

LAND ACTS: LAND'S AGENCY IN AMERICAN LITERATURE, LAW, AND HISTORY
FROM THE COLONIAL PERIOD TO REMOVAL

by

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DISSERTATION ABSTRACT

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This dissertation examines land's agency and relationships to land in the places now known as the United States as these relationships appear in literature and law from early colonization to the removal period. *Land Acts* is a project of archival recovery and an intervention into American legal imaginaries that have wreaked havoc on ecological systems. I consider texts by John Arthur Gibson and Canassatego (Haudenosaunee), Uncas, Samson Occom, and Joseph Johnson (Mohegan), and Elias Boudinot, Nancy Ward, and John Ross (Cherokee) in contrast to iconic settler legal decisions regarding land, including the Mason Land Case (c. 17th Century), federal Indian Removal Policy (c. 1820s-50s), and contemporary cases such as *Oklahoma v. Castro-Huerta* (2022). Drawing from a framework of key Indigenous concepts such as Glen Coulthard's (Yellowknives Dene) "grounded normativity," Leanne Betasamosake Simpson's (Anishinaabe) "place-based relationality," Vanessa Watts' (Anishinaabe and Haudenosaunee) "Indigenous place-thought," and Kyle Powys Whyte's (Citizen Potawatomi) "systems of responsibility," I find that Native authors in my primary texts elucidate land's role as an historical actor, influencer of cultural production, and ally in resistance.

As Indigenous authors and land co-produce literature, history, and legislation, both suggest

ecologically sound legal policy in contrast to settler property law, which marks land as a commodity at worst or a tool for communication with a higher power at best. Through agential relationship with land, Native authors offer contexts for resisting settler violence as well as situating land's needs (and a responsibility to land) at the center of social order. I argue that literature must be reperiodized around legislation centering on land, as Native writers preempt, detail, and respond to such legislation in partnership with land. Once land is understood to influence cultural production, it may be (re)animated in our present moment, and it must be viewed as an agential relation in contemporary resistance to ecologically destructive policy and legislation. As an intervention in American and Indigenous Studies, I am hopeful that *Land Acts* calls attention to Native ties to land across American history, reminding readers that Native sovereignties are non-negotiable through a studied awareness of the relationships that Native peoples maintain with land.

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PREFACE: COMING TO LAND

As I began, made my way through, and continue this project, I've thought, and think, of my own relationship to land across and on multiple scales. In many ways, this is new ground for me. Now deeply embedded in this project, the relationships I have with land, and the relationships it has made possible are consistently turning in my head just as they've always been happening physically, emotionally, and socially, whether I think about them consciously or not.

As a settler scholar whose ancestors settled in Ohio in the 19th century from Ireland, I think of the historical and philosophical relationship my ancestors had with their Indigenous homelands, when those relations and approaches to land shifted into commodified property, and what it meant to leave Irish land to settle on land in Northeast Ohio. I wonder, then, how those relationships to this newly "owned" land are held in the land and in family literary history. I do know that at least part of that landed history can be found in local newspapers, when my Great Grandfather, Richard "Dick" Breese Sr. was caught burying a counterfeiting machine in a field outside of Girard, Ohio, by the Mahoning County Police. That the news of the period reported Dick Sr.'s activities, but the land held it, is representative, to me at least, of the beginnings of family ties to land represented in cultural production. My own illicit activities growing up involved my friends and I hiding from cars in cornfields after we pulled all manner of pranks, but in its own way those experiences too open up a wider manner of looking at the ways that land has influenced my own life. If the land in Ohio, and the history of relations to land amongst humans and the other-/more-than-human involved corn, then in some ways those histories played a role in the experiences of a group of delinquents in the mid-2000's.

Even before that, my earliest memories involve climbing Oak trees and fashioning swings from Willow tree branches with cousins and friends in the back yard of my childhood

home outside of Youngstown, Ohio. The land and those specific types of trees entered into some partnership many decades before me, even before Dick Sr. was burying his counterfeiting machine, and they became part of my life, part of my memories, and created social units that hold strong to this very day. When I return to Ohio, I often reminisce about the time Willow tree branches snapped underneath my friend Vito's¹ weight, and he crashed to the ground crying. When we tell that story to Vito's children, he rolls his eyes in lieu of crying. At the same time, I cannot help but think about the way that land and the other-/more-than-human world have influenced our lives, etched themselves in our memories, strengthened our friendships, and made us who we are well into our 30's.

While I think of these larger connections and influences now, this hasn't always been the case. In fact, it took a trip across land, and a discussion about trees, for me to understand the ways that the land I grew on and the trees around me shaped my life. Before I began graduate school, I was staying in Port Hardy, British Columbia, on Gwa'sala-'Nakwaxda'xw land. Rather, I was stuck there after the owner of a SCUBA platform further north, John de Boeck, failed to pick me up in Port Hardy for a job. As I stood in Port Hardy with no mode of transportation and very little money, a man, James, stood outside of the local coffee shop and asked me where I was from. "Ohio, eh? Well. Don't leave any license plates out. I steal 'em and hang 'em in my shop." As my eyes widened he asked, "What kinda wood is there in Ohio, anyway?" Despite my childhood based on that wood, I hadn't thought much about it. When I responded that I was familiar with Willow and Oak, his eyes lit up. "I'd like to get my hands on some Oak. Probably more than your license plate. That would be more fun to carve." What ensued were four more days in Port Hardy while I waited for John, except I was no longer stuck. I spent most of my time

¹ Youngstown, is, of course, a place where children are still called "Vito."

at James's shop, seeing the masks he was beginning to carve, and learning about his own history, personal, familial, and national. While I won't tell James's story here, as it's his own, I will say that our interaction had a profound effect on me—I began thinking about the land that I was on, the land that I was from, and the ways that the other-/more-than-human beings on those lands had profound effects on me.

When I returned to Ohio, I had only begun to realize the complicated history of that land. I saw my familial history in a brand-new light—in fleeing colonial violence in his Indigenous homelands, how had Dick Sr. come to Haudenosaunee land and become a perpetrator and beneficiary of the kind of violence he fled? My personal history, as well, was something I came to grapple with—while I was just beginning to realize the effects that land and the other-/more-than-human world had on me throughout my life, what did that mean in the context of my position as a settler and the benefits I received from that identity? Working through these questions, and working as an ally in resistance to the type of colonial violence and oppression I'd begun to learn about and had benefitted from, became the goal of my academic study. To do so, though, it was necessary for me to leave the land I knew and go West again.

As I arrived on Kalapuya Ilihi, the homelands of the Kalapuya peoples, to study at the University of Oregon, I truly began thinking through the questions posed in this dissertation. If I'd known how land affected, influenced, and came to change me over thirty-two years, then what has land done for the wider, longer scales of time and being that I'd been wrestling with in relation to colonialism? What did land mean in the context of Indigenous creation, in the context of the various Indigenous homelands that I found myself on throughout my life? What did it mean to enter into relations with land and its people in resistance to the colonial violence that not only stole this land, but erased any understanding of its ability to influence and relate to people?

It is my hope that this dissertation, and its future projects, in some way play a role in answering these questions, and, at the same time, work toward returning these lands to their original peoples.

During my time on Kalapuya land, I've been lucky to have had the opportunity to be exposed to thinkers who have helped me grapple with these questions so that I might reach the point that I can write about them. While I may not have been able to cite each and every one of them in the text that follows, I want to mark the profound influence they've had on me as a scholar, educator, and settler during my time on Kalapuya Ilihi and on the project more broadly: Dina Gilio-Whitaker's (Colville Confederated Tribes) *As Long As Grass Grows: The Indigenous Fight for Environmental Justice from Colonization to Standing Rock*, Nick Estes's (Lower Brule Sioux) *Our History Is the Future: Standing Rock Versus the Dakota Access Pipeline, and the Long Tradition of Indigenous Resistance*, Winona LaDuke's (Mississippi Band Anishinaabeg) *All Our Relations: Native Struggles for Land and Life*, Daniel Wildcat's (Yuchi Creek) *Red Alert!: Saving the Planet with Indigenous Knowledge*, Joanne Barker's (Lenape) *Critically Sovereign: Indigenous Gender, Sexuality, and Feminist Studies*, Sarah Deer's (Creek) *The Beginning and End of Rape: Confronting Sexual Violence in Native America*, Kim Tallbear's (Sisseton Wahpeton Oyate) *Native American DNA: Tribal Belonging and the False Promise of Genetic Science*, Shari Huhndorf's (Yupik) *Mapping the Americas: The Transnational Politics of Contemporary Native Culture*, and Audra Simpson's (Mohawk) *Mohawk Interruptus: Political Life Across the Borders of Settler States*. Whether through making sense of colonialism's role in environmental crisis, U.S. settler law and policy's work to subjugate Native women and destroy gender roles within Indigenous communities and Native feminist resistance to such practices, or the legal and political imposition of settler state borders across land that refuses to take into

account Native relationships created in partnership with land itself, these scholars' work has played a direct and major role in this dissertation, and they will continue to play a direct role in my scholarship and pedagogy as I move to Lenapehoking to begin my academic career at Lafayette College.

This project, then, is informed foremost and more so by the people and the scholars whose land I have resided on, been shaped by, and who I hope to build upon in allyship within literature and on the land. In observance, and with immense thanks, I am hopeful that this project serves, in some way, as its own literature of landed resistance which works toward a future that recognizes land's agency and Native sovereignty on repatriated land, on which new relations proliferate.

CHAPTER I: INTRODUCTION: LAND ACTS

On July 9, 2020, the United States Supreme Court's decision in *McGirt v. Oklahoma* stated that the reservation promised to the Muscogee Creek Nation by treaties continues to exist. As such, the Muscogee Creek Nation retains legal jurisdiction within the boundaries of their reservation and the land therein. As Muscogee Creek ambassador Jonodev Chaudhuri explained following the decision, "It was a life of struggle ... Because of the sacrifices of people who came before us, our nation remains whole." Chaudhuri's comments suggest that land creates and strengthens relations amongst people through the past, present, and future. Indeed, this is seen across land in the region, and over the course of generations that Chaudhuri discusses, as land itself has been involved in numerous interactions amongst myriad groups. For example, in the wake of the decision, U.S. representatives engaged in legislative talks to define tribal and Oklahoma State business and regulatory jurisdiction on reservation land beyond the criminal prosecution authority the decision focused on. In response, the Creek, Chickasaw, and Seminole Nations withdrew from these discussions, asserting that they were being rushed, and the talks were not in the Nations' best interests. However, such talks and interactions among groups of people and with land do not fall into neat settler/Indigenous² binaries. For example, Cherokee and Choctaw Nation representatives continued negotiations with the U.S. government and the State of Oklahoma to secure federal funding and pass legislation in their own governmental interests. This was done to the dismay of other tribes and many Cherokee and Choctaw Nation

² Throughout this dissertation I use "Indigenous," "Native," and "Native American" interchangeably to mean the original peoples of the land that would become the United States, in the specific areas and on the specific land that this dissertation covers. Of course, everyone is Indigenous to some land, so when discussing specific Indigenous peoples of Europe who settled or arrived in the Americas (ex. discussion of Irish settlers' indigeneity and relations to agential land in Ireland on page 43) I specify their Indigenous homeland. Similarly, I strive for tribal specificity whenever possible, for example, when discussing primary authors such as Samson Occom (Mohegan), Mohegan belief systems, or Native theorists such as Kyle Powys Whyte (Citizen Potawatomi) I clarify tribal citizenship and tribally specific beliefs and practices.

citizens who view continued negotiations as sacrificing the hard-won reaffirmation of sovereignty and trust relations outlined in the SCOTUS decision. Indeed, complicated relations to and interactions with contested lands since the moment of colonization—and even before—reflect these complexities.

The complicated relationships represented in the *McGirt* decision did not happen in a vacuum. They are products of long, complex histories. This case is a microcosm of settler colonial land ownership, decided through physical, philosophical, and legal violence in the British colonies and United States, and Native relations to land as always existing despite what settler courts might say. Land has always belonged with Native peoples, and Native peoples have always belonged with their land. Centuries of settler colonial land theft and philosophies around land as inert property have aimed to erase that Native relationship and land's active role across history. *Land Acts* traces these different, shifting, and overlapping relations to land in early American literary and legislative history to offer a better understanding of connection to land, and the ways that land has influenced and played an active, influential role in literature, law, and history. This dissertation (re)animates land across these different fields by recovering land's influence on human society throughout the archival record by utilizing theoretical framework for detailing and better understanding land's agency and influence across history.

By drawing from Native scholarship and history, including Haudenosaunee, Mohegan, and Cherokee creation stories, law, cosmologies, philosophies, and scholarship, *Land Acts* creates a new theoretical framework for understanding land's active role in literature, law, and history. By drawing on this framework to trace the way that land influences, cocreates, and structures cultural production in Native and settler texts, land's agency in the legal, narrative, and historical documents and archives studied herein is recovered. As land is (re)animated in these

documents, land's influence on American society and legislation is brought to the forefront of the historical record. Once land is understood as the center of social, political, and historical order, colonial property law, philosophy, and exceptionalism is challenged. If land is an actor, an influencer of texts, and in some cases a member of society, and Native societies have understood land's active role and worked alongside land as an agential relation since time immemorial, then colonial systems of governance and hierarchies that have ignored land in favor of property ownership and violence must be reinvestigated and reevaluated. As Native partnership with land across history is clarified and the foundations of colonial property law called into question, colonial land claims are disputed as well. U.S. environmental law, too, must be reevaluated based on land's position as historical actor and contributor to society. If land has indeed exerted influence on society, its contributions, needs, and desires must be taken into account and protected alongside other beings currently viewed as agents. This is in contrast especially to current property and environmental law which views land as inert base, economic tool, and resource for extraction. Ultimately, recovering land's agency in foundational cultural and legal production disrupts colonial structures that commit violence against land and its peoples through hierarchies based on race, class, and being, and it strengthens Native claims to land from time immemorial, to our present moment, and into the future.

Land Acts is predicated on the idea that land is a driving force in relationships amongst humans and other-than-human beings throughout history. To name a few examples from both European-American and Indigenous traditions, land has been thought of as a tool for and object of capital accumulation, as a relative, as home, as a site of identity, as setting, as legal and political territory, as landscape, and as creator and holder of story, memory, and culture. For example, the idea that land in the United States is an inert base to be owned and mined for capital

and resource accumulation in law can be traced as far back as the seventeenth-century Mason Land Case. In this case, colonial courts first rendered American land inanimate and Native peoples less-than white settler elites in law. On the other hand, land provides grounding for a space of intergenerational relationality, demonstrated through Chaudhuri's response to *McGirt*. This idea has existed in much Native thought since creation, and it can be seen in eighteenth-century Mohegan minister Samson Occom's response to the Mason Case. Occom coauthors journals, letters, and legal petitions with land by describing the memories, histories, and kinship that land holds, makes possible, and creates. Viewing land as an influencer of culture and law opens up new possibilities among legal, literary, and American studies, offering a more egalitarian and open view of relations beyond the human in the environmental humanities and interdisciplinary environmental studies. Finally, this Indigenous understanding of land's agencies allows new approaches to being on and with land across time.

In tracing, examining, and analyzing relationships to land and land's agency³ in the places now known as the U.S., *Land Acts* also reanalyzes and re-periodizes North American literary history, reconsidering North American cultural expressions according to major shifts in human relationships to land. These shifts include removals of Indigenous nations from their land by the settler state as well as significant instances of Indigenous resistance and reinstatement of relationships with the land. Previous methodologies of periodizing US and/or Native American literatures have elided the impact of land and its action. Such periodization has erased land's agency in numerous textual forms, including in literature and in law. By periodizing literary and

³ Throughout this dissertation I refer to land's agency as its ability to act and to influence, especially as it has been an agential relation to many Native societies since time immemorial. As such, land's active role, land's activity, land's action, and land's influence can all be seen as synonymous with land's agency, or its ability to develop cultural and societal norms and influence cultural production across and with numerous societies.

cultural production from the outset of colonization in the Americas to the mid-nineteenth century through shifting relations to land, *Land Acts* further recenters land as an actor. It recontextualizes the relationships between land and groups of people across US/American history.

Land Acts focuses on land's (re)activation through mobilizing Indigenous epistemologies and relations with land against key land acts of the settler state. I interrogate how legal and philosophical relations to land, and the representations of said relations in literature, (re)develop connection to land in our contemporary moment and into the future. Through a better understanding of cultural bonds with land and of land's active role in history, my work seeks to decolonize US/American literary history, joining a number of scholarly and social movements to support more ethical, ecologically sound relationships to and with land that reflect Indigenous epistemologies, histories, and practices. To do so, this project is informed by and builds on recent scholarship in interdisciplinary fields ranging from literary studies, American studies, the environmental humanities, Native American, Indigenous, and settler colonial studies, and legal studies. Scholars in these distinct fields have traced Native writing, colonial legislation, and evidences of other-than-human agency to gain insights about Native identity, society, legislation, environmental relations, and being. Since I recognize that a study such as mine must be explicitly sited, my work focuses in the Northeast and Southeast of what is now the US, and I consider the ways that colonial imposition and theft have contorted, erased, and subsumed the Native and other-than-human histories and actions in these regions. The many scholars of US and Indigenous histories and thought whom I draw from have detailed contexts which sustain my work. For example, these scholars have investigated the ways that Mohegan, Haudenosaunee, and Cherokee conversion to Christianity shaped and contorted Native environmental and societal relations (Wyss; Peyer; Perdue; Lopenzina; Murray); they have explored how colonial legislation

imposed itself upon Native relationships to territory (Rifkin; Hill); they have traced how colonial legislation racialized property ownership by normalizing whiteness in relation to supposed Native “savagery” and inability to comprehend land as property (Moreton-Robinson; Berkhofer; King; Tuck and Yang; Horsman); they’ve discerned how place and space are keepers of knowledge and history (Delucia; Archibald; Basso); they’ve critiqued the colonialist economy’s rendering of land as commodity (Bhandar; Park); described how Native cultural production and environmental resource management are a means of maintaining kinship with ancestral homelands (Wigginton; Brooks; Justice; Parins; Carroll); and they’ve theorized the place, role, and contributions of the nonhuman in different histories and societies (Coole and Frost; Latour; Tallbear; Watts; Coulthard; Million; Whyte; Goeman; Simpson). *Land Acts* builds on this diverse array of studies by investigating and detailing land’s distinct agency in Native and colonial literary histories, social histories, and legislation. By focusing my research on a fundamental but under-examined category of action and thought—land—I intend to disrupt still persistent settler-colonial assumptions about both the histories and possibilities of human and more-than-human relations.

To an extent, the studies noted above have looked at the manner in which Native societies relate to and claim relation to land and the other-than-human through writing, environmental management, and legislation. *Land Acts* builds on these studies by elucidating the fundamental, agential role that land plays in structuring Native society, Native law, and Native life as represented by land’s active role in cultural production. Land is not only at the center of Native American societies, identities, conflicts, and texts. It is an agential relation of the societies in question, and it is an actor in texts and histories. Land’s profound influence can be seen through its influence on and role in creation, agriculture, law, and the relationships it creates between

people, other-than-human beings, and itself. Through these many roles, land also presents itself alongside some Native peoples as a coauthor of textual production and resistance to settler colonial theft, removal, and violence. In detailing land's agency from Native origins represented in creation stories to the removal period of the mid-nineteenth century, we are offered a new view of land, literary production, Native identity, and colonial legislation. *Land Acts* provides a robust understanding of Native literature and law, a clearer view of land's role in American history, law, and literary production, and a reconsideration of land's agency in our present moment.

Ultimately, I offer a view of land's agency across Native history in what is now the United States to recognize that Indigenous writing, thought, and resistance has the power to (re)animate land in our contemporary moment and in the future. This collaborative resistance between Native peoples and land should give us evidence of the wrong-headedness of most U.S. legal decisions regarding Native sovereignty, beginning in the colonial period and continuing into the present. Such work detailing land's agency and the relations that arise from realizing land's action is relatively new to American studies, although foundational within Indigenous Studies: I see it as vitally important work beyond literary and legal scholarship, specifically in the realms of experience and policy. In a period of environmental crisis and shifting political and legislative commitments as they relate to Native peoples and the nonhuman environment, (re)developing historical and contemporary relationships with land is crucial. *Land Acts* strives to make a small contribution toward creating a more just relationship with the nonhuman environment by reflecting upon what ecological justice has looked like from the perspective of Indigenous legal thought and literary imagination. I hope to remind readers that Native sovereignties are non-negotiable, even when disregarded in US courts, through a studied

awareness of the historical and ethical relationships that Native peoples maintain with land, always in partnership with land through its ability to act.

I. Land Acts: Theorizing Land's Agency and Influence

Numerous studies theorize relationship to and the agency of space, place, landscape, and the communities that move across and between them (Basso; Larsen and Johnson; Tuan; Trouillet). For Indigenous peoples, according to Jo-Ann Archibald (Sto:lo First Nation), stories and ways of being are always connected to place, as “values and respectful practices were intertwined with identity, place, and place-name stories” (74). Scholar Barbara Duncan explains further in a specifically Cherokee context that “stories’ connection to ... place, and to the people who have told them for generations, is what makes them special” (*The Origin 2*). Place and its role in narrative is an integral part of what gives narratives power. Place is of utmost importance to the Indigenous cultures who tell stories alongside and with those places across generations.

While place can come to mean all inhabitants and features of a specific area, *land* is integral to the creation of place and landscape. Land is fundamental to the creation of Indigenous peoples, story, and society. Land grounds each of those components of national and community existence. Land is *the* grounding, *the origin*, of place, people, and story. As such, Native stories’ connection to land is what makes them special as well.

This is not to say that Indigenous European cultures did not have reverence for land, or that various societies were not aware of its connection to place and culture. Indeed, land features as a component of place and narrative from its etymological roots in early Germanic and Norse narrative as far back as the tenth and eleventh centuries. It appears in epics such as *Beowulf*, wherein the word now known as “land” appears alternatively as “lond” and “lande.” It is the grounding feature of many important places in the poem, connecting place to culture, and

connecting place and culture to land, their grounding feature (“Land”). While land may have been important in these early narratives, and it may have even been seen as an agential being in certain cultures,⁴ as early as the tenth and eleventh Centuries “lond” and “lande” began to appear as property. This property was owned and held by the ruling sovereign, deeded to those subjects whom the sovereign thought worthy, or held by that sovereign and worked by those who occupied it through a tribute system (“Land”, “Crown Land, “Bond-land”). Once “lond” and “lande” became property, land was a subject to be acted upon to ultimately benefit the Crown, and its agency was stripped.⁵ Colonialism, then, was not simply the tool to gain land for the Crown, but the apparatus through which land came to be viewed as inert.

On the other hand, while Native Peoples may have come to view land as property in some cases, land has never been inert. Land cannot be inert, as land’s ability to act makes life and culture possible. From the Northeast to the Southeast, land cocreates the earth alongside Supreme powers, human beings, and more-/other-than-human beings in each of the Creation stories studied herein. The lessons told in those Creation stories, made possible by land’s ability to act, continue into our contemporary moment for the Native Peoples represented herein as well. For example, as Mississauga Nishnaabeg scholar Leanne Betasamosake Simpson explains, in an Anishinaabe context, “my people generate knowledge, through deep reciprocal embodied engagement with Aki [land]” (*As We Have Always Done*, 28). Cherokee elder Hastings Shade explains that in a Cherokee context, “If you’ll notice, land shifts. Land’s always moving. ... I

⁴ Ireland, for example. See: Siewers, *Strange Beauty: Ecocritical Approaches to Early Medieval Landscape*.

⁵ Monacan scholar Jay Hansford C. Vest argues that at the same time these European ideas about land as property came to take hold, these cultures still understood land as agent through etymological interpretation of “wilderness” as “‘self-willed land’ or ‘self-willed place’” (12). Even if these European views of land afforded land agency through “wilderness,” those societies who viewed land as property still viewed these “self-willed lands” outside of societal and civilizational order and did not see these lands as contributing to their cultures. This stands in contrast to the Native cultures and views of land studied in *Land Acts*.

mean, our land is always ... Mother Nature is alive, you know? She shifts around” (Teuton 87). Land is more than property. As we will see, through its physical, active manifestation of place and people, land is alive and land provides the necessary grounding for life to exist. Land is necessary for life to continue existing physically, and through that existence, land creates culture in story and history.

Moving forward from that idea that land is active, and that land’s activity is necessary for any and all aspects of life and society, *Land Acts* investigates how land, as the grounding force in conception and creation of such organizing structures, makes all possible through its action. As Seneca scholar Mishuana Goeman has argued, similar to land’s etymological and cultural progression in the English language, in many academic fields land has not been seen as anything more than “property,” and thus “unpacking land as more than property is key across multiple fields” (72). As land exists alongside human communities and bodies of knowledge, land structures these communities’ cultural productions. Land becomes both the setting for and an agent in conflicts, concepts, and stories that animate those communities. *Land Acts* addresses land’s influence and active role in literature and law, arenas previously thought of as strictly part of human knowledge and production. It is my hope that readers may be better equipped to understand their role in a larger cosmology of beings, structured first and foremost by land.

Once seen as part of one’s identity, culture, and in some cases even family, land exerts its own agency on and plays a key role in cultural productions and relationships amongst, between, and through humans and the other-/more-than-human world. The agency of the other-than-human broadly, and land’s ability to act specifically, has been theorized in multiple fields. For example, we could consider land as an *actant*. As Bruno Latour explains, an actant is “any entity that modifies another entity in a trial,” and indeed, in the context of this dissertation land is seen

as an entity that modifies multiple others: humans, other-than-humans, and itself (237). More recently, the agency of the other-than-human has been theorized in Western thought through new materialism, which works toward “conceiving matter as possessing its own modes of self-transformation, self-organization, and directedness, and thus no longer simply passive or inert” in order to disrupt “the conventional sense that agents are exclusively humans...” (Coole and Frost 9, 10). However, as Métis scholar Zoe Todd has argued, the “ontological turn” exemplified by Latour’s definition of an actant erases and/or appropriates centuries of Indigenous thought related to other-than-human agency (8). Further, as Dakota scholar Kim Tallbear has pointed out, new materialist thinking fails to engage with Indigenous knowledge, and even more, renders other-than-human actors as lifeless (198). More directly, Mohawk and Anishinaabe scholar Vanessa Watts argues that both new materialist and Actor/Network theory afford land the ability to act only insofar as it affects humans at best, and totally strips land of its innate value and ability to think on its own without human intervention at worst (28-30). While new materialist thinking may seek to show how actants operate to modify human actors, societies, and modes of living (all other “entities,” per Latour), it does not attend to these actants’ ability to live, be alive, and to think.

