifts" as forming a connection between "white gifts" and "deceit." Yet, more maligned by the joke are the Indians who are shown to be easily fooled by Heyward's absurd improvisations on what they believe to be real medical knowledge.

Heyward's "patient" will die, if not directly because of his deception at least because she might have found better treatment from a professional imposter or anyone at all who would have tended to her. Despite his promise to treat the chief's daughter, Heyward will dedicate every

⁹⁵ In a sense, *Atala* can also be placed among Cooper's sources as he can be assured to have read a short essay-long reflection in Indian oratory called

⁹⁶ E.W. Pitcher offers a number of other sources for Cooper's knowledge and notes that Cooper's scout may have assigned Heyward this role in knowledge that he would have required rescuing. Not remarking on Cooper's successes as a juggler, Pitcher suggests that the scene exemplifies Heyward's romantic and "overreaching vanity" (1996: 14).

minute to finding and escaping with Alice. Nevertheless, Cooper will displace blame for her death onto own people who are also distracted by superstition and the maintenance of appearances owed to their Indian custom.

Immediately after the chief accepts Heyward's credentials he ceremoniously delays—perhaps a reference to a passage in Heckewelder's *Account* wherein he described the stoic absorption of chiefs in council which bordered on carelessness. Describing the superhuman concentration of chiefs, Heckewelder wrote that while they smoke together in the lodge, nothing “can draw their attention from the subject they are deliberating on,” barring their surroundings catching fire or their being attacked (Heckewelder 1818: 110). In a paragraph nearby, he illustrated this with the story of several chiefs who lounged and smoked through a violent siege headed by the most “audacious murderers of the Chippeway nation” (Heckewelder 1818: 110). As the father to the sick woman smokes his pipe, “awaiting the proper moment to move,” Heyward grows “impatient, inwardly execrating the cold customs of the savages, which required such a sacrifice to appearances” (Cooper 1985: 755).⁹⁷ While Heyward is anxious, it is not, again, to see the chief's daughter but to see Alice—though Cooper leaves this to interpretation.

Cooper spreads the episode of Heyward's imposture over several chapters in which the credulity of the Indian mass is implicitly compared to the flexibility of whites and only lightly compared to that of the chiefs who are made to look less credulous or captivated by the superstitions of their people. As Hawkeye, Heyward, and Alice attempt to leave the place, Alice poses as the sick woman wrapped in a blanket. Encountering the woman's family, Duncan is forced to return to character, telling them that he is taking the sick girl to a place where she can

⁹⁷ I have not found a completely fitting source that ascribes this quality of carelessness or ceremonial distraction to Indigenous North Americans, but example might be drawn from Heckewelder's discussion of the Indian council in his chapter on “Government.”

heal and has scared the afflicting spirit into some rocks nearby. To this, Hawkeye adds another deception, warning the family not to check on the spirit or they too will be possessed. This earns the group more time to escape, though, as the narrator explains, the scout was treading close to a limit and “presumed so far on the nature of Indian superstitions,” which “were rather tolerated than relied on by the wisest of the chiefs” (Cooper 1985: 777). Despite Hawkeye’s extravagance, the deception pays off and the family leaves them be. And after investigating the cavern where they had left the woman, her father finds her dead.

Like Cooper’s other figures of domestic tragedy, the young woman’s father displays at first the “unerring feeling of nature for a moment [...as] the old warrior hid his eyes in sorrow” (Cooper 1985: 793). Yet, unlike the father of Reed-that-bends for whom the performance of customary stoicism became impossible, the old man suddenly “recover[s] his self-possession,” by which is meant, ironically, the pall of Indian custom. Deferring again to superstition and custom, presented by Cooper as the tragic cause of his daughter’s death, the old man declares the young woman’s passing to be the will of the “Great Sprit” who is “angry with his children” (Cooper 1985: 793). At this suggestion, Magua suddenly rolls into view (having had his limbs bound by Hawkeye after trying to capture the adventurers), interrupting and reinterpreting the old man’s revelation.

Questioning those present who declare that an evil spirit “blinded our eyes” to the presence of the intruders, Magua contradicts their superstition, preventing public sentiment from its diffusion into spiritual speculation: “An evil spirit! [...] ‘tis the spirit that has taken the lives of some many Hurons. [...]: la Longue Carabine” (Cooper 1985: 794). As Magua motivates the Indian mass, the last of Cooper’s imposters plays out. As Duncan had become a juggler, Hawkeye becomes a conjuror or a bear. After this, he will offer Uncas his bear costume and

dress as David who will, in turn, dress as Hawkeye. Finally, near the end of the novel's village scenes, Chingachgook will appear in the guise of a Beaver. In this series of costume changes, Cooper extends his examination of the tyranny of the Indigenous mass to the tyranny of Indigenous custom which he contrasts with the flexibility of his white adventurers and non-tribalized Indians unconfined to the cold operation of custom, habit, or party.