To know land as a living, contemplative being, it must be approached through Indigenous ways of knowing and understanding, which view land as both an actant in a new materialist sense and as a living being possessing life, agency, and at times, for some cultures, personhood. As Tanana Athabascan scholar Dian Million argues, “the land is us, it is in us, in memory and resonance with living generations lived in close relation with places” (26). *Land Acts* builds on work from Todd, Tallbear, Goeman, Million, and others as an intervention in Euro-Western theories of place, space, and agency while also presenting a new investigation of the way that

land is a living actor, a key player, and major influence in U.S. history, literature, and law. Throughout the dissertation, land can come to be seen as a partner in Indigenous resistance and resurgence, in the creation of identity, and as a fashioner of relationships across history and location. Quite literally, the land that comprises the United States must be seen as shaping its own history alongside human actors.

Land Acts theorizes land's agency through a recognition of land's action and influence across history via reciprocal relations and the acknowledgement of land's voice through cultural productions such as story. In order to theorize such an understanding and reciprocal relations to land as an actor outside of methods to possess and confine it, *Land Acts* reads texts through Yellowknives Dene scholar Glen Sean Coulthard's concept of "grounded normativity." For Coulthard, grounded normativity offers a theoretical framework that grounds Indigenous reciprocal relations to land through experiential knowledge that, in turn, structures societal engagement among humans and more-/other-than-human beings. It also draws upon Kyle Powys Whyte's framing of "systems of responsibility," wherein American Indian relations to land and more-/other-than-human beings structure Native American societies and worldviews in ways that promote educational, societal, and personal understandings across geographical, national, and species boundaries. For example, responsibilities to intratribal or other/more-than-human visitors on one's land may require an offering to/from the land itself, or an elder may teach children their history alongside and as a part of surrounding landscape features.

Land and the other/more-than-human not only structure communities, but they also engage in agential relationship with those communities. Investigations of land as relative and actor/agent are further guided by Leanne Simpson's radical place-based relationality and education as land teaches Native community members and entire societies what it means to

“become with” one another and with the land they stand on. For example, Cherokee First Woman Selu dies and becomes one with land. Afterwards, both the land and Selu, together, provide sustenance for future generations through corn. Land and Selu explain to Selu’s children how to continue growing corn once she rejoins land. Her children pass those teachings to future generations and strangers they meet, who eventually become kin relations through corn and agricultural teaching. Future flourishing and coming to be a people are only possible through land’s active role as educator and producer in partnership with Selu. Land provides the framework for societal guidelines and legislation through this education.

As Native peoples understand their societies and their very being as comprising the land, the instructions for continuing as a people are structured by the natural world. As Vanessa Watts explains in the context of “Indigenous Place-Thought,” “If we begin from the premise that we are in fact made of soil, then our principles of governance are reflected in nature” (27). Reading cultural representations of landed relations informed by theories of grounded normativity, systems of responsibility, place-based relationality, and Indigenous place-thought show land as an agential relation and influence on literature, law, and history. Utilizing this Indigenous theorization to (re)animate land across history and into our present moment opens up a brand-new historical framing driven by ecological truths and land-based Indigenous sovereignties. In sum, the scholarly project of *Land Acts* intends to strengthen Native ties and claims to land, to critique and problematize colonial legislation, and to call for a new approach to settler and anthropocentric societal models which recognizes land at the historical and societal center of community structures.

II. Owning, Possessing, and Commodifying Land

Land Acts works to theorize land's agency and (re)animate land in the present by building on theorizations of land, place, other-/more-than-human agency, and Native American cosmological and social understandings of each. I underline the significance of Native American knowledge-practices regarding land by comparing and contrasting them with US settler legal and literary histories. From the colonial period to the present, settler colonialism has sought to erase land's agency via possession, ownership, and commodification. In terms of possession and ownership, the Mason Land Case (1640-1771) figures as the original piece of property legislation in Britain's American colonies, and in fact it is the foundational property legislation in the United States. The Mason Case racializes Native peoples as lesser than Euro-American settlers and renders land inanimate in law, setting precedent for future property law and U.S. Court decisions based in settler and white supremacy. Such a reading builds on Quandamooka scholar Aileen Moreton-Robinson's *The White Possessive*, which argues that settler colonists control land by claiming it as property, always in the hands of superior white landowners, thereby removing Indigenous peoples from any real or even moral claim to their land. In marking land as a possession to be owned, settler elites also racialize Native peoples through the idea of the "Indian" as represented in work such as Robert Berkhofer's *The White Man's Indian* or Thomas King's *The Inconvenient Indian*, wherein settler cultural productions marked Native peoples as less-than-human, unable to "properly" relate to land by turning it into real estate.⁶ As

⁶ According to the *Oxford English Dictionary*, "Real Estate" first appeared in the early seventeenth century, and it is defined as "Property consisting of land and the buildings on it, along with its natural resources such as crops, minerals, or water; immovable property of this nature" ("Real Estate"). Essentially, according to this settler legal term first put into practice during the early stages of colonial land theft in what would become the United States, the "state" ("estate") of land only exists "physically as a thing," and is "not imaginary" once it is built upon and its economic potential ascertained ("Estate", "Real"). In the colonial mind and language, it is not simply that land has no value until it can be extracted from, built upon, or claimed as property—it is that land may as well not exist unless it is extracted from, built upon, or claimed as property.

white ownership is normalized against Indigenous savagery, the conception of land as white property and Native peoples as incapable of rationally relating to land via European concepts of property and ownership also injured settler relations to other-than-human beings. Once land and peoples of the Americas are stripped of their humanity and dignity in this way, according to Eve Tuck (Unanga) and K. Wayne Yang, the settler “sees himself as holding dominion over the earth and its flora and fauna, ... as more developed, more human, more deserving than other groups or species” (6). Once this happens, conversely, the land and peoples of the Americas would be “made killable.” As Tuck and C. Ree, drawing on Donna Haraway, explain, land and Indigenous peoples would be transformed “into masses that can be produced and destroyed” (649). Both land and Indigenous peoples are commodified property, perpetually inanimate objects to be acted upon by Euro-American settlers normalized as “homo oeconomicus.” These settlers utilized individual ownership of property to claim freedom from the Crown and previous notions of land as Crown and bond-land. As such, they saw themselves as existing for their own self-interest in a new society “of free equal individuals related to each other as proprietors of their own capacities and of what they have acquired by their exercise”⁷ (Macpherson 3). (Re)animating land across history into the present suggests alternative modalities for American social structures, and detailing colonial history and assumed racial superiority based in individual property legislation with land’s agency in mind also opens possibilities for living outside of the violent colonial orders that are predicated upon these ideas.

At the same time, as seen in the reaction to the *McGirt* decision (2020), settler colonists and Native peoples did not approach land during the early colonial and early national periods in a neat, binary fashion. As Native and settler legal relationships to land shifted over the course of

⁷ That exercise, in this case, being colonial theft and violence.

colonization, the philosophies through which different groups viewed land shaped one another as well. For example, Christian missionaries of the period understood land as a means for communicating with the Christian God and saving Indigenous peoples' souls through that communication. Specifically, Congregationalist preacher Eleazar Wheelock sought to convert Native peoples in the northeast to Christianity by having them practice plow-based agriculture and adopt private property. Wheelock believed that by adopting this style of agriculture, Native peoples would come to see land as a tool for communing with a Christian God. Through these agricultural methods they would be saved and granted a place in both heaven and the human family. Native peoples would be able to keep their land, unlike the settler goals of dispossession represented in the Mason Case, but land took on new meaning. Moreover, the land left over after private division amongst Native peoples became property for Wheelock's church. While Wheelock's approach to land differs from the legislative goals of the period in the American Northeast, for him land is no longer an agential relation, as it was for the Mohegan, Narragansett, Haudenosaunee, Pequot, and other Tribes to which Wheelock ministered. Rather, for Wheelock land is a tool of civilization, the Church, and ultimately a vessel to communicate with God during one's time on earth. In this view, land serves a spiritual purpose, but it is still a transitory, transactional tool on the way to an eternity only meant for "civilized" humans. As Native peoples adopted Christianity and made it their own, Native converts continued to see land as an agential relation. Studying settler Christian and Native Christian approaches to land during the late eighteenth century provides insight into how land continues to contribute to society even following religious conversion that might otherwise render land a semi-animate tool in the service of the Lord. It also adds new evidence as to how Native peoples may adopt different

aspects of colonial culture to continue, and even strengthen, their relationship with land and to one another.

As settler colonial theft, violence, and Christian civilizational philosophy made their way to the Southeast into the early national and removal periods, (late seventeenth century-1830's) Indigenous views of land, and land's voice, shifted again. As the United States came to be, the land speculators who founded the United States moved beyond the northeast and called on Indigenous peoples in the southeast to civilize themselves through the ideals of private property, Christianity, and plow-based agriculture. The discourse of progress married racialized private property laws and Christianity-based rhetorics of "civilization" in order to remove Cherokee peoples from their homelands in the service of settler land acquisition. However, Native peoples adopted the philosophies and practices required for colonial land ownership so that they could remain with their homelands. In response, land speculators-cum-political elites like George Washington, Thomas Jefferson, Andrew Jackson, and some of their congressional counterparts developed a system of revising previous agreements and erasing or ignoring Indigenous agricultural history to remove Native peoples and obtain still more land. Such erasure is part of what settler colonialism depends on (Veracini 6).

Indeed, as Patrick Wolfe has made clear, "Settler colonialism destroys to replace" (388). This destruction and replacement literally played out on the land. For example, destroying historical records of Cherokee agriculture, records which were held in the land, allowed for settler agriculture to take its place. This process can be seen as a form of what Jean O'Brien calls "firsting and lasting." O'Brien studies how settlers in New England wrote Native peoples there out of history by claiming Native peoples there were the "last" of their kind and settlers the "first" in newspapers and historical records as an act of settler nativization. In the southeast,

settler elites erased records of Native agriculture, arguing that it was inefficient, never of consequence or significance, and was destined to disappear, the last of its kind, even when Cherokee peoples practiced plow agriculture in the same manner as settlers. In comparison, agriculture practiced by settlers was historicized in the land as the first efficient and useful method of producing crops, and the first example of agriculture that mattered in the area. Additionally, we see how architects of removal, from Washington to Jackson, worked to nativize themselves to this newly stolen land through violence and agricultural action. Destroying to replace, to nativize, begins and ends with land, and these colonial structures are written onto the land and in the texts studied here. Casting light on these settler colonial strategies provides insight into how colonial courts and the U.S. government continue to revise agreements with Native nations in our present moment, and how they continue erasing Native history in order to claim land. At the same time, land's influence and agency remain present, and it asks to be recovered and represented. Recovering what settlers sought to destroy, (re)animating land's influence across history, and recovering Native history written with and on the land strengthens Cherokee claims to sovereignty and land in the southeast in the present, in the future, and for Native nations in what is now the U.S. as a whole across the dissertation.

III. Literature, Law, and History

Despite settler attempts to erase land's influence, action, and societal role, land's agency is apparent across Native and U.S. history. *Land Acts* recovers land's agency across history by studying land's influence first in literature, then in legislation. Literature influences legislation, legislation influences literary production, and both provide a better idea of history and the multiple actors throughout. As Vine Deloria Jr. explains in the context of Indigenous creation story and law, "Aboriginal peoples modeled their societies after the natural processes of the

universe. In their oral traditions they carried forward faithfully the original perceptions of reality by repeating exactly the incidents and experiences that had impressed them” (132). Land moves from coauthor of the world and influencer of stories to influencer of law, and each field comprises history.

From the colonial perspective, the legal scholar Brenna Bhandar explains in the context of colonial property law and the novel, “property ownership and propriety form ... a colossal backdrop, or in some cases, [the] explicit focus of so many key works of nineteenth-century English literature.” The novel thus “became a powerful means of both expressing and consolidating a European, colonial vision of the world” in cooperation with property law (2). While this is true, other types of literary texts such as creation stories, oral tradition, letters, petitions, journals, and diaries also work in concert with, inform, and historicize legislation. Similarly, legislation can be influenced by literature and read as a type of literary production as well. The numerous literary forms studied herein work in cooperation with land to inform legislation, structure society, grapple with new legislative realities and, as a result, new relations to land. Viewing colonial literature and legislation together and recovering land’s voice throughout provides evidence of land’s role in co-creating both. As Colville scholar Beth Piatote explains, literature and law can then come to be seen “as partial texts that, when viewed together provide a broader (though still incomplete) view of a historical situation” (10). In looking at these seemingly disparate forms of literature (the literary and legal) together, we are able to more fully grasp and understand land’s active role in the production and creation of domains of social thought.

(Re)animating land across these fields provides opportunities to see land in a new light, as ally and coauthor in Indigenous resistance to colonialism. If Native writers understand land as

an agential relation that influences literature and legislation, they also produce literary and political texts to remain with their ancestral land and in a position to fulfill their responsibilities to that land. I call the product of this active work with land “Literature of Landed Resistance.” As a framework for studying Native resistance to colonialism alongside land, “Literature of Landed Resistance” grants insight into how land has acted across North American history. By approaching land as an agential relation, Native peoples continually (re)create their relationships and claims to land despite colonial violence and removal.

IV. An Archive of Landed Resistance

“Literature of Landed Resistance” is a framework for understanding how Native authors situate their relationship to and understanding of land through “Grounded Normativity” (Coulthard), “Place-based relationality,” (Simpson) “Indigenous Place-Thought” (Watts), and “systems of responsibility” (Whyte), to resist settler confinement and removal. Through their writing, Native authors detail a responsibility to, and knowledge and understanding of, land that allows them to move across settler-imposed boundaries, to represent land’s agency in a manner not seen in settler texts and legislation, and to partner with land in acts of resistance and resurgence.

Recognition of land’s agency allows Indigenous authors to resist settler colonial confinement and removal with land. Resistance in this case is manifold: First, Native authors put into physical and textual practice their duties to land based in creation story and legislation outside of colonial systems. This approach to land (re)creates and strengthens Native relations and claims to land in place since time immemorial. Second, by recognizing land’s agency in textual production, Native peoples and land work against colonial impositions that aim to commodify land and render it inanimate by writing land’s agency into the colonial record (Watts

30; Coulthard 60-61). In the second phase of this landed resistance, Native authors move from continuing to practice their relations to land in spite of colonialism (the first phase) as they actively work against colonialism by upholding their duties and responsibilities to land. By speaking to land's agency in colonial legislative proceedings Native speakers codify their relationship to land and its agency in settler law. They set precedent for the recognition of land's agency in future courts, thereby strengthening Native sovereignty and land claims. These authors detail a responsibility to and knowledge of land that allows them to move across settler-imposed boundaries to work with other nations so that they may represent land's ability to act and land role as agential relation in a manner not seen in settler texts and legislation. Through such trans/national partnerships, the people that land brings together represent land's agency in acts of resistance and resurgence. *Land Acts* examines the duties and the responsibilities that the Native authors herein and land have to one another across historical events including the Mason Case, Native religious conversion to Christianity, and removal policy. The project centers land in resistance to colonial theft and dispossession in the past, present, and future by gathering an archive of "Literature of Landed Resistance." This writing and speech within this archive shows land's influence and role as an agent in community- and nation-building.

The archive gathering and guiding insights of *Land Acts*' come together in two sections. Section One comprises Chapters One and Two and focuses on the northeast from the early colonial period to the revolutionary period. Section Two comprises Chapters Three and the Afterword, and it focuses on the southeast from the revolutionary period to the removal period. Each section opens with a contemporary Supreme Court decision around Indigenous sovereignties and land, showing how the fallacious settler colonial legislative precedent set in motion in each section continues to our contemporary moment. As colonial legal precedent is

contested in each section through “Literature of Landed Resistance” and recovery of land’s voice in legislative proceedings, contemporary court decisions dependent on that precedent are questioned as well.

Chapter One, “Samson Occom and the Law of the Land: Toward a Literature of Landed Resistance,” unpacks Haudenosaunee and Mohegan creation story, legislation, and community philosophy, always in relation with land, through archival resources and community story. It then reads the Mason Land Case as the foundational property law case in the British colonies and eventually the Americas, showing how the arguments within set precedent for racialization of Native peoples and land as inanimate property in U.S. law into the present. At the same time, by utilizing the “Literature of Landed Resistance” framework, the chapter argues that Mohegan resistance to colonial law was always done in relationship with land through Mohegan legal writing before and during the Mason Case, and in Occom’s journals, letters, and petitions before, during, and after the case. (Re)animating land in colonial courts and Indigenous resistance to colonial law shows land’s precedent in foundational property law cases. If land’s agency is apparent in colonial law, then land’s voice must be taken into consideration as legislative precedent.

Chapter Two, “Converting Land: Mohegan Christianity and Relations to Land on the Way to Brothertown,” moves from the Mason Case into settler religious relations to land shown in Eleazar Wheelock’s and missionary writing in the Northeast. Wheelock and settler missionaries of the period (1760-1790) write about land as a tool to communicate with a Christian God, and a utility to convert and civilize Native peoples through agriculture. The chapter juxtaposes that settler writing and philosophy with Occom and his son-in-law Joseph Johnson’s religious writing, which shows a distinctly Mohegan Christianity. I argue that in

Johnson and Occom's writing, land is still an active member of Mohegan Christian society that bonds Native nations and aids in cultural production, strengthening Native sovereignty and showing a distinctly Mohegan Christianity heavily influenced by land.

Chapter Three, "Removing Agency: Cherokee Landed Resistance, Removal, and Jacksonian Settler Indigenization" moves to the southeast, beginning with Cherokee creation story and precolonial legislation and history to detail Cherokee relationships with and duties to land prior to colonial invasion. It then concentrates on writing from U.S. officials to show how the rhetoric of property, religion, and civilizational progress outlined and formed in the first two chapters was utilized to steal land and remove Native peoples in the southeast. I argue that settler colonial ideas around that civilizational rhetoric progressed into a theory of settler indigenization through erasure imprinted on the land, rather than the reciprocal relationships that the land's original peoples came to understand and practice. At the same time, I show how Cherokee peoples took up their own form of civilizational rhetoric. In contrast to continued settler views of land as blank slate for civilizational progress, this Cherokee civilizational rhetoric was influenced by and created in relationship with land. Through a "Literature of Landed Resistance" Cherokee opposition to removal coauthored texts and speeches with land, recognizing land's agency and its influential and foundational role in Cherokee creation and society.

The dissertation's Afterword, "Land's Lessons," follows Cherokee peoples during removal and after settling on their new lands in what is now Oklahoma, and it asks how people continue as a nation even after being removed from the land with which they became a people and a nation. How might Cherokee identity remain, and shift, as they come into relation with new land as arrivants, and what does it mean to displace the original inhabitants of that land when they, too, were forced from their homelands? What might "becoming with" land again, and

maintaining one's nation and personhood developed with other homelands tell us about the literature, legislation, and histories studied in Chapters One, Two, and Three? What might becoming with land as arrivants mean in the context of past and future stories? What might this history of becoming with land, creating new stories, new legislation, and new histories, provide readers in terms of present and future relations with land?

It is my hope that the theoretical framework laid out throughout the dissertation and the project of archival recovery the dissertation undertakes might allow us to more deeply probe such questions in the future through the myriad fields with which *Land Acts* engages. At the very least, I hope that it becomes clear to readers that throughout history, if we ask and listen closely enough, land may help us answer those questions.

CHAPTER II: SAMSON OCCOM AND THE LAW OF THE LAND: TOWARD A
LITERATURE OF LANDED RESISTANCE

If you press your ear to the turf that is stolen

You can hear the sound of limitations exploding

“The Guillotine,” The Coup (2012)

In 2005, the United States Supreme Court ruled that although the Oneida Nation of New York had purchased part of its ancestral homeland in the city of Sherrill, New York, because that land left Oneida hands in the Eighteenth Century, it was not tax exempt. Justice Ruth Bader Ginsburg offered as part of the majority opinion that “In fact, the United States’ policy and practice through much of the early 19th century was designed to dislodge east coast lands from Indian possession. ... Notably, it was not until lately that the Oneidas sought to regain ancient sovereignty over land converted from wilderness to become part of cities like Sherrill” (*City of Sherrill* 215). While Ginsburg did admit that in the past the United States sought to remove Native peoples from their ancestral lands, such removal was not an issue in 2005. Further, because of settler ingenuity and development, such land had clearly grown in value from the ostensible wilderness that it presumably was during Oneida possession long ago. Such thinly veiled excuses for colonial theft (supposedly a past event) and settler superiority (creating profit from wilderness) appearing in recent legislative rulings are unsurprising given the ways that Native peoples and land are viewed in settler colonial courts. Across British colonial and U.S. history, Native peoples are seen as prehistoric, barbarous, and unable to “improve” land from its wilderness state so that it might become property, and land is cast as an inanimate base to be improved for settler colonial economic benefit.

However, such legislative history has, to this point, not been traced back far enough. While scholar Mark Rifkin has argued that the Court’s decision in *City of Sherrill v Oneida*

Nation of New York has its roots in Antebellum literature and law, the views that Ginsburg's rhetoric represents go back much farther, to eighteenth century colonial courts (3-8). An understanding of American literary and legislative history in the Eighteenth Century provides us a better realization of how relations to land have been shaped and contorted by settler colonial legislation and writing, and further, how land has been stripped of its agency through that legislation and writing. Specifically, the ruling in *Sherrill v. Oneida* has its precedent in the Mason Land Case of the Eighteenth Century. The colonial argument in the Mason Case, that land could not be returned to the Mohegan tribe as it was already colonial in character and would return to its wilderness state under Native control, has clear relation to Ginsburg's majority ruling. On the other hand, competing approaches to land can be seen in Haudenosaunee creation stories and in Mohegan leader Samson Occom's writing. In this writing, land is an agential relative and contributing member of society. In reviewing the Mason Case, and, in turn, Mohegan and Haudenosaunee writing about land in response to this case, we are better able to comprehend land's active role in Native society, legislation, literary production, and resistance to colonialism. Native connection to land, and recognition of its ability to act, can and should be seen not as inhabiting primitive prehistory. Instead, these philosophies and their resulting literary production and legislation must come to be seen as necessary frameworks to combat ecological crisis.

Such a study builds on interdisciplinary investigations across literary studies, the environmental humanities, and property law. Scholars in these fields have traced Occom's writing to better understand Native identity in the Northeast over the course of religious conversion (Wyss; Peyer); colonial legislation's role in contorting such identities in relation to territory (Rifkin); land's role in detailing, holding, and memorializing histories in the region

(Delucia); colonization's role in rendering land as private property (Bandhar; Park); and Native textual production as a means of reclaiming and detailing relation to territory (Wigginton; Brooks). Specifically, Lisa Brooks (Abenaki) has traced Native writing in the Northeast in order to show Native resistance to colonialism through Mohegan, Haudenosaunee, and Pequot textual production across precolonial and colonial periods. Brooks notes that land plays a key role in writing and rememberment because it literally grounds Native societies in the northeast, requiring "participation from all its interwoven inhabitants," allowing for "thinking through their relationships to others, of forming and renewing relations through ceremonial councils, and of acknowledging their dependence on nonhuman inhabitants through rituals of thanksgiving" (4). While other studies have looked at the way Native societies relate to and claim relation to land through writing, this chapter builds on Brooks' work to elucidate the agential role that land plays in society, literary production, and legislation.

To investigate land's action across these histories, land's pivotal function as lawmaker and partner in cultural production in Native and colonial legislation and texts must be recovered in the archival record. To do so, I first detail Haudenosaunee spiritual and relational connection to land prior to colonization through narrative and law, and I explain how land itself also dictates and structures Haudenosaunee and Mohegan legislation and sociality. Then, I offer a short history of how land's agency appears and is contorted in and around the Mason Land Case: first from a colonial perspective, which views land as an inert, commodified object to be acted upon, and then from a Mohegan perspective, viewing land as agential partner in building and maintaining society. This case, according to legislative scholar David W. Conroy, "reflects the slow and tortuous process by which Euro-American treatment of native peoples in law was

gradually transformed” (397). I argue that as Euro-American treatments of land became normalized, Native acknowledgement of land’s ability to act were transformed as well.

Finally, I show Haudenosaunee and Mohegan conceptions of land’s action and influence present in Occom's engagement with the Mason Land Case. Occom’s understanding of the agential character of land and its influence on his writing in which he defends Mohegan society is representative of “Literature of Landed Resistance.” Examining the relational partnership and the responsibilities Occom and land have to one another centers land throughout Occom’s resistant intervention in the Mason Land Case especially, and across his anti-colonial writing generally. Looking at Occom’s writing during this period through “Literature of Landed Resistance” shows land’s influence and partnership on and in Occom’s writing as an agent in community- and nation-building.

Recovering land’s influence and action in the legislative record upsets colonial systems of land tenure, environmental policy, and property based on settler superiority. Once land’s legislative identity is recontextualized as a contributor to Native and colonial history, the ground falls out from settler colonial legislation that excuses theft across history, beginning with the Mason Land Case. Once land’s voice is revived in Haudenosaunee and Mohegan literary production, Native partnerships with and relationships to land solidify Mohegan and Haudenosaunee claims to ancestral territory. This chapter makes clear that studying Native and colonial legislation in the Northeast, always influenced by land, necessitates a reconsideration of legal precedent from the outset of colonial legislation. Reconsidering legislative history by listening to land is to hear a call for repatriation.

I. Relating Land: Land's Active Role and Agency in Haudenosaunee and Mohegan Societies

Haudenosaunee and Mohegan relations with and to land prior to colonization provide insight into how land structures and is a member of Native societies, and how such conceptions of land shifted with colonization. Land's agency, position as societal member, and role as lawmaker in Haudenosaunee belief systems is best explained by Mohawk scholar Vanessa Watts' "Indigenous Place-Thought" concept, wherein, "place and thought were never separated because they never could or can be separated. Place-Thought is based upon the premise that land is alive and thinking and that humans and non-humans derive agency through the extensions of these thoughts" (21). Beyond land as a living, thinking being, "in a majority of Indigenous societies, ... we (humans) are made from the land; our flesh is literally an extension of soil." Further, "If we begin from the premise that we are in fact made of soil, then our principles of governance are reflected in nature" (27). Land is a living, thinking entity that many Indigenous peoples see themselves as an extension of, which structures their government systems and societal organization. Because of land's agency and its role in systems of government, Watts explains, "Indigenous perceptions of whom and what contributes to a societal structure are quite different from traditional Euro-Western thought" (21). Land's ability to act, and Native recognition of that ability and connection to land as an extension of it, positions land as an active member of society.

As with any societal member, land maintains reciprocal relations with its human counterparts, and humans hold duties to land as well. These connections amongst people and land have been explained in specific contexts by numerous Indigenous scholars. Nishnaabeg scholar Leanne Betasamosake Simpson explains that through these relationships land is a teacher

who structures society: “The land, Aki, is both context and process. The process of coming to know is learner led and profoundly spiritual in nature. ... It creates communities of individuals with the capacity to uphold and move forward our political practices and systems of governance” (*As We Have Always Done* 151). In Yellowknives Dene philosopher Glen Coulthard’s concept of Grounded Normativity, the lessons learned from land as a teacher “inform and structure our ethical engagements with the world and our relationships with human and nonhuman others over time.” Land creates a “system of reciprocal relations and obligations [that] can teach us about living our lives in relation to one another and the natural world in nondominating and nonexploitative terms” (13). Potawatomi philosopher Kyle Powys Whyte explains that such systems of reciprocal relations and obligations with land and those who live alongside it can be seen as “Systems of Responsibility.” An example of this system can be “a responsibility to maintain species habitat,” which is “part of a more comprehensive web of interspecies responsibilities that are tied to a community’s worldview” (“Justice” 519). These systems of responsibilities are made up of smaller “Relational Responsibilities,” which can be held among humans, land itself, other-than-human animals, or plants, and are required “to build cohesive societies, vibrant cultures and subsistence economies.” Each of these larger structures “may require close-knit family, social and political relationships, such as elders’ roles in the lives of youth, customs of child rearing and viable regimes of property rights and land use incentives.” These ties ultimately “facilitate the future flourishing of tribal livelihood” (518, 519). Land, through its action and influence, is a societal member and a teacher.

Examples of land’s agency and societal roles are most apparent in creation stories. As Simpson explains, “these stories set the ‘theoretical framework,’ or give us the ontological context from within which we can interpret other stories, teachings and experiences” (*Dancing*

32). Specifically in relation to land and story, scholar Mishuana Goeman (Tonawanda Band of Seneca) explains, “representations of land and socioscapes that are produced as a result [of story] inform everyday realities, . . . Narrative brings into being meanings around the concept of land, and it is the meanings we choose to believe that effect change communally and individually on the ground” (“Land” 78). In addition to context for being in the world, land’s agency and societal roles are at the forefront of such stories, as are land/human responsibilities and obligations to one another. According to Mohawk scholar Susan M. Hill, one version of the Haudenosaunee Creation Story was told to Tuscarora anthropologist JNB Hewitt by “Seneca Royaner” John Arthur Gibson, “who held the title of Skanyatariyo, or Handsome Lake” (Hill 17–18).⁸ In Gibson’s version of the story, Skywoman falls from the Sky World onto the back of the great turtle. Muskrat brings clay from the bottom of the ocean, and that clay reproduces across the back of the great turtle to create land for Skywoman to walk on. Skywoman has a daughter, Zephyr, who then has two children of her own. When Zephyr dies and is the first woman buried in the earth, Creator, one of her sons and a grandson of Skywoman, “took up the earth and he said, ‘This earth which I have taken up is really alive. Thus also is it as to the earth present here, and verily the body which I shall make from that kind of thing shall continue to live’” (Smithsonian Institution 510). After he fashions human beings, Creator says, “‘I have planted human beings on the earth for the purpose that they shall beautify the earth by cultivating it, and dwell therein’” (511). According to Hill, this version of the Creation Story has “proven very useful in finding evidence of Haudenosaunee land philosophy” in which “Of great importance in

⁸ Hill explains that the creation story presents many complications. It has been viewed as a Christianized narrative, and Hewitt’s version itself displays “outdated English terminology, less-than-accurate and culturally incorrect translations, and the limitations of writing in general—but it does serve as an important resource, especially in terms of the Onkwewhonwencha renderings included in the accounts” (19). See also: Cornelius; Mohawk.

the Creator's words are the instructions to plant and the explanation of the relationship between humans and the sun—who was the brother of Mature Flowers and who came to this world to assist Skyholder [the Creator] in the development of life on earth” (23).

Ultimately, this passage provides insight into three key aspects of Haudenosaunee society: First, according to Hill, “From this we learn that soil has transformative powers” through its ability to reproduce and produce people and plants (20). Second, we can see “the importance of agriculture in Haudenosaunee society” (23–24). Third, as humans are planted on the earth into soil, we can understand that, according to Watts, “we (humans) are made from the land; our flesh is literally an extension of soil” (27). In land's transformative powers rests land's agency. Through agriculture, we see a key partnership between the Haudenosaunee and land, and an example and recognition of land's action. Finally, according to Watts, humans themselves are an agricultural creation of the land. Indeed, as Hill explains, “the land does not belong to Native people, but rather Native people belong to the land,” and thus, “Identity and land are intimately connected,” as evidenced in the Haudenosaunee question: ““what clay are you made of?”” (5; 60). Such realization of Haudenosaunee place in and amongst land and agriculture structures Haudenosaunee society, and land's agency is *the* ultimate component of Haudenosaunee life and sustenance. Without land's power, the Haudenosaunee cannot be created, cannot exist, and cannot continue to exist.

The connection between agriculture and land's active role in Haudenosaunee society is made real in Haudenosaunee crop yield. As Tuscarora scientist Jane Mt. Pleasant and Robert Burt have shown, in the Sixteenth, Seventeenth, and Eighteenth Centuries, the highest crop yield in the colonial Northeast was in Haudenosaunee territory (76). Mt. Pleasant explains further that this increased yield is due to knowledge of land and agriculture in the region, resulting in

increased soil fertility, reflective of the partnership between land and the Haudenosaunee described by Hill (402). The physical manifestation of such understanding of land's agency is just as important as the creation story itself. As Simpson explains in the context of land as teacher, "The process of coming to know is learner led and profoundly spiritual in nature" (*As We Have Always Done* 151). Simpson continues, "Indigenous cultures understand and generate meaning through engagement, presence and process—storytelling, ceremony, singing, dancing, doing" (*Dancing* 93). In short, "one has to live the knowledge in order to know it" (104). In *doing*, the Haudenosaunee *and* the land itself continue to contribute to collective society, to, as Whyte explains, "facilitate the future flourishing of tribal livelihood" ("Justice" 119). Whyte calls such flourishing through relationships "collective continuance." Such actions facilitate societal wellbeing and determine societal partnerships between land and the Haudenosaunee first laid out in creation story.

In addition to crop yield creating relations with land in a static manner, historian Jon Parmenter has shown that Haudenosaunee utilized agriculture as detailed in the Creation Story as a method to create ties to land as the Confederacy moved over the Northeast. While generations of matrilineal agricultural production provided stability to the Haudenosaunee and made physical partnerships with land, the Haudenosaunee continued to create new bonds with land as they moved, and in turn, create new ties to new peoples that they encountered (xxxvi). It is not simply that the Haudenosaunee continued to practice their relations with land that they knew since time immemorial, but instead that the Haudenosaunee viewed continued agricultural production on land that they expanded toward as developing kinship with that new land, per the Creation Story. The Haudenosaunee continued partnering with land in ceremony and agricultural practice over

the course of expansion, practices necessary to create reciprocal relationships with the lands they encountered and settled on.

As the Haudenosaunee expanded, such landed partnership extended to new peoples that they encountered, which is again reflected in Native legislation in partnership with land. According to Simpson, one notable example is “Gdoo-naaganinaa,” or the “Our Dish” treaty.⁹ The treaty is an agreement between the Anishinaabe and the Haudenosaunee that both Nations “were eating out of the same dish through shared hunting territory and the ecological connections between their territories.” It held both Nations to “particular responsibilities,” including “environmental ethics,” which, “combined with their extensive knowledge of the natural environment . . . ensured that there would be plenty of food to sustain both parties in the future,” and “ensured the health of the shared territory for generations to come” (*Dancing* 112–113). In the “Our Dish” Treaty we see peace resulting from relation to land and those beings that come from it, even if that land and the people on it were not historically a relation of the Haudenosaunee. As the Haudenosaunee expanded and claimed new relations to land and people, land played a key role in connecting previously disparate groups, and land was integral in creating the ceremony and law that brought these groups together.

The “Our Dish” Treaty is not the first example of land’s agential role in creating Haudenosaunee law, though. Since time immemorial, land made its agency clear as an educator and creator of law. In a broadly Indigenous context, Anishinaabe scholar Basil Johnston explains that “Learning comes . . . from the earth and our surroundings What our people know about life and living, good and evil, laws and the purposes of insects, birds, animals and fish comes

⁹ While I refer the treaty as “Our Dish,” the Haudenosaunee refer to it differently. According to Simpson, “The Haudenosaunee refer to the treaty as the ‘Dish with One Spoon’ treaty,” or the “Dish with One Spoon Wampum” (*Dancing* 112).

from the earth, the weather, the seasons, the plants and the other beings” (v). Land’s role as lawmaker and educator, according to Anishinaabe law scholar John Borrows, is first and foremost reflected in the Haudenosaunee Great Law of Peace (59). In looking at the Great Law of Peace we see how land co-creates legislation alongside the Haudenosaunee, ties the confederacy together through identity, and, through its partnership with Haudenosaunee women, reproduces and strengthens the Confederacy across generations.

The Great Law, in partnership with and because of land, creates the political makeup of the Haudenosaunee Confederacy. It dictates tribal boundaries, further solidifies identity, and delineates duty to land, people, and nonhumans. Territory and identity are bound together by the Great Law, as evidenced in tribal names. For example, the Oneida are known as such because “their settlement (from whence they came) was where the historic stone was situated (O-neh-yoht)” and they were “named O-neh-yo-deh-ha-ka (Oneidas)” (Royal Society of Canada 221). According to Hill, “Under the Great Law, individuals have been defined by the land to which they belong” (37). Beyond identity, the Great Law also links geographic and landed identity to duty. For example, the Seneca, known at council as “Ronanhohonti,” or “the Doorkeepers,” are required to guard against any enemies that may appear in the West (Hill 37). As Hill explains further, names and landed relations created “specific responsibilities” among tribes and their roles within the Confederacy (37). Land and identity are further connected in the Great Law through matrilineal lines and relationships that Haudenosaunee women have with land. According to the Great Law, it is the responsibility of Haudenosaunee women to cultivate land and gardens (35). In addition to cultivating corn in the manner described by Mt. Pleasant, the Great Law also notes that much like first humans were planted in the ground, “future generations come from the earth. People are instructed to walk carefully on the ground as the ‘coming

faces’—the children yet unborn— are just below the ground’s surface” (37). Those leaders who grow from the ground “will be tall tree trunks, rooted tree trunks; ... it is on the same level that you stand which means that your various nations are all equal with respect to your power” (Gibson 304-5). Women, in partnership with land, cultivate sustenance and future generations, and raise the eventual leaders of the Five Nations, rooted in the ground, raised by land and the women of the Nations. Because of this partnership between women and land, according to Seth Newhouse (Onondaga) and Cayuga Chief Jacob Ezra Thomas, “the lineal descent of the Five Iroquois Nations shall run on the female side and the women shall be considered as the progenitors of the Nation, and the title of ownership of the land or soil of the Nation’s country shall be vested in the said women, and the descendants of these women shall follow the status of their mothers ‘Ka’nihsten:sera Kahwatsirakwe’ni:io’,’ with respect to clans, ‘kataratenion,’ which are the distinguishing marks of families” (24). As land denotes identity, Hill explains that through women’s partnership with land, and consequently Haudenosaunee women leadership, “maternal identity becomes the basis of Haudenosaunee territoriality” (37).

Through such understandings of identity and duty, made possible only through land’s role as educator, lawmaker, and delineator of societal duties, we see examples of Whyte’s Systems of Responsibility and Coulthard’s concept of Grounded Normativity. As Whyte has explained, in order to protect themselves, Native societies “may require relationships of solidarity among community members ... and relationships that facilitate healing and ignite spiritual awakening... . It may also require building trusted networks of relationships across tribal communities who face similar hardships.” These ties, Whyte continues, require each party “to have responsibilities toward the others in the relationship,” and often, connections with “features of the land (like rivers or mountains) and ecosystems may also be required” (“Justice”

519). In the Haudenosaunee context, through its role as educator, lawmaker, and creator of life and identity, land is a member of reciprocal relationships and it is a crucial agent, rather than simply an object, in Haudenosaunee society.

Coulthard outlines these relationships further by drawing on Vine Deloria Jr., explaining that in a broadly Indigenous context, land occupies “an ontological framework for understanding *relationships*” (60, emphasis Coulthard’s). He continues explaining that land is more than “simply some object of profound importance to Indigenous cultures (although it is this too); instead it ought to be understood as a field of ‘relationships of things to each other’” (Coulthard 61; Deloria and Wildcat 23 qtd. in Coulthard 61). He provides an example in the Dene context, explaining that “Dene identity locates us as an inseparable part of an expansive system of interdependent relations covering the land and animals, past and future generations, as well as other people and communities” (63). In a Haudenosaunee context, the Haudenosaunee and land are also inseparable. The Haudenosaunee emerged from land and grow with it, and both land and humans¹⁰ are members of a Haudenosaunee society which both land and humans created together and have distinct duties to each other in order to uphold and protect that society. Such an idea is exemplary of Coulthard’s grounded normativity, which he defines as “the modalities of Indigenous land-connected practices and longstanding experiential knowledge that inform and structure [Indigenous] ethical engagements with the world and [Indigenous] relationships with human and nonhuman others over time” (13). Recognizing the Haudenosaunee relations and duties to, and appreciation of land in story, law, and practice through Whyte’s Systems of

¹⁰ I use “humans” here not as an all-encompassing, homogenizing term to mean all of humanity, but the humans that comprise the Haudenosaunee Confederacy. As I hope is clear at this point, to view the Haudenosaunee confederacy as only comprised of human beings is to leave out land (and other-than-human beings) as members, which severely limits all of the members that the confederacy encompasses.

Responsibility and Coulthard's Grounded Normativity allows for a more robust view of land's crucial role as an agential participant in Haudenosaunee sociality.

Coulthard continues to explain that for Native people, relationships to land go beyond societal obligations, as relationships to land come to mean that people are literally part of the land. Native peoples "are as much a part of the land as any other element" (61). This too is clear in Haudenosaunee society specifically; as Watts has said, Haudenosaunee "flesh is literally an extension of soil" and this is also apparent in the Great Law (27). Just as Haudenosaunee peoples come from the land they are planted in, they also return to the land in death. As Seneca Royaner John Arthur Gibson explains, when one dies, "they will lower his body into the opening. Thereupon they will refill it with soil, and when they finish, then, at that place, the two will mingle again, the body becoming soil again" (532). Hill explains that this part of the Great Law is related to the burial of Skywoman's daughter, Zephyr, who was the first woman returned to the Earth upon her death (37). Indeed, this is true, and this is another example of embodied practice, much like agriculture, that reinforces and strengthens Haudenosaunee connection to land. Even in death, Haudenosaunee people and land "live the knowledge in order to know it" (Simpson, *Dancing* 104). This is also one of the many reasons for Haudenosaunee, and broadly Native, resistance to colonial displacement in addition to societal obligations to land. If a people are displaced and taken away from the land they have a bond with, that they came from, they will be unable to return to that land in death.

Remaining on and remaining *with* land that one has created and nurtured relationships with has profound importance beyond ties and obligations to land. It is necessary to return to and reunite with the soil that one has developed ties to through ceremony and agriculture upon death. Coming into relation and becoming a people with land is also done through practicing

legislation that is created with land. That legislation must also be practiced through court proceedings, and the Great Law of Peace is put into practice throughout colonial America's courts and across tribal boundaries. In the Haudenosaunee context, for example, during the 1744 Treaty of Lancaster, Onondaga spokesman Canasatego explained to Maryland colony commissioners, "we must tell you, that long before One Hundred Years our Ancestors came out of this very Ground, and their Children have remained here ever since." Canasatego continued, telling settler governors that they "came out of the Ground in a Country ... beyond the Seas, there you may have a just Claim, but here you must allow ...¹¹ to be your elder Brethren, and the Lands to belong to us long before you knew any thing of them" (*A Treaty* 11). This statement explains where Haudenosaunee peoples come from, are a part of, and created society and law with the land. Additionally, it is a challenge to settler governors. While settlers may have laws in and with the lands that they originated in, those laws do not have value on Haudenosaunee land or in Haudenosaunee society, of which land is a relative and agential member. Of course, one society's law cannot be transposed onto another; however, Canasatego's claim goes beyond law in the abstract. Canasatego claims that these settler laws originated from a society that included other land, and other relationships to that land. Settler laws cannot be applicable to the land settlers now find themselves on, because that land has its own laws, which it created in concert with the Haudenosaunee. In this context, the law that structures Haudenosaunee society was created by all members of society. The law of the land was quite literally created by and with the land itself.

For the Haudenosaunee, land is an integral, active member of society and individual members lives from beginning to end. In partnership with Haudenosaunee women, land holds

¹¹ Illegible.

and brings Haudenosaunee life into being. It nourishes those lives through agricultural production, again in partnership with Haudenosaunee women. It provides rules to live by and shapes society with all human members of the Confederacy through legislation, and it structures individual and tribal identities through place names, as land grounds and structures place and therefore identity. As people return to the land in death, they return to being with that which gave them life, and join their ancestors and land, both of whom laid the groundwork for their survival as a member of the Haudenosaunee Confederacy. Together, the Haudenosaunee and land constantly and collectively create life, culture, and society. They have done so since Skywoman's arrival.

Such ideas surrounding land's active role in Native origins, society, and legislation are not limited to the Haudenosaunee. The Haudenosaunee had influence on their Mohegan neighbors' society through frequent cultural exchange, which occurred for centuries. Brooks explains, "The Mohegans had a long-standing alliance with the Mohawks and Mohicans, and all three nations ... provided scouts to the English for their forts around Lake George" (88). This cultural exchange can be understood through Indigenous trans/nationalism, described by Heidi Kiiwetinepinesiik Stark (Turtle Mountain Ojibwe) and Joseph Bauerkemper as a theory that "describes the linkages, conversations, cross-references, and movement of ideas, practices, and obligations between indigenous nations" (8).¹² Mohegan conceptions of land's agency through cultural exchange with the Haudenosaunee are apparent in Mohegan speech, writing, protest, and literary production.

¹² Mohegan and Haudenosaunee ideas around land's agency are not generalized and made homogenous through trans/nationalism. Kirby Brown (Cherokee) explains: trans/nationalism is "not about leveling tribal-national difference and distinction into transnational sameness." Instead, "Indigenous trans/nationalism affirms the central importance of tribally specific methodologies and the multiple sovereignties that they support while also accounting for how exchanges, relationships, responsibilities, and experiences that move back and forth across tribal-national borders inform, and at times transform, tribal-national lives" (2019, 170).

Beyond exchange with the Haudenosaunee, Mohegan peoples viewed land as a central figure in their society as well, and land's influence is clear in Mohegan writing and belief generally. Mohegan historian Melissa Jayne Fawcett has shown, according to Mohegan medicine woman, elder, and anthropologist Gladys Tantaquidgeon, each story of the Mohegan people "is almost a miracle for the literature of the land!" (Fawcett, *Medicine Trail* xvi). Stories, literature, and knowledge are held in the land. This is made possible through "The Sacred Tree, or Tree of Life" which "connects one generation to the next. With roots deeply imbedded in the earth and the bodies of the ancestors, its branches reach towards the sky and future generations" (Fawcett, *The Lasting* 37). These stories, histories, and knowledge, held in the land and told across generations through and with land culminate in a "collective perspective of an indigenous nation ... the life of any one leader is inseparable from the story of the people as a whole ... [Mohegan people] ritualize words, phrases, and beliefs about people, places, events, and spirit beings as they pass from one generation to the next" (*Medicine Trail* xv). Land is a living entity, imbued with a breathing spirit and inseparable from the story of Mohegan people, according to tribal culture-keeper Fidelia Fielding, Mohegan people "shall always remain [in the land] where your [Creator] is" (Fawcett, *The Lasting* 44). These Mohegan beliefs, strengthened by trans/national exchange with the Haudenosaunee Confederacy across generations, are visible in Mohegan reaction to the Mason Case.

II. The Mason Land Case from the Colonial Perspective: Commodification, Degeneration, and Land-as-Property

The racial philosophies that undergird settler views of land and colonial property law, dependent on rendering land inactive, are first apparent in the Mason Land Case of the Seventeenth and Eighteenth Centuries. This land case provides context for both Mohegan

conceptions of land's active nature and the shifting dynamics of such knowledge in the face of colonial land theft through legislation. Looking at the Mason Case from the colonial perspective provides insight into how land works alongside Mohegan peoples in resistance colonialism. Such an investigation also lays the groundwork for understanding colonial legislation around land's agency, and it shows how settlers sought to render land inert property across history.

In performing such a reading of the Mason Land Case as representative of settler views of land, I want to clarify that this reading does not encompass every settler of the period. Settlers were culturally, ethnically, and economically diverse, and as such, held diverse views when it came to land, Native peoples, and British rule. For example, Irish settlers had recently been colonized by the British Crown themselves two centuries earlier, wherein their own relationships to land were violently upended by British colonization on its way to the Americas (Canny).¹³ While many Irish people still settled the Americas, their views of land, land tenure, and colonial land theft was varied, given their experience with British colonialism. While "settler" in the broad sense encompasses the Irish and other colonized peoples who would "settle" the Americas, in the context of the Mason Land Case and its view of land as property, the "settler" viewpoint discussed here reflects those who held the dominant colonial view of land as inert commodity. This rhetorical, discursive, and ideological approach to land, according to historian Nancy Shoemaker, was representative of the "European settlers' colonizing intentions toward North America," and "combined with an emerging system of private landholding masked the similarities in Indians' and Europeans' collective sense of place" represented in Native American

¹³ For discussion of early Irish and British relations to land in literature that understood land as an actor and partner, see: Siewers, *Strange Beauty: Ecocritical Approaches to Early Medieval Landscape*. Especially his treatment of the agential and living landscapes in the *Tochmarc Étaíne*, the *Mabinogion*, and land and place creation in the *Táin Bó Cúailng*.

cultural production and precolonial Irish beliefs and writing (14). This colonizing viewpoint is represented here by those who argued in favor of the Connecticut Colony and benefitted from its victory in the Land Case.

On September 28, 1640, Mohegan Sachem Uncas entrusted Mohegan land to the Connecticut Colony. This land was to be held in trust and overseen through “guardianship” by Major John Mason, who had previously acted as colonial advisor to the Mohegans. By entrusting such land, Uncas believed he was granting Mason guardianship over the lands so that English colonists would stop encroaching on Mohegan territories, tearing down Mohegan fences, and allowing their animals to graze in Mohegan fields.¹⁴ However, Connecticut Colony consistently argued that the trust arrangement with Uncas was a legitimate land cession to the colony, despite factions of the Mohegans, Mason himself, and Mason’s heirs arguing otherwise (Jarvis 28; Conroy 419). Connecticut colonists also continued to encroach on Mohegan land after Uncas’s death around 1683 (Brooks, 70-1). According to Brooks, as early as 1698 Connecticut governor Fitz-John Winthrop and minister Gordon Saltonstall “coerced Uncas’s son and successor, Owaneco, to release hunting grounds to them on paper while he was ‘intoxicated’” (71; Smith 424) Colonial settlement voided guardianship guidelines written into law by Uncas requiring Mason to be present whenever discussions around land held in trust took place. They also ignored a prohibition on the sale of Mohegan planting grounds written into law by Owaneco in 1694 (Brooks 71).

In response, in 1700 Owaneco and his brother Ben sent a petition to Queen Anne asking her to return land to Mohegan. The Queen appointed a commission to review the case in 1705.

¹⁴ For history of colonists ignoring Native enclosure and using farm animals as a tool of land theft, see Anderson, *Creatures of Empire*.

The Commission agreed that the colony had wrongfully taken Mohegan lands, and they reaffirmed guarantees of friendship between the Crown and Mohegan that Uncas wrote into law in 1681's "League of Alliance and Amity" (Great Britain 26-29; Brooks 72-3). The colony disagreed. In 1717 Saltonstall, now governor, attempted to partition Mohegan lands into privatized family plots, lease more land to settlers, and provide land to a Christian minister so that, in addition to taking land, Mohegans might be converted to Christianity. Mohegans largely ignored and resisted such encroachment in favor of exercising collective, generational rights to the land (Brooks 73). As colonial intrusion and theft of Mohegan land continued on individual and collective bases, Uncas's great-grandson, Mahomet II, and Major John Mason's grandson, Captain John Mason, traveled to England in 1736 to speak directly to King George II (Brooks 74). Mahomet did not return to Mohegan, dying in England; however, King George launched an inquiry into Mahomet II and Mason's complaints. While the inquiry was decided in favor of the colony, the Mohegans appealed, and a commission was assembled to hear the case again in 1743 (Brooks 75).

While the Mason Land Case as a whole is of great importance in understanding shifting legislation around property ownership, Mohegan thought around land's agency, and Mohegan relation to land in general, the 1743 commission is equally important for recognizing colonial conceptions of land and precedents set in law around land and Native peoples. Essentially, colonial beliefs around Native property rights were laid bare by the colony's lawyer, William Smith. Specifically, the case was decided in favor of the colony, and part of the reasoning for the decision was because "one of the parties to that treaty were Indians, a barbarous people, not then subject to the regular course of any law, easily misled by misapprehensions, and as easily provoked to violent and mischievous actions" (Great Britain 139). Further, given the frequent

incursions onto Native land (the fault of Native peoples, according to the colony), colonists had already built homes and lives on such land, and to return that land to the Mohegans, according to Smith, would be to “dispossess” and “ruin” said families. Ultimately, the decision explains that this would result in the land turning “once again into a wilderness, contrary to his majesty’s declared intention to his colony in their charter of incorporation” (85).¹⁵ According to Smith, then, Native peoples have no right to property in the colonies because they did not improve the land from its “natural” state. As a consequence, they could not understand the legal regimes around improvement and property. From this logic, to return land to “barbarians” would be to dispossess “civilized” colonists and return improved land to unprofitable wilderness once again.