4.5. "*...centuries before, the practises of his nation...*"

Following the discovery of Magua's betrayal and the first meeting between the two parties, that lead by Heyward and that lead by the scout, Uncas is credited with the idea to stay and protect Heyward and his two female companions. He will also appear in various other scenes, distinguished not only for his fighting skill but a "proud and determined, though wild expression of the features." Yet, his domestic sensibilities are what separate him from all other Indians—including his father (Cooper 1985: 529). Before the first large skirmish at Glen's Falls, Cooper spends pages describing Uncas's handsome and noble features at which Alice looks "as she would have [...] upon some precious relic of the Grecian chisel" (Cooper 1985: 529). Cora, who is cryptically described as mixed race in a few scenes, takes the opportunity to awkwardly point out that Uncas's handsome features and noble bearing must override prejudice as "who that looks at this creature of nature, remembers the shade of his skin?" (Cooper 1985: 529). As Uncas is drawn nearer to Cora, whom Cooper presents as the less preposterous of two possible interracial matches, their relationship is associated less with their future happiness than with the civilizing effect of domesticity and the merit Uncas gains by pursuing it.

For instance, besieged later by Magua and his throng of Indian warriors at the Falls, Hawkeye and Chingachgook escape so that they can plot the rescue of those left behind. Yet,

Uncas, following instincts that supersede his Indian habits, attempts to stay behind. This initiates a generically sentimental exchange between Uncas and Cora who “lowers her eyes under the gaze of the Mohican,” which is attributed to “an intuitive consciousness of her power” (Cooper 1985: 561). In Uncas, the exchange seems to produce the feeling Cooper associates with the domestic sphere, giving him the visible appearance of calmness before, on the advice of Cora, he resolves to leave the cave, which transforms his appearance to gloom.

Throughout the novel, Uncas is the only member of the scout’s party who is depicted attending to the needs of Alice and Cora. At the Falls, Uncas attends to Cora and Alice, “performing all the little offices within his power, with a mixture of dignity and anxious grace.” Twinned with Heyward for his domestic sensibilities, the latter looks on with amusement and the knowledge that “it was an utter innovation on the Indian customs, which forbid their warriors to descend to any menial employment, especially in favor of their women” (Cooper 1985: 532). Similarly, following the restoration of Alice and Cora from their captivity, the first of three captivities, Uncas flies “with instinctive delicacy [...] to the assistance of the females,” thus “denying his habits,” to which Cooper’s narrator adds, “we had almost said his nature” (Cooper 1985: 601). In this reunion of the adventurers, Heyward, Cora, and Alice, are reduced to tears, while Uncas, blood-soaked, appears stoically exempt from such sentiment. Nevertheless, the narrator notes that his “eyes [...] had already lost their fierceness, and were beaming with a sympathy that elevated him far above the intelligence, and advanced him probably centuries *before*, the practises of his nation” (emphasis mine Cooper 1985: 602). In these scenes, Uncas is domesticated for readers. Yet, he is still connected with his Indianness and therefore the threat represented by the Indian mass

“The last” of his tribe, Uncas, except for his father, is free from the harsher visions of custom that Cooper presents. Yet, as I note above, Uncas’s Indian habits of mind still make him susceptible to the manipulation of Indian eloquence. Cooper does not comment on the ultimate effect or cause of Uncas’s unprecedented level of civilization, though it is possible that he has invented Uncas as a figure of promise predicated on the political effects of detribalization. Having represented tribal life as a state of existence in which the public destroys the private sphere, Uncas, in his isolation, may have simply come to appreciate the calm provided by the “division of employment.” Yet, as we now expect from the trope associated with the novel, Uncas is the last and only figure of Indian promise who dies at the end of the novel attempting to save Cora from Magua. It is the final scene in which domestic space is destroyed by the tyranny of Indian custom.

A wide range of readers have focused on the mythical aspect of the novel, connecting it to its setting during French and Indian War. Francis Parkman saw the conflict as the ultimate racial showdown between Indian and white colonist and Cooper’s novel might be read as a story broadly about the origin of American settlement in the wilderness. Yet, what is often missed in readings of the novel are Cooper’s references to the quirky intellectual currents of his day, namely, the pseudo-archaeological theories of Indian origins. Attending to this thread in the narrative gives a different meaning to the novel that was productive of very specific effects on the rhetoric of Indian removal.