Colonial arguments around colonists’ rights to land and denials of Native rights in the 1743 Commission provide a framework for colonial conceptions of property law moving forward, and they work to mark Native peoples as inferior barbarians in legislation. Not only, then, do colonists have rights to land through settlement and improvement, but legal precedent is set that Native peoples are “barbarous” and deficient to such a level that they cannot comprehend land-as-property nor improve it according to European norms (Great Britain 139; Berkhofer 131-2; Goeman, “Land” 77). Through such precedent, “Indigenous ways of using and owning land,” according to Bhandar, “have been relegated to a prehistory of modern law” (36). The Mason Land Case set the standards for owning land through colonial improvement while disregarding Native title and Native relations to land as “barbarous,” and thus prehistorical and primitive, according to the 1743 Commission’s ruling. Colonial ownership, on the other hand, fit the “ideology of improvement,” as Bhandar explains, which has landowners creating “a burgeoning

¹⁵ For further discussion of the 1743 ruling, see Mark D. Walters, “Mohegan Indians v. Connecticut (1705-1773) and the Legal Status of Aboriginal Customary Laws and Government in British North America.”

agrarian capitalist economy by” acting as “industrious laborers” (36). Indeed, Smith’s argument equated colonial land tenure with improvement through the Connecticut Colony’s 1662 charter, which stated in part that colonists were to “build and set up on the waste land [wilderness] belonging to the said colony of Connecticut ... Soils, Grounds, Havens, Ports, Rivers, Waters, Dishings, Mines, Minerals, precious Stones, Quarries, and all and singular other Commodities” (*Charter* 12). The Mason Land Case, then, can and should be seen as a precursor to modern property law in what would become the United States. Coming to see the Mason Case as *the* foundational property law case in the United States shows the wrong-headedness of property law and its precedent into our contemporary moment, and its decision clarifies property law as a project based in and dependent upon racialization.

Indeed, Mohegan peoples were fencing their land and practicing agriculture as Native story and colonial records show. They should have been seen as rightful landowners according to property law. For settlers to claim land, Williams’ arguments have to go beyond simply casting property as only valid in the hands of the industrious, capitalist laborer. According to legal scholar K-Sue Park, “lands and people in America acquired value for colonists—that is, they became property—when they came into possession of whites” (1108). Williams’ arguments in the 1743 Commission, and the Commission’s decision siding with Williams, are largely based in a continuation of colonists proving to themselves “their own superiority” over a supposedly inferior people who had no right to land (Berkhofer 24). In casting Native peoples as unable to comprehend colonial conceptions of land as property, not simply through improvement, but also through colonial legislation and land rights in general, colonists conceived “of Indians in terms of their deficiencies according to White ideals rather than in terms of their own various cultures” (25-6). As Reginald Horsman explains, “The Indians could therefore be thrown off the land,

mistreated, or slaughtered, because ... they had shown that they were sunk deep in irredeemable savagery” (104). This racialization, according to Aileen Moreton-Robinson, casts Native peoples as being “in a state of nature,” which destroys their “ontological and epistemological existence,” and “their possession was recognized only as satisfying [their] immediate needs” (114). As settlers mark Native peoples as irredeemable and unable to possess land, Eve Tuck (Unangax̂) and K. Wayne Yang show that settlers cast themselves “as the anthropocentric normal, and as more developed, more human, more deserving than other groups or species” (6). Such white ideals and Native deficiencies and savagery were quickly becoming codified into law alongside property law. As whiteness and possession are normalized together against alienable non-white wildlands, settlers create “a new ‘home’ and that home is rooted in a homesteading worldview where the wild land and wild people were made for his benefit” (Tuck and Ree 6). Whiteness and possession are naturalized and codified into law. The 1743 Commission literally lays the groundwork for both private property ownership through improvement *and* Native deficiency as a matter of law according to colonial courts. Property law, from its drawn-out inception in early Connecticut Colony, is predicated on casting land as inert, and racializing Indigenous peoples as subhuman and unable to make sense of such law’s complications. Colonial property law, then, works in such a way that life—and full personhood, full agency—is stripped from both land and Native peoples.

In developing an understanding of the Mason Land Case from the colonial perspective, we are offered an important view of the history of marking land as inanimate property and marking Native peoples as culturally, politically, and racially inferior through colonial property law. Casting Native peoples as inferior within colonial property law allowed the colonies to gain land immediately. At the same time, setting these philosophies in precedent creates the

framework for future dispossession and white right to land as inert possession. The case, in many respects, can be seen as exemplary of Patrick Wolfe’s maxim that “Whatever settlers may say—and they generally have a lot to say—the primary motive for elimination is not race (or religion, ethnicity, grade of civilization, etc.) but access to territory” (388). While colonial courts marked Native peoples as inferior, such dehumanizing legislation was, primarily, in order to gain territory, both in the moment and in future legislation and court decisions. Such legislation pertaining to Native peoples during conquest from this case up to the 1743 Commission outlines the basic contours of colonial property philosophy, and it sets legal precedent for property legislation moving forward in the Eighteenth Century.

III. Native Rights/Land’s Rights: Mohegan Response to the Mason Land Case

While Williams argued that Native peoples did not improve land and were thus not able to comprehend land-as-property, the Masons’ lawyer, William Bollan, argued that the Mohegans had “Native Rights,” as they “were the original *only* owners of a large tract of land in these parts, including the lands by the judgement” (Great Britain 87, text’s emphasis). Further, the Mohegans were rightful owners of the land through original title, and they had allowed the English to settle amongst them, but they retained their rights to land throughout that settlement. Bollan’s defense of Mohegan rights thus eschewed the philosophy of improvement upon which William based his argument. Were the decision to have been made in favor of the Mohegans, legislative precedent would have been set in favor of Indigenous “original” title in subsequent cases. In developing an understanding of the Mason Land Case from the Mohegan perspective, Native title to land can be seen as much more than right through extraction and “improvement.” Native title is proven through reciprocal relationships and constant (re)making of society and legislation among Mohegan people and the land. “Native Rights” encompass land as a central, acting figure in

Mohegan society. Recognizing and recovering Mohegan kinship with land and land's standing in Mohegan society as foundational for land tenure and land rights strengthens Native sovereignty. Such recognition and recovery also upset the tenets of colonial property via improvement throughout history and into the present.

Lisa Brooks explains that Mohegan, and broadly "Native understandings of land 'rights' were always relational. Native land tenure was rooted in the interdependent relationship between a community and its territory" (68). In detailing the Mason Land Case, Brooks shows that such "Native rights' involved a cultural and corporeal intimacy with an environment in which humans were literally intertwined with the ground that sustained them" (77-8). The manner in which land structures Native society, and the manner in which Mohegan peoples relate to land, is clear here. However, what is missing is the agential role that land plays in that structure. As we have seen, land creates and is a living part of these communities with the ability to influence, act, and teach. Key aspects of land's role in these communities relate to law and its structure.

Land is a participant in Mohegan attempts to remain with and retain their relationship to land in "Native Rights." According to Watts, in an Indigenous context, because "land is alive and thinking" it is understood that "humans and non-humans derive agency through the extensions of these thoughts" (21). Land is a living being. Its life is apparent in precolonial conceptions of land, and its influence continues in Mohegan writing over the course of the Land Case. This influence shows land working through Mohegan writers. As Mohegan people practice writing and speaking in and related to courts of law, they put into practice legislative ideals and customs that land played a role in developing and creating.

In co-producing cultural and legislative texts, Mohegan people and land put into practice a "Literature of Landed Resistance." Specifically, regarding the Mason Case, Mohegan writing

and speech is dependent on an understanding of land only available to those Indigenous to that land, and an acknowledgement that land is alive and Mohegan peoples have grown with and are a part of that land. Through this knowledge, Mohegan people are influenced by land, are taught by that land, and practice philosophies and speech that arises as a result of being grounded in that land. Their resistance to colonial theft of land is in part derived from land's agency, and in turn, resistance to that theft, represented in a multitude of literary productions, is written, spoken, and thought in concert with land. As we will see, over the course of and directly following the Mason Land Case, Mohegan peoples continuously reaffirm their recognition of land's agency, their reciprocal relationships and obligations to the land, the idea that land is a contributing member of their community, and in turn, their resistance to colonial theft in partnership with land, through land's agency.

Following Uncas's entrustment of land to Major Mason, his duty to land is clear. In 1681's "League of Alliance and Amity" with the English, Uncas states,

I do resign up to the said colony of Connecticut all my lands and territories hereby, for myself, my heirs and successors, binding myself and them, that I will make no other dispose of them to any person or people whatsoever, without their grant and allowance first had obtained; and that they shall be disposed in plantations, villages, or farms, according as the general court of Connecticut shall order and determine the same, I always to receive such reasonable satisfaction for my property in them according as we shall agree. (Great Britain 40)

Brooks and historian Michael Oberg have explained that such language binds the English and Mohegans together. Brooks suggests that "Uncas conceded only the rights of shared inhabitation and preemption" (69). As Oberg explains further, in this reading the English were given "a right

to first purchase,” however, for the time being, the colonists were only allowed access to Mohegan land (200). It is important, though, to close read Uncas’s use of “binding.” Brooks has shown that Uncas binds the Mohegans and English together in law and friendship. Bollan would later call attention to this in his defense, arguing that the Mohegans allowed the English to settle on their land in friendship rather than ownership.

Uncas can also be understood as binding himself and his land together in English law. Native legislation frequently bound a people to their land, and it is unclear in Uncas’s speech who specifically he refers to as “them.” Take, for example, his later statement that “I do bind myself, my heirs and successors, to be ready to assist the colony of Connecticut upon any occasion when their peace shall be disturbed with any enemy” (Great Britain 40). In this, Uncas has clearly bound himself and later generations to the English as allies, while calling attention to previous English and Mohegan partnership during the Pequot War (Hauptman 76). In contrast, his statement that he “do resign up to the said colony of Connecticut all my lands and territories hereby, for myself, my heirs and successors, binding myself and them” is ambiguously worded, and it is unclear who is bound to whom. In viewing Mohegan relations to Mohegan land as one of holding and having responsibilities to land as a member of Mohegan society, though, we can see Uncas binding himself to land in English law in order to uphold his duty to that land and to protect it. He does not simply bind himself and the English together; rather, he is binding himself to land that he and his people have had a connection to since they came into being together, and he attempts to make the English aware of his responsibilities to it.

Such responsibilities to land also take on new weight when understood through the context of Uncas’s life. According to Oberg, Uncas approached the court a year earlier and explained that he was aware of his impending death, and he wanted the boundaries of his land

settled (199). This language continued when Uncas approached the court in 1681, as “He asked the magistrates to firmly define Mohegan bounds and those of the neighboring English settlements” in part so that Mohegan and Connecticut Colony’s relationship was set on a sound foundation following his passing (200). Uncas’s sense of laying an authoritative basis for ongoing Mohegan relationships to and ownership of land in colonial law takes on new urgency when understood through his knowledge of his growing frailty. Uncas’s attempts to bind Mohegan peoples to their land in colonial law reflect a final effort to keep future generations with the land that they would come from and return to. Because land structures Mohegan life—because land allows Mohegan peoples to plant, to hunt, to learn about themselves and their surrounds, and to exist as a people—Uncas has distinct responsibilities to protect land as a member of society. This can be seen in Bolland’s 1743 defense of Mohegan land when he argued that Mohegans needed “a sufficient portion of lands for them to plant and hunt in, and which were absolutely necessary for them, in order to their continuance as a people” (Great Britain 88). In order to *be* Mohegan people, Mohegan land is necessary, because Mohegan land structures Mohegan society, Mohegan activity, and Mohegan existence. Because of this, Uncas has a responsibility to the land because it allows Mohegan people to exist as a people and, in doing so, to resist colonial encroachment. In this Mohegan context, land is foundation for, in regards to Kyle Powys Whyte’s framework of collective continuance, “contesting colonial hardships and pursuing robust living” (“Justice” 519). Land, and Mohegan relationship to it, is the foundation for Mohegan life and living and for resisting colonial violence, theft, and degeneration. Without land, Mohegan peoples cannot practice hunting, planting, or societal functions. Such planting and hunting, according to Whyte, comprise “a more comprehensive web of interspecies responsibilities that are tied to a community’s worldview” (519-20). Without land, there is no

hunting or planting. Without hunting or planting, nonhuman animal habitat and life is disrupted. Without hunting or planting, there is no Mohegan education. Without education, Mohegan children cannot continue Mohegan government, cultural production, or familial duties. As Whyte explains, “an entire system of responsibilities is embedded in and permeates everything just described” (520).¹⁶ The complex webs of interspecies and intertribal responsibilities cannot function without land at their center. Uncas has a duty to and a reciprocal relationship with land that he must uphold and protect, as land takes care of and structures Mohegan society. Uncas practices these reciprocal duties in English property law with the “League of Alliance and Amity.”

Uncas resists English encroachment by carrying out reciprocal responsibilities that Mohegan people have to land. The structure for these responsibilities and duties land and people have to one another were originally created in partnership with land. As Glen Coulthard explains, knowing land, and the experiences that come with knowing land, “guide forms of resistance against other rationalizations of the world that threaten to erase or destroy our [Indigenous] senses of place” (60; 61). This recognition of land creates reciprocal relationships based on mutual protection of Indigenous peoples and land. In turn, these bonds based on mutual protection structure resistance (“grounded normativity”), and the land (among other other-than-human entities) “reciprocate and meet their obligations to humans, thus ensuring the survival and well-being of all over time” (61). Realizing the reciprocal responsibilities one has to land in order for a people to flourish and engaging in resistance to any entity that would seek to destroy one’s ability to uphold those responsibilities is an acknowledgement that land is alive with

¹⁶ Whyte provides specific examples in a Wabanaki context, but in the broader sense these responsibilities also structure Mohegan society.

thought and intention. Understanding land as living and thinking—i.e. as having personhood and consciousness—as Watts tells us, allows “humans and non-humans [to] derive agency through the extensions of these thoughts” (21). Uncas’s engagement with English law in this manner is an example of a literature of landed resistance.

Literature of landed resistance continues throughout the Mason Case. Mohegan Appageese is quoted in Case proceedings as saying, “from a boy their ground and he grew up together, and they have always been friends to the English, and why our ground and we should be parted now, we know not” (Great Britain 58). Such relationships were so commonly held that colonists were aware of them. As Puritan Minister Roger Williams wrote in his 1643 book, *A Key into the Language of America*, Native peoples “say themselves, that they have sprung and growne up in that very place, like the very trees of the wilderness” (A4). Brooks has explained that Appageese’s “metaphor” is a key example of “Native rights” used to “convey his relationship to Mohegan” (77). However, in viewing land as living, communal member and relation with whom Appageese has a reciprocal relationship Appageese’s statement functions beyond the context of metaphor. Here, Appageese is speaking literally, as a part of the land. As Watts explains, “we (humans) are made from the land; our flesh is literally an extension of soil” (27). If we are to take Appageese and his contemporaries literally, and people believe themselves to be “extensions of the very land [they] walk upon,” then they “have an obligation to maintain communication with it” (Watts 23). Beyond maintaining communication, if land is not cared for, then the “ability to think, act, and govern becomes compromised because this relationship is continuously corrupted with foreign impositions of how agency is organized” (Watts 23). Appageese and any Mohegan person who might take up land (and therefore Mohegan) causes in the Mason Land Case view themselves as extensions of the land. They are members of a

community created with and structured by land. They must protect that community, and all of that community's members, including land, from colonial impositions into land's active organization.

Occom's writing about the case following a return from missionary duties in Oneida in 1763 reflects similar philosophies around community protection. Occom, siding with the Masons and the majority of the Mohegan tribe, repeated Appageese's rhetorical relation to land. Bernd Peyer explains that "Occom had the Mohegans sign a petition to King George III in which the tribe expressed the desire to be placed under the immediate protection of the crown in exchange for the lands" at the core of the Land Case (72). Occom then delivered a petition to superintendent of Indian affairs Sir William Johnson in 1764. Occom's petition states in part that the colonists "want [to] render us as Cyphers in our own land—they want root us out of our land ^root & Branch^..." (*The Collected* 145). As with Appageese, many scholars have read Occom's reference to being rooted in the land as metaphor. Caroline Wigginton has argued Occom's metaphor is used to make the case that "the Mohegan people are more deeply embedded than the colonial invaders" (34). Further, Brooks has posited that Occom's use of "rooted" acts as "a metaphor for indigeneity" (93). Indeed, when read as metaphor Occom's statement is a powerful one that colonists could grasp and in many ways respect. Such rhetorical positioning was necessary during this period, literary scholar Drew Lopezina explains, because "Forces remained constantly at work to relegate Native Americans to a pre-historic status" (21). Occom's writing specifically articulates "a sense of Native identity that effectively counters" such colonial demarcation (20). As Brooks explains, Occom very much believed that for Mohegans, the "best route to protecting" Mohegan lands was to "acquire the power of literacy for themselves" (84). Such literacy allowed Occom to speak in a manner that colonial and British authorities

recognized, and it pushed back against colonial temporal containment of Native people. Occom could come to be seen as learned and “civilized,” and his words could come to be read and respected.¹⁷ However, much like Appageese’s statements, Occom’s pronouncement is both a metaphor for Indigeneity *and* a literal statement of his relationships with and responsibilities to the land-as-relative. In viewing Occom’s statement metaphorically and literally, we can see Occom both writing to colonial figures in a manner that they would understand, and we can see his literal rootedness in land as speaking to Mohegan peoples and land itself, as recognition of his indigeneity and of land’s agency.

This double meaning is at once speaking to colonial and British authorities, and at the same time speaking to Mohegan peoples and the land itself. It is Occom’s recognition, in-line with Uncas, Appageese, and Mohegan peoples that spoke to Roger Williams, that Occom is made from and a part of that land, and he has specific obligations to it as a member of Mohegan society. Recognition of his identity as part of the land and a member of community with the land comes with a recognition of land’s agency and thus a recognition of his distinct duties and responsibilities to that land. If Occom is indeed a part of the land, he derives agency from the soil itself. If he is a part of that soil, his agency stems from the soil’s agency, as does his thought. Occom, then, has a duty and a reciprocal responsibility to the land as a societal member.

Reading Occom in this manner also allows us a new view of Occom’s writing even when it is not explicitly about land. Upon his involvement with the Land Case, Occom “came into open conflict with the Reverend David Jewett ... and the official schoolmaster Robert Clelland,

¹⁷ Joanna Brooks shows that Occom was indeed widely read throughout colonial America, as his Sermon on Moses Paul “went through nineteen editions, ranking Occom as the sixth leading author in the American colonies during the 1770s” (23). Lopenzina argues further that use of Occom’s hymns in churches across colonial America and his correspondence with Phillis Wheatley shows that he was “more fully involved in the realm of American thought and letters in the colonial period than we are currently inclined to credit (25).

both of whom favored the anti-Mason faction” (Peyer 73). Once the Case was decided, Occom was forced to apologize to Jewett and those opposed to the Mohegan side of the Case. Occom’s “confession” reads in part:

Although as a Member of the Mohegan Tribe and, for many years, one of their Council, I thought I had not only a natural & civil Right, but that it was my Duty, to acquaint myself with their temporal Affairs; Yet I am, upon serious and close Reflexion, convinced that as there was no absolute Necessity for it, it was very imprudent in me, and offensive to the Public, that I should so far engage, as of late, as I have done, in the *Mason Controversy*... For this imprudent, rash, and offensive Conduct of mine, I am heartily sorry, and beg Forgiveness of God—of this honorable Board of Correspondents, of whom I ought to have asked farther Advice—and of the Public; determining that I will not for the future act in that affair, unless called thereto and obliged by lawful Authority. (Occom, “Confession to the”)

According to Brooks, Occom “later told a Mohegan woman that he had ‘outwitted the commissioners,’” as he “reminded the commissioners that he was not only a missionary under their pay but a ‘member’ and leader of a ‘tribe,’ with a ‘duty’ to enable his people to survive here on earth, not merely to prepare them for heaven.” Further, “Occom suggested that this duty was also a ‘right’ ensured by the ‘natural’ laws common to all humans and by the colony’s own code” (97). Indeed, Occom’s subversive rhetoric continues here in the manner that Brooks has pointed toward. However, much like Occom’s previous rhetorical moves speak to colonists to show his control of English, and speak to his duty to land, his confession too speaks to his

relational connection¹⁸ with land. Occom is again speaking beyond the human, to land, in this “confession.”

Beyond Occom’s duty to land as a living member of Mohegan society, the relationships that Occom has to members of his tribe, and the natural rights he has to defend them, are not possible without land. Such natural rights stem from land itself, and as Coulthard explains, land provides “an ontological framework for understanding *relationships*” (60, emphasis Coulthard’s). Through this realization of relationships structured by land, reciprocal responsibilities emerge, one of which Occom details in his confession. He has a distinct duty to ensure that his people survive on earth, and he has a distinct duty to ensure that the land he is on survives as well. Occom’s duty to the land that he has grown with and structured relationships and natural rights that comprise his Mohegan society is reflected in this confession. As a Mohegan leader, Occom has duties to protect both Mohegan peoples and Mohegan lands in order to “facilitate the future flourishing of tribal livelihood” in collective society, much like Uncas a century earlier (Whyte, “Justice” 519).

Occom’s steps toward facilitating such flourishing begin and end with recognition of land’s agency and Occom’s duty to land. The reciprocal relationships necessary for such flourishing are predicated on land, as land is “understood as a field of ‘relationships of things to each other’” (Coulthard 61). Once land makes these ties possible, the first step toward facilitating such flourishing requires “building trusted networks of relationships across tribal communities who face similar hardships” beginning with Occom’s missions to Oneida (Whyte, “Justice” (519). Upon his return, Occom builds “relationships of solidarity among community members,”

¹⁸ By “relational connection” I refer to Watts’ claim that “flesh is literally an extension of soil,” tied to Occom’s writing previously (27).

with his original petition (519). Finally, through Occom's repeated discussion of his rootedness in land, his relation to land, and his duty to land, he practices the idea that relationships to "features of the land ... may also be required" (519). As land both structures connections between peoples and is itself a member of those reciprocal relations, we can come to see Occom's statements around his duty to his tribe as his duty to land as well. As Vine Deloria Jr. explains, because of Native peoples' mutual connection to land, "They know precisely who their relatives are and what their responsibilities toward them entail" (*The Metaphysics* 159). Occom's intervention in the Mason Land Case, then, acts as an embodied practice of land's teachings, a Mohegan affirmation of landed relations, and a rhetorical recognition of land's agency.

Occom's previous work in Haudenosaunee territory also allowed him some knowledge of Haudenosaunee philosophy, which influenced him. Prior to his involvement in the Mason Case, Occom had returned from a missionary trip to Oneida territory, and as Brooks and Wigginton argue, Occom was exposed to Haudenosaunee philosophy and diplomacy (2008, 88-90; 2008, 35). Brooks shows that while Occom and other Mohegan missionaries "taught reading, writing, and the principles of Christianity, they learned Haudenosaunee language and diplomacy, as well as the limits of their own spiritual beliefs" (2008, 89). Occom's knowledge of Haudenosaunee diplomacy, philosophy, and culture stemming from Oneida is a continuation of Indigenous trans/nationalism between Haudenosaunee and Mohegan.

While there are clear differences between tribal philosophies regarding land, most specifically in Mohegan people originating through various migrations and the Haudenosaunee deriving their existence from the land, both philosophies describe how a people come to exist through relations made possible by eventually becoming kin with land. As one becomes with the land, societies, cultures, and legislation are and have been created, and one has duties to uphold

to people and the land. Most notably, both peoples require that they return to their land in death. As Mohegan and Haudenosaunee peoples and their land learned from one another, both groups' political standing, land claims, and identities are strengthened by the ties, philosophies, and cultural exchange that land makes possible.

Occom's recognition of his relationship to land throughout his writing around the Mason Land Case and the influence of Haudenosaunee thought on that writing can be seen in a December 1765 letter to Eleazar Wheelock. Following his confession, prior to a trip to London, Occom wrote to Wheelock saying, "I have a Struggle in my Mind At times, knowing not where I am going, I don't know but I am Looking for a Spot of Ground ^where^ my Bones must be Buried, and never to See my Poor Family again, but I verily believe I am Calld of God by Strange Providence and that is Enough" (*The Collected* 74). Occom's commitment to Christianity is clear here. As Joanna Brooks has said, he "expresses a deep and personal faith" (Occom, *The Collected* 61). However, such a commitment does not mean that Occom cannot, and did not, continue Mohegan (and Haudenosaunee) beliefs and practices following conversion. Indeed, Lopenzina has argued that "The Christian faith was not seen by all Natives as existing in opposition to their own prior belief systems, but rather as something that might be incorporated or worked in tandem with their own cosmologies" (31).¹⁹

Occom's preoccupation with his burial is of great importance. Mohegan and Haudenosaunee law require bodies to return to and mingle with the earth again, and this is the clearest overlap between Mohegan and Haudenosaunee philosophies regarding land. Specifically, the Haudenosaunee Great Law requires that the deceased and soil "will mingle

¹⁹ Other scholars have also argued that Christianity allowed Native peoples to continue traditional beliefs and practices. (See: Murray; Jarvis 84).

again, the body becoming soil again” (Gibson 532). Mohegan culture-keeper Fidelia Fielding also explains that Mohegan peoples “shall always remain in [the land] where your [Creator] is” (Fawcett, *The Lasting* 44). If Occom passed away on his trip London like Mahomet II, or if he was removed from his ancestral land following the Mason Case, would be unable to uphold his duty to land and return to it in death. If Occom does not return to his land, he is not fulfilling his final duty to his community, breaking laws that the Mohegan and Haudenosaunee created with land and have followed since time immemorial.

As evidenced in statements from Uncas, Appageese, and Occom, responsibilities that Mohegan people have to land were originally created in partnership with land. Occom’s writing details his duties to land as part of that partnership as understood trans/nationally through Mohegan and Haudenosaunee contexts. In those partnerships and duties lies recognition of land’s agency. Because of this recognition, testimony in and reaction to the Mason Land Case made by and from Mohegan peoples shows land’s agency through reciprocal relations, grounded normativity, Indigenous Place-Thought, and previous conceptualizations of land’s agency in precolonial writing and philosophy. As Watts explains, once one understands that “land is alive and thinking,” it is understood that “humans and non-humans derive agency through the extensions of these thoughts” (21). As such, Uncas, Appageese, and Occom writing to and about land is only possible if land has taught them about themselves and their duties to it. This way of viewing land is a stark contrast from colonial legislation around land-as-property, as that relationship is only possible if land is an inanimate, alienable resource rather than a relational agent in its own right.

Such binary views of land’s agency, though, are complicated by settler missionary relations to land during this period. Christian missionary Eleazar Wheelock, for example,

understood land as a means for communicating with a Christian God and in turn, saving Indigenous peoples' souls through that communication. Indeed, there were many other ways of conceptualizing and viewing land in a rapidly changing colonial landscape. In studying Christian missionary perceptions of and approaches to land, we are also offered a better understanding of how Occom, and his son-in-law Joseph Johnson, navigated their relations to land and its agency across their conversion to Christianity.

IV. Conclusion: Toward a Literature of Landed Resistance

In studying land's agency through Haudenosaunee creation narratives, law, and society; through colonial legislation; and through Occom's literary landed resistance in accordance with Mohegan and Haudenosaunee law and in reaction to colonial property law, we are offered a more robust view of literature, legislation, and history. By centering land, each of these fields can no longer be seen as strictly human endeavors. Land has played a key role in creating what was previously thought to be "human" literature, legislation, and history. Once texts within these fields are understood to be co-authored with land, we must begin to reevaluate our literature, our history, and our laws. We must reassess what it means to "be" on this land.

I have endeavored here to present a specific collection of texts written in concert with land, in recognition of its agency. Further, I have presented an understanding of colonial property law that, from its beginnings in the Mason Land Case, sought to remove such agency in favor of colonial theft and economic production. However, in also presenting Occom's literary landed resistance, I have shown that colonial attempts to render land inert failed. By writing with and to land throughout his journals, letters, and speeches, Occom made it clear to land that he was aware of its ability to act, and he acted alongside it throughout his resistance. Land's agency and Native partnership with land through such agency are apparent in Occom's writing. Recognition

of these numerous literary forms as they relate to our relationship to land provides a new, richer view of land, literature, legislation, history, and Indigenous resistance.

In outlining and providing preliminary examples of this resistance through the methodology of literary landed resistance, I also hope to lay the groundwork for further study of such Indigenous resistance in partnership with land across Native and U.S. literary history. Examples of literary landed resistance abound in American literary production, and to better understand land's agency and Native partnership with land across that history, these examples must be investigated. For example, Occom's son-in-law Joseph Johnson was intimately aware of Haudenosaunee narrative and philosophy, and frequently wrote about his own connection to land before and during the American Revolution. Occom himself continued his partnership with land in recognition of its agency during his move to and creation of the Brotherton community. Examples of Indigenous literary production made in concert with land and in recognition of its agency also exist beyond Haudenosaunee and Mohegan territories, and they surely exist in Indigenous literatures and in resistance to colonialism in other regions of the world.

As this study and its framework allow for a more detailed view of land's agency across Native history in what is now the United States and resistance to colonialism in the same area, recognizing such resistance has the power to (re)animate land in our contemporary moment and in the future. In detailing literary landed resistance and recognition of land's agency from the before colonization to the present, we will be better able to realize how land influences us in the present, and we may be able to (re)animate our own connection to land in recognition of its agency and its influence in literature and in law. Indeed, even a study such as this, done in recognition of land's agency, can come to be seen as one that is influenced by the land itself. Such work detailing land's agency and the relations that arise from recognition of land's actions

is vitally important beyond literary and juridical studies. In a period of environmental crisis and shifting political and legislative positions as they relate to the nonhuman environment especially, (re)developing historical and present relationships with land works toward a more egalitarian approach to the nonhuman environment and global relations.

CHAPTER III: CONVERTING LAND: MOHEGAN CHRISTIANITY AND RELATIONS TO LAND ON THE WAY TO BROTHERTOWN

God made Dirt and Dirt bust your ass

“Got Your Money,” Ol’ Dirty Bastard (1999)

While the previous chapter focused on Haudenosaunee and Mohegan relation to land in the face of shifting legal regimes, this chapter focuses on Mohegan and Haudenosaunee relations to land in the face of religious conversion, as represented in writing from Occom, his son-in-law Joseph Johnson, and their settler religious advisor Eleazar Wheelock. Next to legal and legislative relations to land, religious understandings of land and the ways that such understandings mediate those relationships are paramount. Further, just as juridical approaches to and views of land were changing rapidly during the early colonial period, so too were religious affiliations, and in turn, religious philosophies pertaining to land. This chapter details the ways that settler missionaries and Native peoples in the Northeast viewed land in light of religious conversion during and after the Mason Land Case and leading into the revolutionary period and the removal period of the 1810s-30s.

In looking at writing from Samson Occom and Joseph Johnson, and Eleazar Wheelock and other settler missionaries, we are presented with two different, at times overlapping, views of land: Occom and Johnson continue to see land as an agential member of society, to whom they have responsibilities and duties, and who formulates and makes possible societal structures. Namely, land both makes possible and is a part of society through relationships and legislation. On the other hand, for Wheelock and other settler missionaries, land is a vessel with which to convert Indigenous peoples and, through saving Indigenous souls, bring missionaries themselves closer to their God. Like the settler legislators of the previous chapter, land is seen by Wheelock

and other missionaries as inert, the setting on which salvation takes place, the context which allows followers to commune with their Christian God. Land possesses a moral and religious component beyond simple commodification and property. For Native peoples and settler missionaries, land is of great importance in the ways that it structures societies and belief systems, each of which give way to how these different peoples relate to and interact with land.

With these different views of land in mind, Occom and Johnson are also very much Christians living in a rapidly changing colonial society. Navigating their religion and the new legislative realities of the colonies alongside their Indigenous identity complicates both their identity as Christians and as Mohegan people. In journal entries, each writer sought to solidify their philosophies as they related to land, and in letters and speeches convince others of those philosophies. More so, they frequently repeated and made known their connection to and with land, oftentimes speaking for and with land as a member of their society. Societal, philosophical, and legislative ties to land change through land speaking with Occom and Johnson, its agency present in their minds and presented on their pages.

To investigate land's agency through religious conversion in Occom's, Johnson's, Wheelock's, and other missionary writing, I first trace settler missionary writing of the period from Eleazar Wheelock and his peers in terms of their association with land. Then, I detail how Johnson and Occom navigate the ways that land acts, and their relations to land as members of a nation, through their Christianity. Additionally, Johnson and Occom also navigate land's animacy in new colonial legislation following the Mason Land Case decision in 1743, continuing to keep an eye toward how land itself influences and affects their writing through "Literature of Landed Resistance." Tracing writing from Occom, Johnson, and Wheelock in this manner complicates settler and Indigenous conceptions of land beyond a binary understanding of both

groups' relationships to land, conception of its influence and action, and how land presents itself in settler and Indigenous texts. Land does not become inanimate upon Christian religious conversion and Native converts do not necessarily eschew their connections to land and traditional beliefs or their knowledge of land's active role in their societies upon conversion. In fact, Native peoples may adopt Christianity and *strengthen* their ties to land. Land, and Native people, can and do maintain their kinship ties and their associated identities following Christian religious conversion.

The chapter ends at the beginning of the Nineteenth Century, in the shadow of National Removal Policy, to show how settler legislation shaped and contorted relationships to and perceptions of land's agency in a continued attempt to render land commodified and inert. In the face of colonial law attempting to erase land's ability to act, I investigate how Johnson and Occom's missionary work and initial settlement of Brothertown with the Oneida, Stockbridge, Pequot, Niantic, and Montauk peoples allowed them to hold fast to ideas around land's agency and land's role as societal member and relation in the face of colonization and religious conversion. Ultimately, I argue that Johnson and Occom's trans/national partnership with their fellow Brothertown Indians created across and with land provide evidence of land's continued agency even after colonial legislation has been passed and writers have converted to Christianity.

Such a reading sheds light on the differences between settler religious leaders' and settler land speculators' approaches to land acquisition and Native removal. Studying such change and difference provides new methodologies for tracing land's activity and ability to create new connection in early American history, literature, and cultural studies across religious conversion in comparison to legislative imposition. Additionally, by focusing on religious conversion, this chapter provides new approaches and frameworks to trace Indigenous identity in league with

land across religious conversion, and more importantly, Native ties to land and identity during and following such conversion beyond Christianity and Mohegan and Haudenosaunee land and people studied herein.

I. Converting Land: Samson Occom, Joseph Johnson, and Eleazar Wheelock's Christian Conceptions of Land

Colonial, Christian conceptions of land's agency, when viewed through Eleazar Wheelock, Joseph Johnson, Samson Occom, and their missionary contemporaries' letters, generally fall into three viewpoints that frequently overlap. First, Wheelock viewed land as a tool for conversion and as a vessel with which to communicate with a Christian God via farming and hard work. Undoubtedly, such hard work in relation to land was an inheritance from his Congregationalist denomination's Puritan roots. Wheelock called on Native peoples to farm in a colonial manner through animal husbandry and the use of the plow as the first steps in conversion. Wheelock believed that eventually these converts would enter into colonial civilization and, by extension, Christian communion, as Christianity and colonial civilization were viewed as inseparable.²⁰ In another manner, when necessary, Wheelock viewed land as an inert part of the colonial economic system, much like the colonial legislation discussed in Chapter One, when it was necessary to purchase land in order to construct churches and schools. In a third manner which complicates Wheelock's views of land, Native converts to Christianity took up farming in the manner Wheelock preached, as they were very much Christians. At the same time, they did so in order to remain on their land given changing regimes of ownership, and to continue

²⁰ Such thinking can be traced to the stadial histories and four stages of civilizational progress espoused by thinkers such as Adam Smith (107). This follows the philosophical view of improving land in order to own private property, per John Locke and John Winthrop, founder of the Massachusetts Bay Colony and father of Connecticut governor at the outset of the Mason Land Case, John Winthrop the Younger (Locke 207; Winthrop).

strengthening their connection to land in recognition of its agency and its influence on them. Like many Native converts of the period, they develop their own distinctly Mohegan form of Christianity, representative of what Simon J. Ortiz has noted as “the creative ability of Indian people to gather in many forms of the socio-political colonizing force which beset them and to make these forms meaningful in their own (8). These concurrent attitudes as they relate to Christianity, land, and Indigeneity form the framework for how Christians and converts interacted with one another and their surrounds during this period.

The first viewpoint moves beyond and complicates settler approaches to land represented in colonial legislation seen in the Mason Case. Wheelock’s perspective on land as it relates to God and Native converts is most clear in a 1765 address to Haudenosaunee leaders. First and foremost, Wheelock pronounced:

The earth is all God’s land, and he will have it all cultivated. So long as there are not people enough to inhabit the earth, God lets the wild beasts have it for their dwelling place; and a few lazy savage people he suffers to live a hungry miserable life by hunting. But when the children of men grow numerous, and want the earth to cultivate for a living, the wild beasts must give place to them, and men must improve the land for God; if they do not they are bad tenants and must be turned off as such. If you will not cultivate God’s land, you cannot expect that God will greatly multiply you. I speak this only for your good: I propose no advantage to myself nor to any other, but you and your posterity by it. (“Rev. Mr. Wheelock’s Address” 355)

The best way to attain a closeness to God, according to Wheelock, is to work God’s land. Those who work the land in this manner will be able to communicate with the Lord. Only those who are out of God’s favor, or subhuman, would be, and stay, hunters. Even more, those who do not

work the land will not continue to survive as a people, because they have not followed God's will. If a people do not work the land in the manner that God intends, they will be punished. Ultimately, land was gifted to humanity by God, and while humans reside on that land they must do his bidding through cultivation, until they can return to Him and the land be given back to the Lord. Each of these points can be seen clearly in Wheelock's speeches and letters. These communications sing the praises of Native peoples who have taken up farming and animal husbandry, the first steps to accepting "the other Arts of civilized Life, as well as of the first principles of Christianity" (Wheelock, letter to John Wentworth). This way of viewing land goes beyond simply rendering it inanimate property. Viewing land in this fashion allows it to bring people together, and it affords land special position in that it has the power to civilize and convert so-called "heathens" to Christianity. However, this way of viewing land does not afford it any special agency; it is the human that acts upon it. Land is still inert, although it is a tool to save one's soul rather than an economic apparatus.

Wheelock's intention to utilize land as a tool for conversion, civilization, and communication between Native peoples and God in many ways can be seen as uprooting Native peoples from their land. While Wheelock asks Native converts to work their land, it is not in the embodied, relational way that the Haudenosaunee and Mohegan peoples had done for centuries. Such ideas are best exemplified by conversations between Wheelock, Oneida leaders, and missionaries working at Kanawalohale in 1767. These conversations center around a food shortage at Kanawalohale, which Wheelock blames on Oneida peoples refusing to take up his teachings around land. Wheelock's reasoning for this food shortage reinforces his previously stated belief that those who do not listen to God and force land to produce will be forced to be hunters and stricken from the Earth.

First, Wheelock shames Oneida chiefs at Kanawalohale for taking children from school “before they have half learnt to till the Land so as to get a good living by it.” Wheelock continues, explaining that if they do not farm in the manner God requires, they will perish: “only think a little what you will do when all the wild Game is gone from your Country (and that will Soon be wide and large as the Country is) if you haven't learnt to 'til the Land you must perish for want of food — and think what you will do if you dont know the true God and Saviour, when you are wasted off from this Land you must be miserable forever” (letter to Chiefs). On the same day, Wheelock wrote a letter detailing the lack of food and supplies in Oneida territory as relayed to him by missionary Samuel Kirkland. According to Kirkland, the lack of supplies at Oneida stems from bad growing conditions and recent storms. Wheelock attributes these conditions and storms to a message from God, asking, “Who knows what Good God may mercifully design for them [The Oneida] by their present distress” (letter to Robert). Taken together, we can understand such statements as examples of Wheelock’s view of land as a vessel to communicate with God through farming. Although the Oneida were indeed farming, Wheelock assumes that they have not been doing so diligently or correctly, because if they were to have done so, they would have had a higher crop yield and they would have enough food to sustain themselves. God, then, is punishing them for their inability to farm in a manner that pleases Him (and Wheelock). They are not communicating with God correctly on the land, and God is punishing them likewise through the land. The Oneida, on the other hand, saw land’s failure to produce as land refusing to perform its reciprocal obligations to the Oneida people. If soil did not carry out its duties to the Oneida people, that may have been a signal to the Oneida that they had failed to hold up their end of their social contract with the land at some previous point.

Wheelock's view of land as a tool of conversion was well-known throughout the colonies, and it was the subject of judgement and gossip. Many believed that the only method for "civilizing" Native peoples was intermarriage and physical force, and his critics were not shy about making their thoughts on Wheelock's methods known. Wheelock's confidant and eventual student David Crosby wrote to him in November 1767 to let him know that men he was at dinner with "came to deride [Wheelock's] Plan for Christianizing the heathen, and to insinuate as though your love for the heathen was a pretence only, and sprang from the mean Motives of avarice, and a desire of worldly wealth principally." These men continued "that the only way to Christianize the Heathens was first to civilize them. The other gentleman replied, that he humbly conceived that Powder and Ball were the best ingredients to affect either." Moreover, according to these men "the only way to civilize the Indians, is first to Marry and inter-marry with them: unless we have recourse to Powder and Ball as I just now hinted." Another man at the dinner drove these points further home. According to him, Native peoples must "first be civilized, before Christianized" because there are such differences between Native people and white people, Wheelock's attempts to do either must be seen "as altogether absurd and fruitless." What is important to note here is the idea that Wheelock's plan for conversion included Native peoples and land together at all, during a time when many believed Native peoples could not intellectually grasp farming and colonial land tenure systems. While we know that Occom and others quickly picked up these systems and used them to their advantage to try to stay with their land, Wheelock's view of land as having some role in communicating with his Christian God, and its importance for Native peoples, was not a popular one in the colonies. Wheelock's approach to land differs from the improvement and production-based models evident in the Mason Land Case.

This is not to say that Wheelock did not expect Native people to produce and enter economic systems through farming. Indeed, as a step toward civilization, Native peoples would enter colonial land tenure systems and economic markets. However, Wheelock differed from his peers in that he saw land and farming as the first step in Christianizing and civilizing Native peoples. Land continued to play a role as a mediator of Native acculturation to Christian and colonial values and systems, albeit a passive one, as God and people acted upon the land. This stands in contrast to the active, agential role land played in Haudenosaunee and Mohegan thought and practice.

Ultimately, though, no matter who owned land, as Wheelock explained in his 1765 Address, it belonged to a Christian God. Exemplified by Wheelock-taught religious scholar Levi Frisbie's 1768 poem in praise of Wheelock's plans for conversion, we can see that through Christianization and civilization, land is returned to God, as his light shines over it.²¹ With regard to land as belonging to God, Frisbie writes:

His genial influence his life-giving Rays
Begins to illumine the benighted Part
of savage Lands, and bow their Stubborn hearts
To the Messiah's mild, and gentle Sway;
...
And the Immanuel's Glory be revealed,
When Christ adorned with Light, and righteousness
Shall the most distant barbarous Lands possess,

²¹ While the words are Frisbie's and not Wheelock's, Wheelock enjoyed Frisbie's poetry enough to include it in his 1771 Narrative, and it is included in David M'Clure and Elijah Parish's 1811 biography of Wheelock (See: Wheelock, *A Continuation*; M'Clure and Parish).

Rule over the Nations with auspicious Power

Exalt his Saints his Foes in wrath devour.

With Christian conversion, while Native peoples may come to till land, own land, and force that land to produce, the land is never really their own. In fact, with their hearts turned to the Messiah, the Lord's light will come to possess their lands and their Nations. Ultimately, all earthly beings and the earth itself belong to the Lord. The civilizing mission does not only turn hearts, minds, and souls to God, but it also returns land to God as well. Again, this draws a stark contrast from the Haudenosaunee and Mohegan ideas of land as an agential being whom people commune with, learn from, and hold duty to. Indeed, as Hill has explained, drawing on Vine Deloria Jr. and Linda Tuhiwai Smith, in Native thought, "the land does not belong to Native people, but rather Native people belong to the land" (5). In the minds of Wheelock and his students, however, land belongs to God, and it will be returned to God once people have been converted. Once such land is returned to God, so too are people's souls returned to Him upon their death, as opposed to one's body returning to and reuniting with the soil itself, as we see through the Great Law, Mohegan philosophy, and Occom's writing about finding a place to lay his bones.

On the way to making sure all land belongs to a Christian God, land as a tool for conversion could also retain an economic element for Wheelock through gaining land as church and university property. In many instances Wheelock sought to own land and profit from it, although the ultimate goal was Christian conversion on God's land. This is best evidenced in the 1768 draft of his will, wherein he left money to a trust, which included his son Ralph and other

English preachers such as Samuel Kirtland and Nathaniel Whitaker,²² and called for Dartmouth College to be named for Legge, Earl of Dartmouth. Wheelock goes so far as to say that the college trust should “do whatever they shall judge necessary to be done on that side the water for the safety well-being prosperity, success and increase of the great design” (Wheelock, Last will). Here we can see Wheelock continuing to use land to convert Native peoples to Christianity. However, this differs from previous use of farming to do so. In having potential converts farm the land as the first step in their conversion, Wheelock asked those converts to, in some way, partner with the land, to act on the land. The land, then, is a vessel for communication with a Christian God. In this case, though, land must be seen as property, must be built upon and improved, so that conversions can continue. Land is still rendered as inert property, and Christian conceptions of land overlap with colonial legislative views of land. Both render land inanimate private property to serve a higher calling. The higher calling that Christianity and property law both impose on land divorce people from land upon their death and reunification with the Lord.

Land as property and farming as a productive practice to appease a Christian God and legitimate claims to land for the Lord are bound up with one another in Wheelock’s 1765 speech to Haudenosaunee leaders and in his letters. Land ownership was not only for universities and churches; the concept was also one that Wheelock hoped would catch on with Native peoples as they became more Christianized and civilized. The concepts of farming as a practice to be closer to God and of owning property as a mechanism to convert peoples to Christianity overlap so that, in Wheelock’s and other settler missionaries’ minds, Native peoples are further civilized through entering regimes of property ownership and yeoman farming.

²² Whitaker was a known enemy of Occom following their trip to London, where the “English Trust,” whom financed and took care of money earned during the trip, trusted Occom far more than Whitaker (Skelton; Wheelock, Letter to John Thornton).

First, much like his ideas around cultivation as the best method for communing with the Christian God, Wheelock detailed his teachings around land and property in his 1765 speech to Haudenosaunee leaders. He explained:

When you improve your land, and provide a living for yourselves and families in that way, you will live much easier and better than you now do or can do by hunting. And when your game is gone, you will not have occasion to remove to another place, or to go a great way to catch wild creatures to live upon as Indians have been forced to do; but you will live as well without them as with them, by the produce of your own farms. And then you will be under circumstances to have ministers and school masters settled among you; and you will be able to support them according to the laws of Christ, to teach you and your children the great things that concern your peace with God, and the eternal salvation of your precious souls; and so you may soon become a learned and knowing people. And then you will be in no danger of being imposed upon and cheated, as you have been by bad men, who care not what becomes of Indians, if they can only get your lands, and cheat and wrong you in other things. (“Rev. Mr. Wheelock’s Address” 355)

Here Wheelock moves beyond the concept of land as a method for communing with God. While that is important to Wheelock’s teachings, the second step of cultivating land is stationary improvement and entering regimes of private property, as this is the first step toward civilization, followed by schools, churches, “the laws of Christ,” and “eternal salvation.” According to Wheelock, while cultivation begins as a way to know God, it evolves into a way to become civilized and to earn salvation with God by entering into regimes of private property and capitalist accumulation. Once one has been saved by the Lord, they can no longer have their lands stolen. Because they have entered into covenant with the Lord through cultivation of land

and property ownership, they will be protected by Him and His laws. Wheelock works to convert Native peoples to Christianity and settler ideas of land tenure, ignoring and erasing land's agency, utilizing land as a way to grow closer to the Lord and ultimately be reunited with Him off of land in the afterlife.

While such ideals seek to uproot Native peoples and their relationships to place, much like colonial legislation discussed in the previous chapter, they differ in one key area. Colonial legislation sought (and seeks) to literally uproot Native peoples and erase land's agency, to remove them from their association with land so that the colonial enterprise can continue to expand as it "destroys to replace" (Wolfe 388). Wheelock's teachings, on the other hand, attempt to remove Native peoples from their reciprocal relationships with land and erase land's agency through rendering land private property that Native peoples can own themselves. Further, Wheelock's teachings ultimately render land immaterial, as those who would be saved no longer have any need for land once they have died and joined God in death, rather than rejoining their relative in land itself upon death. While both colonial legislation and Wheelock's Christian teachings attempt to uproot Native peoples from their land, there are key differences between these two colonial regimes.

Whereas settler land speculators in the Mason Case marked Native people as inferior because those speculators claimed Native peoples could not understand private property, Wheelock viewed Native people as barbaric in a religious sense and therefore in need of religious salvation. Native peoples who did not convert and acculturate were doomed to barbarism, at least from Wheelock's vantage point based in salvation. Additionally, if Native peoples did not convert, they would undoubtedly be removed from their land by colonial legislators and land speculators, and there was no guarantee the new settler landowners would

join or contribute to the Church. However, if Native peoples could convert and acculturate, Wheelock had saved their souls, both were better for it, and Native peoples' private property still entered an economic system that Wheelock and the Church benefitted from.

Wheelock and missionary attempts to Christianize and civilize Native peoples through property ownership is most clearly seen in letters from Minister David Avery and New Light preacher Jacob Johnson. In October 1768 Avery wrote to Wheelock to tell him of their attempts to “attach the Indians to their own interest and hold their Lands as they would their Lives.” However, despite these efforts, Oneida and Onondaga peoples “are too easily deluded by gaudy, trifling Gewgaws — they think if they sell here, they have Lands enough farther North” (letter to Eleazar). On the same day, Johnson wrote to Wheelock to report the same issue: “a number of Great and wealthy gentlemen from New York Pennsylvania Jersey and Virginia Have brought a Great sum of Gold and silver with numbers of Bat[illegible] of Blankets and other goods in order to decoy and prevail with the Oneida and other Indians to sell their Lands.” He further warned Wheelock that “if they accomplish as you sir must know the Principal design or designs of this Project so must know what will be the event as to your Schools and designs of propagation of the Gospel among the Indians” (letter to Eleazar Wheelock, October 10). Indeed, seven days later Avery and Johnson sent a petition to colonial official Sir William Johnson to halt land sales among the Oneida and Onondaga so that Wheelock could continue the “laudable design of propagating the glorious Gospel among the Indians under your Excellency's Superintendency: So your Excellency would please still to countenance and encourage the truly noble design.” Here we can see that Wheelock intended Native peoples to enter colonial systems of land tenure through farming and private property in an attempt to Christianize and civilize them, and it was important to this project that Native peoples remained on their land. If they were unable to

remain, they would not be able to work their land, enter settler civilization, and ultimately be true Christians. Wheelock viewed his goal as that of fundamentally changing both Native people and land, and he ultimately benefitted from his intervention so long as Indigenous peoples converted.

Wheelock's offer of salvation, then, provides opportunity for Native converts to own and remain on their land based in religious conversion and differs from the legislative approach settler courts take wherein Native peoples are always barbarous and unable to comprehend land as property. As such, it is important to Wheelock and the missionaries that worked toward his plan that Native peoples kept their land in order to commune with a Christian God. Wheelock did not intend for Native peoples to be removed; rather, he intended them to stay on their lands, albeit to commune with them in a different manner than they had previously. Ultimately, while Wheelock worked to convert Native peoples to different views of land, and in turn Christianity, such views differ from those seen in the Mason Land Case and settler legislation of the period, which sought to remove and replace Native peoples in the name of settlement and settler property. Just as those settler land speculators and legislators laid the groundwork and precedent for future legislative theft, Wheelock creates a religious framework for conversion that renders land inanimate as private property, which missionaries would follow for centuries under the guise of charity.