In one of many out-of-place philosophical debates between Hawk-Eye and Chingachgook, readers are treated to a short discourse about the ancient origins of Indigenous North Americans. Though the context or stakes of the argument are not provided, the topic seems generally to revolve around the scale and fairness of American conquest compared the

Indigenous conquest that transpired “long before the English came into this country” (Cooper 1985: 504). To Chingachgook, Hawk-Eye offers a very generalized sketch of ancient violence that is taken as true by both discussants: “Your fathers came from the setting sun, crossed the big river, fought the people of the country, and took the land; and mine came from the red sky of the morning, over the salt lake, and did their work much after the fashion that had been set them by yours; then let God judge the matter between us, and friends spare their words!” (Cooper 1985: 501). In this sketch, Cooper offered a migration-displacement thesis that served no other purpose than to bring Indigenous down to European levels of rectitude. To accomplish this, it describes the eastward migration of Chingachgook’s people (considered by the twenty-first century to have indeed—in part—migrated from the west through Beringia) and their conquest of a people who were already on the continent and from whom they “took the land.” Notably, in his description of white conquest, Cooper blunts the phrasing, converting “fought the people” and “took the land” to “did their work much after the fashion that had been set them by yours”—a construction wholly dependent on the Indigenous example.

For historical accuracy, Cooper has Chingachgook localize this story, mentioning an oral history of the Delaware war with Alligewi from John Heckewelder’s 1818 *Account*.⁹⁸ Yet, this is several pages from Hawkeye’s story which seemed to generalize violent conquest to all Indians. Ensuring it will be read this way, Cooper attaches a footnote directing readers to “a tradition which is very popular among the tribes of the Atlantic states. Evidence of their Asiatic origin is deduced from the circumstances, though great uncertainty hangs over the whole history of the Indians” (Cooper 1985: 501n). Whether Cooper is playfully referring to white “tribes” in the 24 then-existing states, or to actual Indigenous communities still living east of the Mississippi, we

⁹⁸ Heckewelder 1881: 1.

cannot know. What is knowable, however, is that Cooper meant in this early moment in the novel—during the introduction of Natty Bumppo and Chingachgook to the narrative—to use the concept of migration to exonerate Europeans who were then planning to do “their work much after the fashion” of the Indians.

The most popular of the migration theories of the nineteenth century, likely because of its cathartic effect on white settler colonists, has been called the “multiple-migration displacement scenario” in which North America was believed to have been first settled by a more advanced people (usually imagined to be white in some way) who were responsible for the various structures that Americans had begun to unearth throughout the Ohio and Mississippi valleys in the late eighteenth and early nineteenth centuries (Hunter 2017: 12). Because most American onlookers refused to associate the architects of these structures (or “mound builders”) with contemporary Indigenous North American communities, a second group of migrants was invented, sometimes described as “Tartars,” who were thought to have eradicated the first group. In this timeline, this second group are imagined to be the ancestors of nineteenth-century Indigenous North Americans (Hunter 2017: 12-3).⁹⁹ Another less popular idea included the so-called Hebraic thesis which maintained that Indians had either degenerated from or displaced one of the Ten Lost Tribes of Israel (Hunter 2017: 33). By contrast to the displacement theory, the Hebraic thesis seems to have evolved from the study of Indigenous languages rather than the ruins of Mississippian Era structures.¹⁰⁰ The Hebraic thesis seems to have been understood as too

⁹⁹ Bruce Trigger calls this “colonialist archaeology,” an interpretive framework in which the Indigenous North Americans are excluded from archaeological findings owing to their status as “inherently unprogressive and incapable of adopting a civilized pattern of life” (Hunter 2017: 13).

¹⁰⁰ Rivett 2017: 7-8.

generous an assessment of Indians by several commentators in Cooper's time, Lewis Cass among them.¹⁰¹

Influential proponents of displacement and degeneration theories in the Early National Period included the congregationalist minister and Yale president, Ezra Stiles, the Moravian missionary, David Zeisberger, Zeisberger's Moravian colleague, John Heckewelder, and New Jersey Statesman, Elias Boudinot. Notably, Heckewelder, mentioned above, never published anything about his belief in the biblical origins of the Leni Lenape, though, perhaps as did other Indian "experts" of the time, he sometimes spoke of his belief in confidence.¹⁰² Cooper nevertheless extracted and misinterpreted his account of displacement from Heckewelder's *Account*. Reflecting on the origin of the mysterious and "prodigious works" found across the continent, DeWitt Clinton, an admired acquaintance of Cooper and Lieutenant Governor of New York at the time, concluded to the New-York Historical Society in 1811 that a more advanced people must have built them as they represented "labor far beyond the patience and perseverance of our Indians."¹⁰³

4.6. Conclusion

By the time of Jackson's December 1830 speech, a speech partly in celebration of removal, this theory of history had become something of a mainstay among Americans. It at least had provided an occasion for entertaining speculation. It was popular enough that it permitted the President of the United States to gently chide opponents of removal who did not understand that

¹⁰¹ Cooper's opinion about the idea and its proponents is best summed up by his description of Parson Amen, the "simple-minded enthusiast" of his last Indian novel, *The Oak Openings* who believes he has been sent by god to lead the Israelites (Indians) out of the wilderness (1900: 297).

¹⁰² Unpublished letter of August 6, 1818 to Peter Stephen Du Ponceau, then Vice President of the American Philosophical Society. 497.3 H350, p. 147-150.

¹⁰³ Wayne Franklin 2007: 243.

“progress has never for a moment been arrested, and one by one have many powerful tribes disappeared from the earth.” To comment of this disappearance, he could only point the skeptical to “the monuments and fortifications of an unknown people, spread over the extensive regions of the West, the memorials of a once powerful race, which was exterminated or has disappeared to make room for the existing savage tribes” (*Second* 1830: 1083). A celebration of the legal and political success of removal policy, Jackson’s point was essentially that what goes around comes around—a point that could only have aided by the idea that the Indians of Indian removal had been responsible for the death of the last worthy individual among them.

5.1. Conclusion

This project began as an attempt to answer questions about law and Indigenous land loss through the interpretation of literary texts of the nineteenth century. Its original plan was based on a hypothesis about the possibility of understanding settler perceptions of Indigenous North Americans as contractors through the analysis of texts about interracial marriage. Given the history of liberal contract and its influence on marriage contractors of the early nineteenth century, such an approach promised to provide a window into the sensitive content of American imperial expansion through lowered or distracted colonist defenses. Given some time to realize how very tidy this plan had been, I abandoned these designs and began looking almost exclusively at the formation of the subject in law.

As my preceding chapters evidence, I now study legal subjects, or legally constructed subjects in literature. In doing so, I have argued that the Indigenous subject, with specific reference to legal developments of the day, was designed to foreclose the possibility of full personhood, which has often been a precondition for participation in the modern state and different forms of land tenure. Said another way, the above has been a study of literary voice and its use for legal purposes.

Mohawk scholar Audra Simpson has pointed to the role of “voice” in colonization and the notion that colonial disciplines like anthropology have purported to supply the voice of the colonized in accordance “with the imperatives of Empire and in this, specific technologies of rule that sought to obtain space and resources, to define and know the difference that it constructed in those spaces and to then govern those within” (2014: 95). Seeing this as a negative to sovereignty, Simpson argues that Indigenous people must adopt the illocutionary role. When they “speak for themselves, their sovereignty interrupts anthropological portraits of timelessness,

procedure, and function that dominate representations of their past and, sometimes, their present” (2014: 97). As I myself am not a member of a recognized Indigenous North American tribe, the foregoing cannot be considered a sovereign act. Yet, I have hoped that in some way my disarticulation of settler colonist “voices” has constituted an interruption of sorts.

Describing the aesthetic commitments of various settler colonist authors, I have occasionally made use of the term “ethnographic realism,” which I coined to describe the phenomenon whereby settlers present ethnographic factoids as a means of producing literary realism or to “define and know the difference” between Indigenous people and themselves for the purpose of governance and dispossession. Again, at the core of this literary concept is a question of agency and political legitimation. The preceding chapters are all studies of the way settler authors made difference knowable, literary, and, most importantly, useful in the articulation of US politics and law.

Over the course of the preceding chapters, I have traced the course and mutation of a legal and literary flattening of Indigenous North Americans through discursive shifts in the colonist law attending land and property. As I’ve described, the discourses attending land and property in the Early National Period, or perhaps their interpreter, becomes stuck in the idea of gendered space, associated with constructs like “domestic citizenship” or the idea of “domestication.” Because of this and the fact that my project ends with Cooper’s *Last of the Mohicans*, this dissertation appears to be a study of Early National literary focused on domesticity, law, land, and (bad) literature plus one chapter on an unperformed colonial era play. For this reason, I certainly view this dissertation as a draft or a seed for future development that incorporates voices that challenge or deepen my concept of the ethnographic real.

In the future, I hope to develop more chapters on writing from Indigenous North America as well as other colonial geographies such as the Pacific. What, for instance, would it look like to bring my study of stifling colonialist subjectivity to *The Life and Adventures of Joaquín Murieta* (1854) by the Cherokee novelist John Rollins Ridge? What strategies of resistance emerge from a study of Muscogee humorist Alexander Poesy's *Fus Fixico Letters* (1902) or novelist Christine Quintasket's (Mourning Dove's) *Cogewea* (1927). What insights would we glean from a comparison of North American continental colonialism and that described in David Malo's (1838) *Moololo Hawaii*? What, for instance, of ethnographic realism in the very recent writings of Kiana Davenport, Kauai Hart Hemmings, Kristiana Kahakauwila, or Kawai Strong Washburn? In a revision of the current work or a new work entirely, I hope to stage such dialogues in order to learn something about the Indigenous reception of sub-personhood or about other colonialisms in the Pacific.

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