Wheelock's attempts to keep Native peoples on their lands in order to farm, and Native peoples taking up those farming practices to remain on their land, can also be seen in letters between Wheelock and the Haudenosaunee and Narragansett peoples. While Native peoples did practice sedentary agriculture prior to colonization, many accepted Wheelock's calls to yeoman farming in a Christian manner, as they understood this as a way to remain on their lands. Haudenosaunee leader Isaac Dakayenensere wrote to Wheelock in 1765 to request that

Wheelock send men to “assist us, in setting up husbandry, by sending a Number of white people to live with us; who when come should build us Mills, teach us husbandry, and furnish us with Tools for husbandry.” Such a request is indicative of an understanding by leaders like Dakayensere that farming in such a way would mean continued residence on and in relation with their land. Dakayensere continued, “we have no thoughts of selling our Land to any that come to live among us; for if we should sell a little land to any, by and by they would want to buy a little more and so our Land would go by Inches 'til we should have none to live upon.”²³ Indeed, Wheelock believed that Native people who were “improving” their land in a Christian manner deserved to remain on their land, as he would later enter a dispute between the Narragansett and settlers in favor of the tribe. Writing to Sir William Johnson in April 1767, he stated that the Narragansett were “using every artifice to improve [their land]” and thus deserved to remain there (letter to Sir William Johnson). In October of that year, Narragansett leader Tobias Shattock wrote to Wheelock to thank him for intervening on behalf of the Narragansetts, telling him that the “affairs which Concern us about our Land, appears somewhat encouraging,” and “The Indians are very thankful that You wrote in their favour to Sir William, especially when they heard how agreeable the letters were to the Generals Mind” (letter to Eleazar Wheelock, October). Native peoples were able to, and in many cases did, restructure their farming methods in order to remain on their lands, and Wheelock was very much aware of these changes.

Even when colonial legislation intervened and insisted on forcibly removing Native peoples, Wheelock made an effort to find them new land to settle on. However, Wheelock’s misunderstanding of Native ties to land becomes clear in these instances. Wheelock believed any

²³ Settler missionaries, too, wrote frequently about Native converts only listening to certain aspects of Christian teachings because they were worried the end goal of settler missionaries was to take their land (See: Chamberlain; Whitaker, *Narrative*).

land fit for planting would do for Native peoples, because their new relation to land mattered insofar as they utilized it to relate to a Christian God and to enter settler civilization. Issues arise for Native peoples, however, because simply moving to new, unknown land would result in throwing off previously held reciprocal relations to that land. Further, the lands they entered already had people on them, who had their own relationships to that land, leading to conflict.

Specifically, in the case of Shattock and the Narragansett, colonial legislation would intervene and The Rhode Island General Assembly forced the Narragansett to sell their land in order to pay off their Sachem's debts (Shattock, letter to Eleazar Wheelock, November). This can be viewed in-line with the Mason Land Case and colonial courts interpreting sales and debts by Sachems in order to take tribal lands. However, as Wheelock desired Native peoples to possess land to farm and commune with God, he wrote to New Hampshire Governor John Wentworth in December 1769, asking that Native peoples be allowed to purchase land there, "to have it upon the same terms and hold it by the same Tenure, as if they were English Inhabitants." Further, allowing Native peoples to have land in the area would insulate New Hampshire from French attacks to the North. Wheelock also asked whether "such a town may not be a most proper place for some of their savage Children to get Instruction in Husbandry, and the other Arts of civilized Life, as well as of the first principles of Christianity?" (letter to John Wentworth). As long as land is fit to produce, any land will do for Native peoples, in accordance with Wheelock's views of land as a basis for Christianity and civilization.

However, Tobias Shattock's brother, John Shattock, explained to Wheelock in March of 1770 that the Narragansett had no interest in moving Northward because the area's climate was not conducive to their hunting and farming practices. While this could be seen as Shattock simply refusing to move, when viewed through the lens of reciprocal relations, we can see that

moving North would upset tribal relations, customs, and practices. Moving to a colder climate would not allow Narragansett peoples to practice the customs that make them Narragansett. Shattock explained that the Narragansett would be willing to move south, but not North, as “they have been toward that country a Hunting and found the Weather harder and colder then it was here by which they think the Summer seasons must be a Vast deal shorter than they are here as our affairs are unsettled and see no likelihoods of anything been done about them 'til may we think it best not to pursue that settlement” (Shattock, John). To Wheelock, land of any sort, farmed in accordance with settler civilization and Christian values, will do for Native peoples. As scholars Heather Davis and scholar Zoe Todd (Métis) have argued, generalizing land, climate, and the nonhuman environment in this way is key to settler colonial thinking, as colonizers “refused to see what was in front of them; instead forcing a landscape, climate, flora, and fauna into an idealized version of the world modelled on sameness and replication of the homeland” (769). Indeed, as Goeman further explains, such “colonial landscaping is concerned with creating familiar environments” (“Land” 77). In the context of settlers practicing Christian religion specifically according to Vine Deloria Jr., working the land in this manner denotes a form of progress that moves adherents forward on the path to civilizational and religious progress. Such landscaping “distinguishes civilized from primitive, and unleashes the energies of our species on a path of conquest of the rest of nature, which has no been reduced to the status of an object” (*The Metaphysics*...154). Concentrating on one’s own progress toward salvation as a member of the Christian religion “is the very thing that destroys the members thereof—concentrating on the self to the exclusion of the world” (155).

To Shattock and the Narragansett, however, the specific practices on that land move beyond simply shaping the land and surrounding environment through farming to create

something familiar and progress toward salvation. If the climate is too cold to farm in a Narragansett specific manner, or to hunt at specific times of the year, they will not be able to uphold their responsibilities to one another, their other than human kin, and the land itself. Such “duties, customs, and responsibilities, [are] often patterned after relationships in the natural world” and those duties come from knowing one’s physical place in the world, in communion with land, held in the land over generations (*The Metaphysics* 159). If the Narragansett cannot continue those responsibilities, they will not be able to practice collective continuance, which, in this context can be described by Whyte as “a community’s capacity to be adaptive in ways sufficient for the livelihoods of its members to flourish into the future” (“Justice” 518). For the Narragansett, their past cannot be separated from the land, nor can their future, compared to Wheelock, whose teachings “separated space and time ... always considering them homogenous entities in their own right” (*The Metaphysics* 158). For people to part with the land that they have come to exist alongside, an intense and wrenching decision in the first place, they must, at the very least, be able to continue the practices that make them a people, entwined with land, in their new home.

Taking up animal husbandry and continuing to farm, albeit in a somewhat different fashion than they had done previously, does not change their fundamental relation to land. As Lopenzina and others have argued in the case of Native peoples accepting Christianity, following Christianity and adopting different farming practices can still be seen as working in accordance with belief systems and cultural practices that were in place prior to their adoption of Christianity (Lopenzina 31; Murray 176; Jarvis 84). Indeed, there are numerous examples from the period beyond Narragansett and Mohegan of Indigenous peoples embracing Christianity while holding fast to specific Native customs. For example, according to David J. Silverman, on Martha’s

Vineyard, Wampanoags “transformed Christianity into a bulwark for Wampanoag communities and an expression of their own culture” (*Faith and Boundaries* 13). In terms of specific examples of mixing Native beliefs with Christianity, Rachel Wheeler has shown that Mohican and Shekomeko peoples acted “to enlist the blood of Jesus as a new, powerful *Manitou*—the spirits or ‘other-than-human’ beings who animated the world—whose spiritual power could be put to use in traditional (and traditionally gendered) ways” (7). In much the same manner, farming with a plow is still farming. Entering into a reciprocal partnership with land still allows one to be aware of soil’s transformative powers.

We can see Joseph Johnson navigating similar dynamics of locating his place on and relationship to the Earth and his conversion to Christianity in his early letters to Wheelock through his physical relationship with Mohegan land. The most notable of Johnson’s letters to Wheelock during his time among the Oneida at Kanoarohare is his May 2nd, 1768, letter. As scholar Laura J. Murray has noted, this letter is interesting as it is “so explicitly contemptuous of traditional Iroquois beliefs.” However, in it “we find a rare admission on Johnson’s part that he himself is influenced by ‘Indian principles’ in the form of dreams” (Johnson, *To Do Good* 70). Johnson explains to Wheelock that he has been “troubled in dreams concerning you [Wheelock] of late. I fear you are not well, but this is too much of my Indian principles” (71). After apologizing for being taken by his “Indian principles,” even more telling in regards to Johnson’s relationship to land is his following statement that “I fear I did not do my duty in not hearing your kind advice of binding my self to be the Lords. However by Gods Grace Assisting me I Endeavour to keep my self U[n]spotted from the world and make his word my rule of life” (71). While this statement may seem to be only a further apology for his listening to his dreams and

not giving himself over to Christian teachings, other transcriptions²⁴ have read Johnson's statement as "I Endeavour to keep myself *uprooted* from the world and make his word my Rule of Life" (Johnson, letter to Eleazar Wheelock, May 2nd emphasis mine). When read in this manner, it becomes clear that Johnson is not simply struggling with his dreams. He is struggling to view land as a tool for mediating his relationship with a Christian God and to view his ultimate place with the Lord rather than with the Earth that he has come from and with which he is bonded. To view his life and the world in the way that Wheelock desires and teaches, Johnson must uproot himself from the land and keep his mind and thought with God. However, his identity as both a Mohegan person and a Christian remains bound to land.

Johnson continued to detail his religious practice following his time at Kanoarohare in his diaries, and again we are able to see his kinship with land complicating and furthering his connection to his Christian God. Upon his return to Mohegan land in 1771, Johnson details his chores: "To day boiled Some Pumkin for the fating hogs, Read Some of the holy Scriptures. Nothing of any great Consequence has been done this Day. ... This night I began to call upon the Name of the Lord" (Johnson, *To Do Good* 105). Murray has pointed out here that Johnson's "conversion to Christ is initially unresounding." However, she explains that this conversion was "a secondary event, a consequence of Johnson's return to Mohegan: After all those years of catechism at Wheelock's school, it would seem that Johnson could not be born again until he was home again" (86). In Johnson's conversion land played a key role in his ability to find his relationship with a Christian God. Indeed, this points to some acceptance of Wheelock's teachings that land should be a vessel with which to communicate with the Lord. However, when read through the lens of land as a teacher, as a facilitator in learning about oneself and one's

²⁴ Specifically, those at Dartmouth's *Occom Circle* archive (see: Johnson, letter to Eleazar Wheelock, May 2 1768).

place in the world, Johnson's conversion is complicated. As Simpson explains, "The process of coming to know is learner led and profoundly spiritual in nature" (*As We Have Always Done* 151). Johnson's *doing* in and with the land, his boiling of "Pumkin" for the "fating hogs," allows him to contemplate his role in the larger world. In the context of Coulthard's Grounded Normativity, the lessons learned from land as a teacher "inform and structure our ethical engagements with the world and our relationships with human and nonhuman others over time" (13). Johnson's ties to specific Mohegan locations, always structured and grounded by land and its agency, allows him to both stay rooted and complete his conversion to Christianity. Without his relationship to Mohegan place, structured by land, without his rootedness and practice, Johnson cannot have the epiphany necessary for his conversion, nor can he learn. Without his landed education, he cannot accept Christianity. Land teaches Johnson his place in the world alongside Christianity. He can accept Christianity *and* be rooted to land. Johnson must be rooted to land in order to fully commit to his newfound Christian god.

In accepting Christianity with the land, Johnson begins practicing Christianity in an entirely Mohegan context. To be Christian Johnson must learn from the land rather than simply speak about the land or impose on the land to commune with God as European Christians do in America (Wildcat et al. ii). Johnson's conversion is then marked on land and in time, rather than simply as temporal progression, which Deloria notes as a key difference between Christian and Indigenous religions: "a revelation is not so much the period of time in which it occurs as the place it may occur" (*God is Red* 80). As Johnson is able to convert after learning from land, his conversion is tied to the land rather than simply a linear progression of Christian acculturation. Deloria continues to show that when a "society orients itself around geographical phenomena, making land the important value" it is not only "the chronology of events" that are important, but

“the intensity with which they are remembered” (*The Metaphysics* 25). Johnson’s identity as a Christian is tied to land, and his conversion remembered and marked not only when they happened, but *where* and *how*—on what land and because of what land does.

Throughout his life, Johnson, much like his father-in-law Samson Occom, continued to perceive his place in the world through a combination of Christianity, Mohegan, and Haudenosaunee relationships to land, most notably throughout creation of the Brothertown Community. Detailing Occom and Johnson’s writing around the formation of the Brothertown community in regards to land and Christianity offers a clearer picture of the way that land’s agency influenced both writers’ relationship with Christianity and their larger community. (Re)animating land in this manner provides insight into how people become kin with land and one another after arriving upon it, and how people and land create new communities and societies together upon arrival.

II. “the best land I ever did See in all my travels”²⁵: Restoring Agency Through Trans/national Partnership on Brothertown Land in the Shadow of Removal

As Samson Occom and Joseph Johnson watched and detailed continual settler encroachment on their lands, both men came to understand that in order to remain on any land at all, they would need to remove themselves from burgeoning colonies. Both men, along with Occom’s brother-in-law David Fowler, began laying plans with other Northeast nations to move to Oneida territory and form the Brothertown Indian Nation. Occom and Johnson both struggled with leaving Mohegan land. However, both men understood it was necessary to remove themselves and, in turn, take on different views of and approaches to land, at least in public writing, so that they might be allowed to remain on land as property. However, in studying such

²⁵ (Occom, *The Collected Writings*... 309).

writing around shifting philosophies of land, it becomes clear that both Occom and Johnson held fast to Mohegan and Haudenosaunee beliefs around land, and in turn, still recognized land's agency. That recognition is apparent in their writing and actions from the Brothertown period.

In 1771, the Mason Land Case was finally decided in favor of the colonies, which Occom understood as a sign of things to come. In a 1773 letter to Presbyterian minister Samuel Buell, he stated:

the grand Controversy, Which has Subsisted between the Colony of Connecticut and the Mohegan Indians ^above 70 years^ we hear is finally Decided, and it is in Favour of the Colony ... I am afraid the Poor Indians will never Stand a good Chance with the English, in their Land Controversies because they are very Poor and they have no Money, Money is the almighty now a Days, and the Indians have no Learning, no Wit, nor COUNING the English have it all (*The Collected* 104)

Occom's comprehension of land ownership through a colonial lens is clear here. Whereas previously Occom believed that knowledge of English reading, writing, and speaking could be enough to stay on Mohegan land, without monetary resources, there was no chance of remaining there. Occom, Johnson, and other Native leaders enacted a plan to regroup elsewhere, educate their people, and increase their economic stores so that they might be able to live as a people on and with their land in Brothertown.

Of course, given the relationship both men had with Mohegan, leaving their ancestral land would be difficult. As we have seen, the land was a member of their society, the land taught them part of who they were and had shaped their identities and their physical bodies. Occom's ultimate goal was to return to that very land upon his death, and moving his people would make

that goal harder, if not impossible. Even prior to Occom's letter to Buell, we can see Johnson mourning a separation from Mohegan. In a December 1772 diary entry, Johnson laments:

Well I remember home—O Mohegan O Mohegan—the time is long before I shall be walking my wonted places which are on thee—once there I was but perhaps never again, but Still I remember thee—in you is lodged my father & Mother Dear—and my Beloved Sisters—and brothers—Keep them in thy womb O Mohegan, till thou dost hear the Voice of God—O Mohegan give up thy Dead—then no longer Prisoners Shall they be unto thee—the joyfull hour is Approaching. My Soul Come Meditate the Day and I think how near it stands when you must leave—this house of Clay—and fly to Unknown lands. ... Perhaps in due time I may once more Come on thy borders—but first I have to go, to distant Lands; and far Country—and Different Nations I have to walk through—before I see thee. Thus O Mohegan I must bid you farewell, and Shut the door of my Heart against thee—for I have a truer friend—to entertain my Heart—So good night. (*To Do Good* 160)

As Lisa Brooks has explained, such expressions are representative of Johnson's "embodied attachment to Mohegan and the ideal of heaven presented by his Christian faith" (228). Here again, Johnson's bond with Mohegan land and his Christian faith work together and reinforce his understanding of land's importance and his relationship to specific places and histories, even if he believes his soul will one day leave it. However, it is also worth looking closely at the ways that Johnson's powerful parting with Mohegan upholds previous ideas around acknowledgement of land's agency and one's duty to that land, even after one has accepted Christianity.

First, Johnson's calls to land in his diary make it clear that he is speaking to land as a true audience. His calls to Mohegan land are exemplary of speaking to one whom he expects to

understand his words, feelings, and pain. According to Murray, Johnson frequently wrote his diaries as if he were speaking to an imaginary audience. Indeed, “Johnson quizzes and prompts the reader as he would a congregation.” Further, Johnson was very aware that the diary “is always at least potentially a public document. [His] private writing was quite explicitly predicated on public manifestation” (*To Do Good* 84). To understand land as a potential audience member who can accept his thoughts, his words, and his diary entry, is to provide land a kind of perception not afforded in colonial legislation or religious philosophy. As Watts explains, “if ... Indigenous peoples ... are extensions of the very land we walk upon, then we have an obligation to maintain communication with it” (23). Here, Johnson upholds his duties to land by maintaining communication with Mohegan, an observation of land’s agency, continuing the pattern of recognizing land’s agency across Haudenosaunee and Mohegan texts for centuries. To view land as an audience that one must apologize to is to know and accept that one has duties to that land and the community it is a part of. Further, such writing continues a pattern of speaking and apologizing to land, from Occom’s apology to Jewett and the colonial courts following his work on the Land Case, to Johnson speaking to land and to Wheelock during his time at Kanawalohale years earlier.

Second, Johnson sees Mohegan land as holding his deceased parents and siblings, which invokes Haudenosaunee thought from the Great Law of Peace and Occom’s fears about returning to Mohegan land upon his death prior to his trip to London. Johnson’s mother, father, brothers, and sisters are housed in Mohegan land, and are a part of that land in death. While Johnson motions toward their souls leaving Mohegan to be reunited with a Christian God upon His return, for the time being they are a part of the land from whence they came, the “house of clay” that the people are made of according to the Haudenosaunee creation story. While we can view Johnson

as believing his deceased relatives will one day be reunited with the Lord, this view of land as a “house of clay” where those relations reside is much more than a tool to communicate with the Lord and enter into the colonial economic system that Wheelock preaches. Similarly, Johnson may be in some ways referring to Biblical statements around bodies returning to the earth in death. For example, in Genesis 3.19, God admonishes Adam for eating from the forbidden tree, telling him that he will toil on earth “till thou return unto the ground; for out of it wast thou taken: for dust thou art, and unto dust shalt thou return” (KJV). Even as Johnson may be alluding to Christian Scripture, when read alongside Mohegan and Haudenosaunee philosophy and connection to land, Johnson’s writing should be seen as marrying Christianity, his Native beliefs, and his kinship with land. As Simon J. Ortiz has said in the context of Acoma Pueblo people taking up Christianity, those religions are now Indigenous “because of the creative development that the native people applied to them” (8). Johnson again combines his Christianity with his understanding of land as a historical actor, a forebear with whom his family members, and hopefully, he, will return one day. Johnson references both being made of clay, of the land, and returning to that land upon death, continuing a pattern from creation, to Occom’s previous writing, to his final diaries.

Finally, Johnson makes clear to Mohegan that he intends to return to Mohegan; however, he must leave in order to do so, and he must take on a different relationship to land if he is to return. Johnson’s key reason for leaving Mohegan is so that he might return, which is his duty to land that he has a relationship with. It is not simply leaving Mohegan that he discusses here, but the idea that he will soon begin to view land as private property. Johnson apologizes to Mohegan land for the way that he is about to begin relating to it other lands so that he may one day return to Mohegan and continue his connection to it in the manner that he holds dear.

Johnson's view of land as private property can be seen most clearly months later in October 1773, in a letter to governor of Connecticut Jonathan Trumbull. Johnson asks Trumbull to grant Native peoples the right to divide their land into lots: "If the Indians petition to have the Land divided amongst them, So as Each Individual may know their property, and Each person receive the Benefit from their Right, I must consent, and heartily beg that their petition be granted as far as shall be thought reasonable by men of Justice." Johnson argues that this is necessary because "... the Land, much of it lays wast, and not improved on the East Side of the County Road, where the Indians present chiefly Live, which might be improved if it was divided, and might be of considerable Benefit to many, but at present, such lays claim to it, as will not improve it themselves, neither will Suffer those that would." Johnson continues to explain that dividing the land would result in increased farm yield, and further, increased timber production, as current undivided timber lots result in a "considerable" amount of timber "unnecessarily destroyed" (*To Do Good* 196). Here we see Johnson's comprehension of the very same issues Occom described previously: without an English-style education and money, Native peoples would lose their land. As historian Brad D.E. Jarvis has explained, "economic revitalization through the adoption of English-style agriculture would provide the money necessary to extract Indian communities from poverty and preserve lands" (84). In addition to monetary accumulation, it was also necessary that Johnson appear civilized to colonial authorities to stay on his land. According to historian David J. Silverman, the English definition of civility hinged on "sedentarism, plow agriculture, private property, steady work," literacy, and Christianity, all of which Johnson and Occom did their best to exemplify to colonists in their speech and writing (*Red Brethren* 15). To even remove from, and then have any chance of returning to Mohegan, it was increasingly necessary for Johnson and Occom to advocate for landed relations that

resembled colonial approaches to land, in addition to the myriad other displays of civilization they engaged in. If Mohegan peoples wanted to continue their relationship to land, they needed to outwardly approach that land in a manner related to the expanding colonial legal system.

Johnson and Occom's views on land as private property might be initially viewed as eschewing reciprocal relationship to land and recognition of land's agency. However, when viewed in-league with their continued Mohegan and Haudenosaunee practices after converting to Christianity, we can see their views on private property in a similar manner. While Occom and Johnson both view land as private property, it does not diminish land's action or their reciprocal relations to it. In fact, both men know that they must view land as private property, and they must earn money from that land, if they are to stay on that land and continue practicing such relations. As Occom said that same year, "I am afraid the Poor Indians will never Stand a good Chance with the English, in their Land Controversies because they are very Poor and they have no Money, Money is the almighty now a Days" (*The Collected* 104). Further, not even a year before Johnson's discussion of splitting land into individualized plots and improving "wast" land, he was communicating with land through his diary in recognition of its ability to listen to his apologies, in recognition of it housing his deceased relatives, and in hopes of returning to the land himself. In order to do the latter, though, it was necessary for him to strategically adopt colonial methods of relating to land in his outwardly public writing.

What Johnson communicates in his diary, between himself and land, is much different than what Johnson communicates to Trumbull, and it is worth spending time on Johnson's language in his letter to better understand his command of colonial rhetoric and how such writing furthers his cause to remain with his land. Of particular note is Johnson's discussion of land that is not producing as a "wast" or "wasteland." As Breanna Bhandar has argued, the ideology of

improvement that was necessary for colonial property ownership viewed “land that was not cultivated for the purposes of contributing to a burgeoning agrarian capitalist economy by industrious laborers ... waste” (36). Johnson, aware of this bias through dealings with colonial officials, especially the history of the Mohegan tribe’s dealing the Connecticut colony and Wheelock’s teachings, may have spoken the colonial language of production and waste in order to remain with his land. Especially given his previous diary entries, it is clear that he did not believe idle land to be a wasteland. On the contrary, he was very much aware of land’s role as an audience, as a community member, and as an actor in its own right. Johnson utilizes colonial rhetoric around private property in public letters to colonial officials, and in his private writing he communicates with land. Johnson may have still viewed land as an agential member of community and an actor in reciprocal relations whom he has a duty to, rather than truly believing land not used for farming to be a waste, and he may have utilized colonial rhetoric around land’s inanimacy to in an attempt to remain on and with his land.

Two days following his letter to Trumbull, Johnson sent a letter to New England Tribes asking for delegates on a mission to Oneida territory to ask for land there. Johnson’s letter to “Mohegan, Nihantuck, Pequutt, Stonington, Narraganset, and Montauk,” his “Indian Brethren,” called for delegates to Oneida territory to ask for land (*To Do Good* 198). Three months later in January of 1774, Johnson spoke to the Oneidas on behalf of his brethren, the New England tribes, and continued the rhetoric of kinship in relation to land. Johnson stated: “Our dear and well beloved Brethren it is with pleasure that we see so many of you assembled together at this time and upon this Occasion. ... We look upon you at present as upon an elder Brother as a Nation, and beloved Brethren, we pray you to consider of us, and harken to us, as to a younger Brother” (206). He continued, “We thought to try to purchase to Land of you, But we are

exceeding glad that it is in your hearts to give us land, yea we thank you that ye have given us so much already” (209). While the Oneidas responded to Johnson the following day, asking for his patience in their decision, by the twenty-second of January they replied: “Brethren, perhaps it was the Lord that seared your minds this way. May be it is his will, and pleasure that ye should come up here, and live side of us, your Brethren. . . . we receive you into our Body as it were. Now we may say we have one head, one heart, and one Blood” (*To Do Good* 218). Two days later, on the twenty-fourth, the Oneida continued, “Brethren, since [we?] have received you as Brothers, we shall not confine you, or pen you up, to Ten Miles square: We have much Land at our disposal, and you need not fear but that you shall have Land sufficient for you, and for your Children after you” (221-22). As anthropologist Craig N. Cipolla has shown, familial terms such as “*father* and *brother* were used to align various social entities in terms of power relations” (66). Moreso than political alignment, though, was true adoption into Haudenosaunee family systems, as Silverman has explained: “The Christian Indians of New England . . . had become accepted as Iroquois kin with a safe place to raise their own families” (*Red Brethren* 100). The political and familial nature of this language is also important in the context of landed relations. While Johnson and the Oneida may have been using familial terms to create political alliances and welcome new kin in the face of colonial disturbance, if both groups believed themselves to be a part of the lands that connected them, they would also see one another as already related prior to the formation of political alliances.

Indeed, Johnson’s first letter, his ensuing trip to Oneida territory, and the Oneida response to Johnson’s request stand in stark contrast to Johnson’s language in his letter to Trumbull in terms of identity and land. Here, Johnson’s language reflects understanding of kinship amongst tribes in existence prior to political affiliation, and he calls upon continued

relations over and through land. Johnson's call to his "Indian Brethren" in New England and his "beloved Brethren" in Oneida is the culmination of trans/national kinship reflected in Occom's writing around the Mohegan Land Case, and another instance of reciprocal relations afforded by land. Specifically, Johnson, the New England Tribes, and the Oneida act to build "trusted networks of relationships across tribal communities who face similar hardships," in this case removal and colonial encroachment (Whyte, "Justice" 518).²⁶ They have done so over the course of decades of colonial invasion, back to Occom's knowledge of Haudenosaunee diplomacy and philosophy following missionary trips during the Land Case, and Johnson's initial missionary trips where he came to understand Oneida customs and Oneida land. As such, for these trans/national relationships to have grown stronger, they "require close-knit family, social and political relationships, such as ... viable regimes of property rights and land use incentives." Finally, in order for those land use incentives to exist in this context, "Relationships ... with features of the land (like rivers or mountains) and ecosystems may also be required" (518). Johnson, through his frequent trips to Haudenosaunee territory, through his understanding of the land between Oneida, Mohegan, and Farmington, and his recognition of Oneida land as it relates to further settlement, is dependent on his relationship to land in order to form his connection to the Oneida and burgeoning Brothertown community. Land structures these relationships amongst Native peoples—in this case from Mohegan, Oneida, and more broadly Haudenosaunee contexts—and it is knowledge and understanding of that land that connects peoples to one

²⁶ Whyte discusses the hardships brought about by climate change in his article; however, it also relates to removal. In fact, given Whyte's definition of climate change elsewhere ("Anthropogenic (human-caused) climate change is an intensification of environmental change imposed on Indigenous peoples by colonialism"), removal and land theft could be considered a creator and effect of climate change ("Indigenous Climate" 153) (For further notes on land theft and removal as beginning of climate change/an effect of climate change, see Keeler, Wildcat).

another and allows them to continue their relationships, ultimately taking part in continued existence.

Johnson's awareness of his duties to land, and in turn his self-realization, is clear in December of that year as he continued to take the steps necessary to make the move to Brothertown. In order to do so, he had to pay off his debt at Mohegan and Farmington, and he asked Wheelock for help. His language in doing so again follows a pattern of mixing Christian, Mohegan, and Haudenosaunee metaphor and literality, and it exhibits deep relation to land and recognition of its agency. Johnson's letter reads in part:

I thank you, my Compassionate *Patron*, for all your kindness to me ward, even from my Childhood, and I would thank you in a particular manner for your Respects and kindness to me, when I was at the Place of your Residence, and I thank all your honoured family and the loving members of your dear *Seminary*, which may long flourish gloriously, for all the Respects and tokens of Love and Friendship shewn to such a Despicable Lump of polluted Clay, as is inclosed in this tawny Skin of mine. (*To Do Good* 247)

On the surface, we may view this letter as Johnson appealing to Wheelock in order to receive the debt relief he needs to move to Brotherton, and indeed, that is one of his goals. However, it is important to note his statement that he is "a Despicable Lump of polluted Clay, ... inclosed in this tawny Skin." It is entirely possible that Johnson is referencing Jeremiah 18.6, as the Lord tells the Jeremiah: "Like clay in the hand of the potter, so are you in my hand, O house of Israel" (KJV). Considering the ways that Johnson mixes Mohegan, Haudenosaunee, and Christian philosophies around clay and land in his powerful farewell to Mohegan land three years earlier, his early missionary work at Kanawalohale, and his recent and frequent trips to Oneida in the interest of Brothertown, his mention of clay can also be read as a recognition of his Indigenous

identity in addition to his Christian beliefs. Johnson makes mention of being made of clay, which, in the Haudenosaunee context, is regularly used as a marker of what land one comes from, and thus, who one is. As Susan M. Hill explains in the Haudenosaunee context, “when one asks another what clan they belong to, the question literally translates to ‘what clay are you made of?’ Many Indigenous knowledge holders talk about the idea that the land does not belong to Native people, but rather Native people belong to the land” (5). Further, as Watts explains, “we (humans) are made from the land; our flesh is literally an extension of soil” (27). If Johnson is a lump of clay, Johnson comes from the land itself, and is a part of that land. If Johnson is a part of that land, he understands that land as an actor and a member of his wider community. In making reference to himself as a “Despicable Lump of polluted Clay,” Johnson delineates himself as a part of the land he comes from and in turn, recognizes that land’s agency in creating him.

It is important to unpack Johnson’s use of “polluted” in his letter, as this complicates his relationship to land and how he might view himself as a part of that land. While it might be tempting to view Johnson’s use of “polluted” in an environmental sense, the word did not take on such regular meaning until the late eighteenth and early nineteenth centuries. Historically, to this point in the eighteenth century, “polluted” was meant as sinful and tainted in a religious sense (“polluted, adj.”). Such religious meaning is the best way to consider Johnson’s use of the word, given the period, the content and context of his letter, and the letter’s recipient, Wheelock. Understood in this manner, we can see Johnson apologizing to Wheelock for his sinfulness, the same way he apologizes for his “Indian Nature” in previous letters, “Indianness” itself being linked to sinfulness (Axtell 218, 230-31). However, while Johnson calls attention to his polluted nature in his previous letter to Wheelock because of his “Indian Nature,” his frequent trips to and from Oneida and his familial partnership with the Oneida and other Native peoples shows his

clear understanding and celebration of his Indigeneity. Similarly, in his previous journal entry we see him apologizing to land and to his immediate family, another representation of his Indigeneity and his relation to Native peoples and land. Johnson may have seen himself as sinful in some manner, especially given the Calvinist idea that all people on Earth were sinners, and he clearly wanted Wheelock to see him as recognizing and repenting for his sinfulness. At the same time, we can consider Johnson as understanding, holding fast to, and celebrating his Indigeneity. Johnson's use of "polluted" alongside his identification as "clay" does not by any means take away from his identification with land and the idea that he has distinct ties to that land. Instead, Johnson's complicated and nuanced writing provides us yet another example of Johnson's even more complicated, Mohegan Christian identity.

Johnson's discussion of his "polluted" nature is representative of his command of written English, as is Johnson's use of the "poor Indian" trope in his letter to Wheelock. Lisa Brooks describes the trope as "the language of subservience in addressing colonial officials." However, Brooks continues that writers like Ocum and William Apess were masters of subverting such language, "exposing the pretentiousness of the convention" (226).²⁷ Johnson is undoubtedly appealing to Wheelock so that Wheelock might help him, and we also cannot discount the fact that Johnson might be sincerely thanking Wheelock for his past help as well. However, when viewed through the lens of subverting this convention, we are also better positioned to see Johnson calling attention to his heritage in Mohegan land, his true Indigeneity in the Northeast, and perhaps, a statement to Wheelock that while Johnson has to ask for Wheelock's charity, he should not have to do so, because he is a member of community with that land. Johnson, as a piece of clay, as someone whose skin is formed from the very land he wishes to pay debt from,

²⁷ See also: Peyer 155, 163; Weaver 51-53.

should not owe a land debt to anyone, let alone have to ask a colonist for money to pay off this debt. Only in the colonial property regime does this type of monetary value attached to land make sense. In reality, Johnson has the original and more substantive claim to the land, as he is made from it, and he understands its power and its agency through that relationship, which is something that Wheelock cannot realize despite his economic position. Johnson allows readers to believe the idea that he might be referencing Jeremiah, or he might be calling attention to his polluted nature. Instead, he rhetorically subverts colonial authority and economic relationship to land, and he lays claim to his place in and with land through his Indigeneity.

In addition to Johnson and O'Connell's continued recognition of land's agency despite shifting outward relations to land, we can also see Wheelock's continued relation to land as a tool of conversion and civilization. Wheelock eventually approved of the Brothertown plan, writing in 1775 that the prospect of converting Native boys to Christianity "is yet further ... increased by the proposed removal of the Tribe at Montauk, with all the Christianized and civilized *Indians* of the several Towns in New-England, to settle in a Body in the Heart of the Country of the *Six Nations*." According to Wheelock, such a removal is positive because the Tribes "design to settle in a Body, as a civilized and Christian People, and cultivate those Lands for their Subsistence, and also by them, as soon, and as far as they shall be able, to support all Divine Ordinances and Schools among them; and invite their Savage Brethren to an imitation of them, and a Participation of all these Benefits and Privileges with them" (Wheelock, *A Continuation*). Clearly, Wheelock believed that the positive aspect of this movement was further Christianization, and thus civilization, of the Haudenosaunee and western tribes.

This is further proof of Wheelock's view that Native peoples should absolutely be provided land to keep so long as they utilize it in a manner that pleases God and that brings

others closer to God and civilization. Again, Wheelock's view of land is different from Native views in that it removes land's agency. There is no identifying with land here as there is with Johnson above. Land is a vessel for communing with the Lord. In this case, land is used for Christianity, rather than Johnson's viewpoint, where Christianity and land's agency can coexist. At the same time, Wheelock's view is also different from colonial legislative views wherein land needed to be utilized by those who require land to produce and enter economic systems. While Wheelock intended Native peoples who took up Christianity and farming to enter colonial economic systems through agriculture eventually, land is first a tool for communing with God and converting souls. This continuing pattern is indicative of Wheelock's views of land as a tool for his Christianizing mission, which in some ways differs from land's active role Mohegan and Haudenosaunee Christianity, and also from settler legislative views of the period.

Even with Wheelock's blessing, the Brothertown idea was frequently in danger during this period due to the incipient Revolutionary War. Occom and Johnson both understood this clearly and acted accordingly. Johnson made the decision to enter into correspondence with George Washington so as to protect himself from settler militias. Occom wrote to the Oneida and urged them to stay out of the war and concentrate on their own wellbeing. However, Occom argued that if the Oneida must choose allies in the war, they should side with the colonists because of overlapping land concerns. Specifically, in 1776 Occom explained that the English

got to be rich I mean the Nobles and the great, and they are very Proud and they keep the rest of their Brethren under their Feet, they make Slaves of them, the great ones have got all the Land and the rest are poor Tenants—and the People in this Country live more upon a leavel and they live happy, and the former Kings of England Use to let the People in this Country have thier Freedom and Liberty; but the present King of England wants to make them Slaves to himself, and the People in this Country don't want to be Slaves,-- and so they ^are^ Come over to kill them, ... And now I think you must See who is the oppressor, and who are ^the^ oppressed and Now I think, if you must Join on one way or other you cant join the opresser, but the oppressed, and God will help the oppressed—But let me Conclude with one word of Advice, Use all your Influence, to your Brethren So far as you have any Connections to keep them in Peace and quietness, and not to entermeddle in these Qurrils among the White People,-- (*The Collected* 112)²⁸

According to Brad D.E. Jarvis, Occom champions kinship here through reminding the Oneida that slavery is a British creation and came “at the hands of English colonialism” (112). In addition to Jarvis, Silverman has argued that Occom’s words here are “chosen carefully,” as “English” and “British” no longer made sense given colonists separation from Britain. Instead, “‘White’ was a more appropriate catchall for the times” given “the flood of non-English migrants into the British colonies after 1760” and “the racial hierarchy that continued to structure American society” (*Red Brethren* 112). While these are important parts of Occom’s appeal to the Oneida, the most striking part of Occom’s speech is the idea that American revolutionaries were

²⁸ The Revolutionary War caused great dissension among the Haudenosaunee Confederacy, as some allied with the British and others with the Patriots (See: Lisa Brooks, pp. 106-162; Calloway; Graymont).

made landless tenants in their own lands by the wealthy British. Occom recognizes colonists' reasonings for landing in the Americas. His use of "white" notes the differences between colonists based on their national origin, their own battles with British colonization, and their relations to land due to their ethnicities and colonization, as discussed in the context of Irish settlers in Chapter One. Only in the Americas, Occom explains, can these people be free and have their own lands. That Occom uses the rhetoric of land theft and an inability to have and relate to one's lands as a result of British colonialism is especially powerful. Occom, in some ways, may have believed a Patriot victory could result in landed relations among settlers and Native peoples through their shared oppression under British colonial rule.

As the Revolutionary War began, the Brothertown idea was put into further jeopardy when numerous potential Brothertown members were killed or disabled. Joseph Johnson was killed sometime between June 10, 1776 and May 1777 (*To Do Good* 286). While Johnson's death did not stop plans to relocate, the Revolutionary War did put those plans on hold, and the War did great damage to Native communities in the Northeast. Twenty-seven Mohegans enlisted in the war, and only ten returned (*To Do Good* 287). Similarly, according to historian Jeffrey Ostler, "well over 10 percent" of the Stockbridge community was lost during the War, and among Natick and Pequot enlistees, "Some returned disabled and unable to help their families" while others died as well (77, 78). In turn, Haudenosaunee who allied with the British were subject to "The total destruction and devastation of their settlements," according to George Washington's May 1779 orders to Major General John Sullivan (Washington).²⁹ American violence continued to shape and distort Native lives and societies. However, as Jarvis has

²⁹ For further discussion of Patriot violence against British-allied Haudenosaunee during Revolutionary War, see: Ostler pp. 69-81; Calloway; Graymont.

explained, “Despite death and displacement engendered by war, as soon as hostilities ended, the New England Indians began returning to their unfinished settlement” (113). By 1782 David Fowler was preparing the area for settlement, by 1784 Occom was moving families to their new settlement, and in 1785 Brothertown was officially founded, with Occom settling there in 1789 (Cipolla 41).

Occom detailed his move to and settlement of Brotherton in his journal. As he did so, he provided important information about the way that land aided in the settlement process and made that settlement possible. Upon arriving in Brotherton Thursday, Friday, and Saturday November 10th, 11th, and 12th 1785, Occom gushes that he “look[d] about a little to See the land and it is the best land I ever did see in all my Travils.” On “Just about one acre of ground, ... [John Tuhy] took of 20 Bushels of good Corn 56 Bushels of Potatoes about 200 Heads of Cabage, and about 3 Bushels of Beans, and about 2 Bushels of [Parsnips?] and Beats together; besides Cucumbers and Watermelons; of the Same ground, and it is not Plowd nor dug up With a Hoe, only leaves and Small busheses were burnt on it and great many Logs ly on it now” (*The Collected* 309). Here Occom makes clear that the land at Brotherton is of immense importance to its settling. Without land that people could interact with, relate to, and engage with, the settlement would not be able to flourish. Of course, as Occom made clear in letters following the Mason Land Case, it was necessary for people at Brotherton to enter into colonial economic systems and earn money through the land. They needed to accumulate capital in order to have power and stay on that land. At the same time, engaging in traditional agriculture through burning logs to prepare the ground for planting and planting with hand tools shows an intimacy with the soil and land itself, of “doing” in order to know one’s place within soil and with land (Mt. Pleasant 400; Simpson, *Dancing* 104). In understanding soil’s transformative properties through “doing” with the soil on

“the best land” Occom had ever seen, the Brothertown community centered land in a community made up of reciprocal relationships, working toward collective continuance (Whyte, “Justice” 519). Without land, and a recognition of land’s active role in their community, the Brothertown community could not exist, and Occom realizes this when he centers land in his discussion and description of Brothertown.

In turn, working toward collective continuance by working with land is upholding one’s duties to community and land itself, which further recognizes land’s agency as a member that structures that community. Watts explains that “Non-human beings are active members of society. ... they also directly influence how humans organize themselves into that society” (23). Occom’s recognition of the land at Brotherton as “the best land [he] ever did see” is recognition of that land’s agency and its role in the Brotherton community, as, according to Watts, “The structure of societies is demarcated by territory, which again, is an extension of Sky Woman’s original circumstance. She is present in the relationships between humans and humans, humans and nonhumans, and non-humans and non-humans” (23). Choosing to settle on Brotherton land, and the yield that the community produces using traditional practices, can be seen as an understanding that land structures the way society functions, that land has agency, and that land is a member of the Brothertown Community.

Occom continued discussing Brothertown residents’ relation to the land through cultivation years later in 1787. On October 1st of that year after breakfast, Occom “took Notice of the Settlement, and it is a fine Spot of Land, and a very large Spot too, and the People has made a rapped Progress in Cultivating the Land, if the People were as ingagd in Religion as they ^are^ ~~were~~ in their Temporal Concerns this Settlement would be very ^much^ like the garden of Eden, Which was the garden of god” (*The Collected* 380). Occom is continually impressed by the land

itself and the way that those at Brotherton have continued to work with the land, as continued communication with the land, both through engaging with it physically and communicating with it through writing, are necessary to uphold his responsibilities to that land (Watts 23). Occom did not simply make note of how impressive the land at Brotherton was one time in 1785. He continued to praise the land and its transformative powers over the course of years. Occom makes it known that he appreciates the land for what it provides those at Brotherton, and he recognizes that Brotherton is nothing without the land it is built on and with.

However, unlike his discussion of the land in 1785, Occom makes note of the peoples' continued work on the land instead of engaging in prayer. Much like Johnson's earlier diary entries to Mohegan where he thanked Mohegan for holding his deceased relatives prior to their journey to be with the Lord, Occom mixes traditional thought with Christian ideals in this entry. In this diary entry we can see how Occom viewed land as a Christian minister who understood land as an agential community member. One can interact with and give thanks to the land while also interacting with and praising God. This land, as a member of community that engages in reciprocal relationships with human and nonhuman members of community, can be seen as a Garden of Eden, so long as the Christians that reside there commune with the Lord and the land. Occom's adherence to Christianity can exist in tandem with land's active, central role in the community., Land's central role in Brothertown differs slightly from Wheelock's civilizational philosophy, wherein land is seen a vessel with which to commune with the centralized Lord. Occom's Christian faith can still recognize and give thanks for land's agency as a central, contributing member of community rather than tool for communion.

Moreover, Occom makes it clear that Brothertown is a community that exists on and with their land in the present. Occom's revision to cross out "were" and replace it with "are" is a clear

statement that the Brothertown Community exists in the present moment of his writing and is thriving. Representing the Brothertown Community as Native peoples who exist, continue to exist, and flourish following the Revolution was very important, as, according to Berkhofer, “the face of White advance gave rise by the time of the American Revolution to the idea of the vanishing race” (29).³⁰ Occom’s representation of the Brothertown Community as a community that is literally grounded in the present, with their land, engaging in reciprocal relationships and working toward collective continuance must not be ignored. Occom’s writing about Brothertown during this period provides a window into how the community viewed themselves, how they engaged in reciprocal relationships with land working toward collective continuance, and how they sought to continue those relationships toward tribal flourishing.

Despite the high crop yield Occom writes about in the present tense, Brothertown’s agricultural production was ignored by white settlers as removal policy came to Brotherton. Settlers charged that Oneida land was still a wilderness and better served in white hands, and predatory leasing began on the heels of the Revolutionary War, leading to battles over remaining land between those at Brothertown and the Oneida (Silverman, *Red Brethren* 126-31). Thomas Jefferson continued the narrative of Native land as unproductive wilderness into the Early Nineteenth Century, speaking to the New Stockbridge Community close to Brotherton, lecturing them about their “decrease” in population. According to Ostler, Jefferson explained that Stockbridge “Extinction could be avoided, ... if Indian men were to ‘learn to cultivate the earth,’” and their “descendants would learn to appreciate the value of property” (Jefferson; Ostler 201-02). Ostler shows, though, that like those at Oneida and Brotherton, the Stockbridge Indians

³⁰ For further information about how this myth would continue into Nineteenth Century New England, see: O’Brien, *Firsting and Lasting: Writing Indians Out of Existence in New England*.

were “Christians, many were literate, they knew how to ‘cultivate the earth,’ and they had adopted the gendered division of labor Jefferson prescribed They did not need Jefferson’s fatherly advice” (202). Historian Daniel Usner Jr. shows that Jefferson himself knew the Stockbridge peoples, and others, like those at Brothertown and Oneida, were capable farmers prior to colonization, and they understood and practiced farming in Jeffersonian style following colonization (223-5). Willful settler ignorance of Native farming in the Northeast was beneficial for Removal Policy though, and the same myths and narratives that began with the Mason Land Case continued beyond Jefferson and into Andrew Jackson’s 1830 Removal Bill (224).

III. Conclusion: Resisting Removal

Through studying these shifting understandings of land across settler, Mohegan, Haudenosaunee, and the Brotherton community via writings from key historical figures such as Eleazar Wheelock, Samson Occom, and Joseph Johnson, we are offered a clearer depiction of how land structures society, and how those societies view and realize land’s agency across history. Native religious conceptions of land shifted in an attempt to remain with land and continue as Nations that considered land a contributing member across this period by taking up Christian values. As we see in Johnson and Occom’s writing about Brotherton, however, this does not mean the Native peoples represented here viewed land as inanimate, and they certainly did not relinquish their relationships to land that very much made them Indigenous and marked their specific identities. Whether it is “the best land” Samson Occom “ever did see,” or the “despicable” and “polluted ... clay” that Joseph Johnson discusses within his very body, both men still very much believed they were made from and a part of that land, which they wished to remain on and return to in death (Occom, *The Collected* 308; Johnson, *To Do Good* 247).

On the other hand, in the case of Eleazar Wheelock's church, settler missionaries viewed land as a tool for conversion, as a utility to communicate with a Christian God and "civilize" Native peoples through participating in the market economy by forcing land to produce. While this viewpoint is in some ways related to the legislative and economic philosophies represented in chapter one in its need to produce, it still allows for some relationship to land. It allows for a recognition of land as a creation of a benevolent God, and followers, whether they be settlers or Native peoples have a duty to care for land so that one might be reunited with the Lord in death after having performed their duties on Earth. The idea of land as a utility created by God, which followers must use to return to Him in death, marks a departure from Mohegan and Haudenosaunee comprehension of land, where land creates life and society, and one returns to that land in death. However, as we see through Occom and Johnson's writing, there is ample room to recognize land's agency upon conversion to Christianity, at least in the Congregationalist denomination that Wheelock and his missionaries preached. In reading Samson Occom, Joseph Johnson, Eleazar Wheelock, and their peers and followers, we are provided with a better picture of how cultural production of the period focused on, and was shaped by, land. In turn, we have a better understanding of each author, how their conception of the ground they walked on and related to structured their writing, their philosophies, and their awareness of their own societies and those that they interacted with, and in the case of Occom and Johnson at Brothertown, created.

While land's action is apparent throughout Haudenosaunee, Mohegan, and settler writing during the early colonial period, land also influenced American history, literature, and legislation in the Southeast as well. In order to trace how land continued to act across settler colonization of North America, the next chapter keeps an eye to the ground into the Nineteenth Century by

tracing land's agency and literature of landed resistance in Cherokee and settler literature, legislation, and thought from the revolutionary period to the removal period of the 1830's.

CHAPTER IV: REMOVING AGENCY: CHEROKEE LANDED RESISTANCE, REMOVAL,
AND JACKSONIAN SETTLER INDIGENIZATION

Change your attitude, change your plan

There could never really be justice on stolen land

“Sound of da Police,” KRS-One (1993)

In 2022, the United States Supreme Court heard *Oklahoma v. Castro-Huerta*, which questioned whether the state of Oklahoma or the federal government had the right to try Victor Manuel Castro-Huerta for criminal child neglect of his stepdaughter. Castro-Huerta’s stepdaughter is Cherokee, and the crime occurred on Cherokee land. As discussed in chapter 1, following *McGirt* only the federal government and tribes can prosecute defendants for crimes that take place on Native lands. However, in deciding *Oklahoma v. Castro-Huerta* in 2022, Justice Brett Kavanaugh offered as part of the majority opinion that while the federal government “sometimes treated Indian country as separate from state territory... Indian country is part of a State’s territory” (*Oklahoma v. Castro-Huerta* 5-6). While Kavanaugh admitted that the United States treated Indian country as separate territory in the past, at some point in the late 1800’s, “Indian country in each State became part of that State’s territory” (12). To not allow the state of Oklahoma to try Castro-Huerta, Kavanaugh continued, would be “to treat Indian victims as second-class citizens,” which Kavanaugh refused to do (20). He noted further that although U.S. states may have previously been the enemies of Native tribes, “it is not evident why the pre-Civil War history of tribal discord with States” should factor into this particular decision, especially because such histories are “unconnected from any statutory context” (20-21).

In response to the decision, legal scholars have argued that Kavanaugh gets much wrong about judicial precedent regarding Indian Country and Native sovereignty. For example, legal scholar Gregory R. Ablavsky argued that “Late nineteenth-century federal law did not repudiate

territorial separation; it actually came to embrace it.” As Ablavsky and Pueblo law scholar Elizabeth Hidalgo Reese explain, the history of State incursion on Native lands, especially in the Southeast, are part of a long history: “This is hardly the first struggle over state power in Indian country. . . . To understand *Castro-Huerta*, we must look to why the Trail of Tears happened in the first place,” beginning with *Worcester v. Georgia* in 1832. However, just as Ginsburg’s decision in *City of Sherrill* has its roots farther back than antebellum literature, Kavanaugh’s infantilizing display of settler colonial power in *Castro-Huerta* must be seen in the context of U.S. treaty revisionism and erasure of Native history from the beginning of the Revolutionary period.

The main philosophies represented by Kavanaugh’s majority opinion in *Castro-Huerta* are a continuation of centuries of United States legal strategy meant to erase Native sovereignty, land’s role as a historical actor, and land’s influence on law/legislation, especially in Cherokee Country. That the history of legislation around land and Native sovereignty can be changed at the will of the courts and U.S. government, that previous histories can be erased to serve U.S. desire for power over land and people, and that revising legislative history in such a manner is often done under the charade of Native protectionism, is part and parcel of United States legislative engagement with the Cherokee Nation since the eighteenth century. Specifically, the ruling in *Oklahoma v. Castro-Huerta* has its origins in United States philosophies around land and Native peoples seen in writing and letters from settler leaders from George Washington to Andrew Jackson, and their methods of historical revisionism in the Treaty of Hopewell and the Treaty of Holston. Such legal revisionism continues into the present as the current iteration of the U.S. Supreme Court attempts to do away with Native sovereignty. Clarifying and connecting this United States’ strategy from George Washington’s initial letters focused on attaining land and

exerting power over Native peoples to the Indian Removal Act's passage in 1830 provides insight into how settler colonialism continues to operate and erase Native sovereignty and land's active role in history and nation building.

At the same time, by investigating how the United States revises history and erases Native sovereignty, treaty promises, and land's agency under the guise of Native protection, land is reanimated and Cherokee sovereignty strengthened. As the Cherokee Nation entered agreements with the United States to grow closer to the new nation, protect their relations to land first laid out in precolonial story, and eventually come to be seen as a "civilized" nation, their relationship with land and land's role as an influential agential relation was modified. From the outset of Cherokee history, land played a role in society as co-creator of worlds and nationhood, as an agricultural producer, and as an influence on law/legislation. As Cherokee society changed following U.S. nationhood and expansion, land continued as an agential relation by connecting the new nations. As the United States encroached on Cherokee territory, Cherokee peoples and their lands entered treaty negotiations, and land continued as an agential relation and base of sovereign nationhood that held Cherokee history and Cherokee generations past and future. Tracing and (re)animating land's active role in Cherokee history and resistance to colonial erasure in the past strengthens Cherokee sovereignty in the present face of the kind of erasure at play in Kavanaugh's majority opinion. Additionally, outlining Cherokee literature of landed resistance works against settler colonial revisionism and lays bare settler colonial strategies of theft so that such systems might be dismantled in the present and future.

This chapter builds on interdisciplinary investigations across literary studies, the environmental humanities, legal studies, gender studies, and history. Scholars in these fields have traced Cherokee relation to land through agricultural practice to better understand how gender

roles changed in Cherokee country over the course of colonization (Perdue, “Native Women in the Early Republic”; *Cherokee Women*); colonial legislation and invasion’s role in shaping Cherokee political structures (Rifkin); Cherokee literature’s role in continuing nationhood in the face of colonial erasure (Justice, *Our Fire Survives the Storm*; *Why Indigenous Literatures Matter*); literacy as a method for engaging with and remaining on Cherokee land (Parins); and Cherokee national resource management practices as a method for relating to and becoming a people with land (Carroll). Specifically, Clint Carroll (Cherokee Nation) has traced how “Cherokee relationships to land and nonhumans were central to traditional understandings of their place in the world,” and in turn, how “colonial forces—encroachment, war, disease, and new markets” reconfigured such relations (39). Carroll notes that, “By the time of Removal, Cherokees had formed a new type of relationship with the land” (55). These scholars have looked at the way Cherokee peoples relate to and claim sovereignty and relation to land through writing, politics, and ceremony. This chapter builds on such work to emphasize the active role that land plays in Cherokee society, history, literary production, and legislation, and to make clear how land’s role as agential relation within the Cherokee Nation was contorted by settler colonialism.

Prior to colonization, land is not only at the center of Cherokee society, identity, conflict, and texts. Land acts on and influences each of the categories of Cherokee life and nationhood previously mentioned. Land’s influence in Cherokee life is seen from the beginning of creation, to the coproduction of agriculture, law, and the relationships it makes possible among all living beings gathered on and with it. This chapter offers a continued view of land’s contribution to literary production, Cherokee identity, and resistance to colonial legislation from the eighteenth to mid-nineteenth centuries. Further, we are provided insight into the long history of colonial

strategies to contort and erase land's agency and Native sovereignty in favor of settler indigenization and territorial acquisition.

To investigate land's agency across Cherokee history into the removal period, I first trace Cherokee relationships to land in precolonial story and history. In each of these stories, land co-creates and structures Cherokee life, worldviews, and legislation. Utilizing these stories as structure to understand Cherokee philosophy in initial treaties with the United States, we are able to see land as the connector of different nations, as it had been for Cherokee communities since time immemorial. On the other hand, by tracing U.S. founding figures' philosophies around land as an inert economic base and Native peoples as barbarous and unable to attain land, we are able to follow the initial philosophies regarding land and Native peoples from the Mason Case into the U.S. Revolutionary Period. As settlers like George Washington, Benjamin Franklin, Thomas Jefferson, and their political appointees strategize with one another through letters and speeches, they create a revisionist history of land and Cherokee peoples, wherein the former is inanimate and ripe for settlement, and the latter is unable to relate to land properly through improvement and agriculture. At the same time, the histories that Cherokee peoples tell and the stories the land itself holds dispute U.S. revisionism. Tracing these histories and stories of Cherokee relationships with and responsibilities to the land upsets and invalidates settler revisionism practiced by founding fathers and contemporary judicial bodies.

As settler politicians continue to revise Cherokee history and erase land's power and influence into the early national period, Cherokee communities adopt writing, plow-based agriculture, and new political systems to remain on their land. Cherokee women see their political power reduced; however, they put into practice a literature of landed resistance through petitions to Cherokee governing bodies, reminding leading men of their connection to land and

of land's active role as co-creator of their world and Nation. Although women are no longer leaders in Cherokee politics during this period, in debates with U.S. agents the Cherokee General Council take up Cherokee women's calls to action and deny settler revisions of previous treaties and Cherokee sovereignty. As they do so, they continue to make note of land's role in building Cherokee civilization, and they continue a literature of landed resistance, always influenced by land in the colonial negotiation records. Following these negotiations, the Cherokee Council creates and ratifies the Cherokee Constitution. While the Constitution genders and racializes Cherokee leadership, land remains at its center. As land's agency remains in these records, so too do the philosophies that Cherokee women and the land played integral roles in creating.

Following the Cherokee Constitution, the chapter ends as the Indian Removal Act is signed into law and Andrew Jackson speaks to removal's supposedly benevolent nature. The Removal Act, and Jackson's treatment of it, work to remove land's agency in Cherokee and settler homelands, rendering land inanimate across history and geography. As Jackson does so, he compares settler ancestors and descendants to Cherokee people, once again revising history in an attempt to indigenize settler colonists. Tracing such philosophies across settler history clarifies settler strategies to remove Indigenous peoples from their land, erasing their sovereignty and land's agency so that the settler Nation can excuse its treatment of Native peoples and the land, and lay final claim to the supposedly inanimate land the new nation is founded upon. Laying bare these strategies illuminates their invalid claims, philosophically, legally, and morally, across history and into our present moment.

I. Land, People, and Plant: Co-Creating Cherokee Worlds

Cherokee philosophy, societal structure, and law are held in stories, which are always created alongside and in relation with land. As Barbara Duncan explains, "stories tell about

origins: how things came to be.” Overall, “all Cherokee stories are meant to teach children and remind adults how to live as Cherokees ... the stories' connection to this place, and to the people who have told them for generations, is what makes them special” (*The Origin ... 2*). While *place* can come to mean all inhabitants and features of a specific area, land itself is integral to the creation of place and landscape, and to the creation of Cherokee story and society. Land grounds each of those necessary components. As such, Cherokee stories' connection to *land* is what makes them special as well. As historians Theda Perdue and Michael D. Green explain, “The lessons taught by Cherokee landscape were central, not only to accounts of the distant past, but to the ways they lived their lives every day,” as Cherokee story and history is “written on the land and lived in interaction with it. Cherokee peoples knew that this was the land meant for them, and their cosmology located them in the center” (5). For Cherokee people, land is an agential relation, whose activity influences literature, law, and history is created alongside the Cherokee people.

Land's agency and relationship with Cherokee people is first apparent in Cherokee creation stories.³¹ Originally, the world was only water. In various versions nonhuman animals inhabited an arch above the water (Mooney 239), people flew above the water on the back of a giant turtle (Teuton 39), or two humans and nonhuman animals lived on a rock “in the middle of the water” (Duncan, *Living Stories* 40). When the inhabited area above the water became too

³¹ There are numerous versions of the Cherokee creation story. One appears in ethnographer James Mooney's 1888 *Myths of the Cherokee and Sacred Formulas of the Cherokees*, another is told by Cherokee storyteller Kathi Smith Littlejohn in Barbara Duncan's *Living Stories of the Cherokee*, and another by Cherokee novelist Sequoyah Guess in Christopher B. Teuton's *Cherokee Stories of the Turtle Island Liars' Club*. Each version differs, according to Guess because you can only tell readers “so much. ... we won't give 'em the whole thing. 'Cause there are going to be people out there that's going to try to make money off it.” As Cherokee elder Hastings Shade explains further, “We can't. I mean, culturally, we're bound to only share so much” (Teuton 232-33). Mooney's text specifically, according to Teuton, “provided, at best, a glimpse of Cherokee culture and beliefs” (55). As such, the description of the Cherokee Creation Story contained here utilizes all three of these versions to represent the differences and similarities.

crowded, a water beetle (Mooney 239; Teuton 39) or a turtle (Duncan, *Living Stories* 41) dove under the water and returned with mud. Each version agrees that the mud spread across the water to form land. The land was not dry enough to walk on, so the people and animals sent out Buzzard, who dried the land with his wings. When Buzzard flew low, valleys were formed, and when Buzzard flew high, mountains sprang up. The animals called Buzzard back, afraid that there would not be any flat land to walk on, but Cherokee land is filled with mountains and valleys because of Buzzard's flight. According to Kathi Smith Littlejohn, once Buzzard was called back, humans and nonhumans could walk on the land (Duncan, *Living Stories* 43). In Sequoyah Guess's version of the story, Raven brings a branch to the people and they realize the earth holds trees, so it is dry enough to walk on (Teuton 39-40). In James Mooney's ethnographic account, humans come after the earth is made and begin to multiply when a brother strikes his sister with a fish and tells her to create more people (240).

While these stories differ, there are key similarities in each: first, land has transformative powers, and through those powers it multiplies across the earth and allows for life to continue and propagate. As land multiplies and allows humans and nonhuman animals to continue to exist, it enters into relations with those humans and nonhumans. Without land's agency, there would not be enough room on the arch, turtle, or rock for human and nonhuman animal life to continue to multiply. Land allows life to continue and grow, literally laying the ground for society and later human/nonhuman partnership.

Second, land's powers only reach their full potential through cooperation with and between humans and nonhuman animals. Land cannot multiply without water beetle or turtle diving to retrieve mud. Neither of them would dive to retrieve mud unless they needed to help the other beings that they were living with before land multiplied. Through cooperation between

beings that lived before land multiplied, land is able to do so. Land is both a product and creator of relationships, and it allows for society and life to flourish.

Finally, the history of cooperation between humans, nonhuman animals, and land is written on the land, and land holds onto that history. When Buzzard dries the land at the behest of the other animals so that they may live on and with it, another key example of cooperation between animals and land, that story and cooperation are written into the land. Land holds and tells history, and it also tells a history that it played a major role in creating alongside other agential beings. Land shows a history of cooperation between those different beings that live on and with it. As land forms the ground for life and society to grow, it enters into agential relations with other life, and it holds the history of their work together.³²

The relationships that land creates, nourishes, and holds a history of in the Cherokee creation story are examples of Grounded Normativity. These connections bolster ethical engagements with the multiple inhabitants of the earth. The methods for making those connections, represented across history and across the land provide guidelines for what it means to engage with others and to be Cherokee. Each of these connections is based in a Cherokee system of reciprocal relations, beginning in creation and outlined in ensuing stories (Coulthard 13). These reciprocal relations are made clearer through extended engagement with land, people, and other-than-human beings. This extended engagement, and the way that a people become a nation, always in collaboration with land, is detailed in the Cherokee migration story.³³

³² For further discussion of Indigenous stories, their attachment to, and influence on, place and landscape, see: Basso; Simpson, *As We Have Always Done*, and Goeman, *Mark My Words*.

³³ This story is absent from Mooney's accounts, as Mooney believed the migration story to be "lost." According to Teuton, this is "due to his lack of information," and "Mooney was incorrect about this facet of Cherokee mythic history" (56).

According to Hastings Shade and Sequoyah Guess,³⁴ Cherokee peoples lived on an island that was surrounded by water that no one could drink (Teuton 56; 68). At one point, the earth opened up, fire came out, the water began to rise, and Cherokee people had to leave the “Mother Land” (Guess qtd. in Teuton 71). Upon leaving, “everybody cried. There was a great cry that went out because we had lost the Mother Land” (Guess qtd. in Teuton 72). As the people migrate to find a new home, they travel north, and then they travel east. Eventually, they arrive at land in the east “that reminded them a lot like the Mother Land that they had lost. And all the people wanted to stay there because it felt like home” (73). However, the “knowledgeable ones,” or “Unanti,” explain that ““we can’t stay here. This is a land of sorrow. The land cries up to us”” (73).

Then Cherokee people came upon the mound builders, and according to Shade, “*saqwu unastvne*—... ‘they became one’ with the mound builders” (58). The mound builders, though, turned out to be cannibals who “sacrificed humans,” according to Guess (74). Shade explains that “These people were so mean that when they buried their dead into Mother Earth she would reject them. The elders say when they would bury the mean ones into the ground as we do our people that have died, the next day they would be lying on top of the ground” (62). In response to the mound builders’ cruelty, Guess recounts that Cherokee people went to war with the mound builders and then continued east.

At this point, the Unanti “thought they held power over the people” because of their knowledge, and they begin to act cruelly toward Cherokee people, so “the people, they joined in, and they massacred the Kutani clan, or the Unanti” (Guess qtd. in Teuton 75). Afterwards, “a lot

³⁴ As with the creation story, the summary here takes into account two storytellers’ similar version of the story. The differences are clarified throughout.

of the other clans joined together. The smaller clans joined the bigger clans. Like, the panther and the bear, they became the wildcat clan. They all became one clan. The raven and the pigeon clans became one. There were a lot of other clans that came together and made one bigger clan” (75). Once the clans joined one another, the people “reached a land that reminded us so much of the Mother Land that had been left so many years before, the people decided this is where we are going to stay” (76).

Throughout the migration story, Cherokee communities work to become a people, always with land. These Cherokee communities listen to land, coming to know another people through the changes they make to the land, and eventually becoming a people through their relationship with the land where they were meant to be. Without listening to land and coming into relationship with it, these communities cannot become a people. The Cherokee communities become a nation because of land, and that land influences their nation and their culture as an agential relation.

First, the Cherokee peoples listen to, watch, and interact with the land that they arrive on, and land influences their actions, their movement, and their stability. When they first arrive at land similar to their home where they came into being, they want to stay. However, once they listen to that land, it “cries” to them (73). The land explains to them that it is an unhappy place, and if they are to stay there, they will be an unhappy people, because they will enter into relationship with that land in the process of becoming.

Second, as Cherokee peoples traveled further and “become one” with the mound builders, they enter into relations with other people and their land in the process of becoming (58). However, much like they previous land they thought about inhabiting, the mound builders prove to be a violent and unhappy people. This is again evidenced in the land, as the land rejects the

mound builders' bodies. Even if Cherokee peoples were unaware that the mound builders were cannibals—understood by many Indigenous traditions as the ultimate transgression against relationality—they would still come to know the mound builders were a “mean” people because the land rejects them. The land itself tells Cherokee people not to settle with the mound builders, and in doing so conveys and holds story and history. It is only shaped as a mound because it continued to reject the mound builders. Before Cherokee communities arrived, the mound builders and their land had entered into relationship, albeit a negative one. Mounds were only necessary because the ground continued to reject their bodies. As Kiowa author N. Scott Momaday explains, “All things are taken back by the earth, for all things belong to it” (*The Earth Keeper* 21). However, if a people are particularly evil according to the Cherokee migration story due to their violation of kinship relations, the land will not take the people back. Because of this, we see the story of the mound builders narrated in the land, as Momaday explains further, “all things can be contained in a story” (21). The story of the mound builders—and by extension the violation of right relations and responsibilities—is told by the Cherokee people, but it is first expressed to them by the land itself.

Finally, only when Cherokee communities reach land that reminds them of their lost home can they truly become one people. As Momaday explains in the context of Kiowa migration, “In the course of that long migration they had come of age as a people. They had conceived a good idea of themselves; they had dared to imagine and determine who they were” (*The Way to Rainy Mountain* 4). For Cherokee people, when the clans become one, it is not simply because they choose to do so, but because they traveled together across landscapes of history and experience. Eventually they reached a land where becoming one was possible by imagining and determining who they were with each other and with the land of their new home.

For such a nation to continue, it must continually enter into relationship with that land through story and practice.

Stories and practices necessary for Cherokee life, society, and connection to land are most apparent in the story of how Cherokee people came to grow and work in cooperation with corn and land. In this story, first man, Kana'ti,³⁵ and first woman, Selu, lived at "Pilot knob" with their son. Their son played with "Wild Boy," who came from the blood of game that Selu washed in a nearby river (Mooney 242). The boys, curious about where their corn and beans came from, followed Selu into the family's storehouse, where they saw her standing over a basket. As she did so, "she rubbed her stomach ... and the basket was half full of corn. Then she rubbed under her armpits ... and the basket was full to the top with beans" (244). The boys believed their mother was a witch, and they planned to kill her. Before they did so, she told them, "when you have killed me, clear a large piece of ground in front of the house and drag my body seven times over the ground inside the circle, and stay up all night and watch, and in the morning you will have plenty of corn" (244). The boys did as they were told, but they made a series of mistakes: "instead of clearing the whole piece they cleared only seven little spots. This is why corn now grows only in a few places instead of over the whole world," and "instead of dragging her body seven times across the ground they dragged it over only twice, which is the reason the Indians still work their crop but twice" (245). Despite these mistakes, "wherever [Selu's] blood fell on the ground the corn sprang up. ... The two brothers sat up and watched their corn all night, and in the morning it was full grown and ripe" (245).

³⁵ Kana'ti is translated by Mooney as "The Lucky Hunter," while Teuton argues, "that's what it seems to be translated as ... But that's different. It doesn't mean hunter" (Mooney 242; Teuton 233). Shade and Cherokee storyteller Woody Hansen explain that while "Hunter" might have been assumed, given necessary duties during the period in which the story takes place, Kana'ti should be translated as "The Lucky One. Or the Smart One" (Teuton 233).

Eventually, visitors heard about corn and traveled to ask for some of it. The boys gave them seven grains and told the visitors that they needed to plant the corn as they traveled home. The visitors traveled home for seven days, and they planted a grain for each day they traveled. However, on the last night they fell asleep, and the corn they planted did not sprout. They gathered the corn that did sprout over six days and planted it at home, “But ever since the corn must be watched and tended through half the year, which before would grow and ripen in a night” (246).

This story provides further instructions for being Cherokee and for living on and with land and the other beings that inhabit the earth. Selu is aware that the boys plan to kill her, and accepts this, as she knows that by partnering with land she and the land will create corn for the boys and their visitors. Through this, inhabitants of the earth who were previously unconnected become relations. Land, Selu, and corn create connections and relations through their ability to create life, even in death. Land’s transformative power once again allows life to flourish and connections to be made. The directions made possible by land guide ethical engagement across land, Cherokee people, and other species and relations.

These directions also delineate Cherokee systems of responsibility and reciprocal relations. As Selu instructs the boys, she educates them about their engagement with plants and land. The boys have a responsibility to take care of corn and land, and if they clear land incorrectly, or they do not stay awake to accompany corn as it grows, corn and land will respond negatively. The boys have a duty to take care of both relations, and those duties involve their education and the relationships they eventually create with their visitors. Without Selu, land, and corn, the boys would not receive an education, they would not create new relations, and they would not survive. As Leanne Simpson explains, educational practice with and on the land

“creates communities of individuals with the capacity to uphold and move forward our political traditions and systems of governance” (“Land as Pedagogy,” 7). Those political traditions and systems of governance are made up of Kyle Whyte’s understanding of relational responsibilities to land, people, and plant. The “Relational Responsibilities” the boys are required to undertake create larger “Systems of Relations” that all beings within the community are dependent on for the “flourishing of tribal livelihood” (Whyte, “Justice Forward ...” 519). Land, Selu, and corn are at the center of this flourishing, their transformative power, teachings, and nourishment radiating outward.

The relationships land, Selu, and corn make possible are made real in planting, harvesting, and ceremony, and this practice continues to move forward political traditions and systems of governance. Specifically, the Cherokee Green Corn Ceremony renews community ties through forgiveness of transgressions (aside from murder). The Ceremony pays respect to corn, Selu, and land, and it centers the importance of women in Cherokee society as those who provide life and sustenance through their relationship with corn and the land as represented by the Cherokee First Woman (Perdue, *Cherokee Women* 25-6). As historian Theda Perdue explains, the Ceremony “marked the spiritual regeneration of the community, ... By honoring the corn, Cherokees paid homage to women. The social renewal that accompanied the Green Corn Ceremony connected the corn to the community and women to rebirth and reconciliation.” Similarly, Cherokee Beloved women³⁶ “performed the central act of the ceremony, the presentation of the new crop, corn that, like Selu, linked the present to the past and bound

³⁶ Jace and Laura Adams Weaver describe the Beloved Woman, or *ghigau*, as “an honor bestowed by the clans on women of extraordinary wisdom and accomplishment. The *ghigau* had not only a voice but a vote in council. She also headed and represented the women’s council. Finally, and most important, it was up to the Beloved Woman to make decisions of war and peace” (28).

Cherokees to one another” (27). This Ceremony shows women’s central duty to Cherokee life and society and their central connection to land and corn as represented by Selu. It also renews and strengthens reciprocal relations and systems of responsibility within the community, which includes land and other-/more-than-human relations.

As anthropologist Keith Basso has shown, ceremonies like this demonstrate Indigenous relationships to place, and through them, “places and their meanings are continually woven into the fabric of social life, anchoring it to features of the landscape and blanketing it with layers of significance that few can fail to appreciate” (109-10). In performing ceremony, Cherokee peoples “are forever performing acts that reproduce and express their own sense of place—and also, inextricably, their own understandings of who and what they are” (110). In the context of Cherokee story and the Green Corn Ceremony, the Cherokee Nation renews their relationship to place and specifically their relationship to land. In the Green Corn Ceremony the community, including people, land, and corn, seasonally become one again by forgiving transgressions and renewing social, cultural, political, and kinship ties. Just as the Cherokee people became one during their migration and then entered into stronger relationship with land through planting and harvesting corn, they become one Nation with land again every year during the Green Corn Ceremony.

Beyond physical relations with land through the Green Corn Ceremony, Selu’s story is also written onto the land through recognition that this story took place at Pilot Knob. Numerous Indigenous storytellers have explained the importance of place-names in the context of story, as Jo-Ann Archibald (Sto:lo First Nation) learned from Stó:lō elders. Elder Mary Uslick told Archibald that there has always been and will always be a “seamless connection between land and people,” and elder Mary Lou Andrew expanded: “walking through fields or if you went to

gather fruit or food, or if you were just going from point A to point B, there was a story to be told about the area [its place name] or [a historical story of] what happened at that place” (73, brackets in original). Writer and storyteller Leslie Marmon Silko has also discussed the connection between land and story in a Pueblo context. For Silko and Pueblo peoples, stories “function basically as makers of our identity,” and “stories cannot be separated from geographical locations, from actual physical places within land. ... And the stories are so much a part of these places that it is almost impossible for future generations to lose the stories because there are so many imposing geological elements” (64). Perdue and Green show that the Cherokee peoples specifically “inscribed their identity on the landscape. The land forms and rivers in the Cherokee Nation’s homeland had names that they had given them. Since Cherokees spoke a language distinct from that of their neighbors, the names of these land forms undeniably marked the country as Cherokee” (10). These stories, held in land and always about land *and* people, are necessary to educate future generations. As the boys pass corn from their mother to their new relations across land and across generations, they create and continue systems of responsibility as a practice of Grounded Normativity.

For this transformative relationship between people and land to exist, and for its yearly renewal across generations to take effect, Selu must physically enter the earth at Pilot Knob in death. She is “literally an extension of soil,” as her ability to produce food for the boys and Kana’ti becomes stronger when she partners with land to produce corn for those strangers who would come to them and become relations (Watts 27). As Watts explains, in understanding Indigenous peoples as extensions of the soil, its agency and thought represented in their own agency and thought, “our principles of governance are reflected in nature” (27). As creation stories delineate rules for ethical engagement with creatures and land in life, and as migration

stories detail the ways Cherokee communities became a people by living with land and through the, Selu's story outlines ethical engagement with land in death as well. When Selu returns to the soil to provide sustenance for future generations with land, she makes clear that this is expected of future descendants and relations too. As Hastings Shade explains, "A long time ago we wrapped our dead in blankets and skins and put them into Mother Earth and Mother Earth did hold them. ... Anymore, though, we put them in a box and there's a rock around it ... We don't feel Mother Earth. Long time ago we'd dig a hole and Mother Earth would wrap us and hold us again. ... I want to be back in Mother Earth again" (Teuton 225). It is one's duty to return to land, whose powers made life possible three times over: first by multiplying to allow room for more life, then by allowing a people to become one through coming into relationship with each other and with land, and finally, by creating relations with those people to provide corn and sustenance. These stories outline the rules that Cherokee society and Cherokee people live by. Stories emerge from the land and the land, in turn, holds those stories. Cherokee peoples, as extensions of the land and those stories, see their laws reflected there as well.

As Osage and Cherokee legal scholar Rennard Strickland explains, "law is organic. Law is part of a time and a place, the product of a specific time and an actual place" (xiv). In the context of history, culture is both created by and held in land, an integral creator of place and culture. Without land to ground place, and without land to create and hold story and directions, there is no law. Cherokee history, culture, and story—with their structure for ethical engagement among those that inhabit and create the earth—come to inform Cherokee legislation, made in relational collaboration among land, animals, and plants.

This movement toward the creation of Cherokee law is most apparent in the Cherokee story that explains the creation of disease and medicine. In this story, nonhuman animals become

angry with Cherokee Nation because of the way that they kill and destroy nonhuman animals without discretion. The animals hold a council to decide whether Cherokee people should be punished. At the council, “One after another [the animals] denounced Man’s cruelty and injustice toward the other animals and voted in favor of his death” (Mooney 251). The animals created disease, and the council Chief, Grubworm, exclaimed, “I’m glad some more of them will die, for they are getting so thick that they tread on me” (252). Plants disagreed with the animal council, and they held their own meeting, wherein they decided that they would help humanity heal from the diseases animals created. Mooney explains, “Each Tree, Shrub, and Herb, down to even the Grasses and Mosses, agreed to furnish a cure for some of the diseases [the animals] named ... Thus came medicine; and the plants, every one of which has its use if we only knew it, ... Even weeds were made for some good purpose, which we must find out for ourselves” (252). It is because of this story, Cherokee scholar Daniel Heath Justice explains, “that so many of our medicines are drawn from the plant world, and so much care is taken by traditional people to honour the animals and their sacrifices” (*Why Indigenous Literatures Matter* 98).³⁷

As Justice describes, ceremony to honor nonhuman animals results from this story, as do rules for reciprocal relations, and responsibilities to the nonhuman world as a whole. Cherokee people come to understand that treating the other-than-human world poorly and without care or reciprocity will result in their own harm, and not paying proper respect to those beings that have allowed them to live will have consequences. In a similar manner, Cherokee peoples also learn how governance and legislative process works from this story and from the nonhuman natural

³⁷ Justice makes clear that while this story lays out rules to live by, that does not mean they have been followed or are currently being followed, whether through disease resulting from European trade dependent on commodifying and destroying the nonhuman world, or “wide-scale extinction, deforestation, climate catastrophe, and poisoning of the earth, air, and waters” (*Why Indigenous Literatures Matter* 98-99; 39).

world. As Watts has shown, once a people understand themselves to be a part of the land, as numerous Cherokee stories show, their systems of governance are reflected in the natural world (27). Through creation, migration, Selu, and the story of disease, Cherokee Nation is provided rules to live by through story, land, and relationships with one another and the nonhuman world. This story, too, is exemplary of Cherokee people becoming and creating relationships across species boundaries. They learn to correct their violent ways from the nonhuman animal council, and they are saved by and enter into new systems of responsibility with the plant council. As Cherokee peoples continually renew their relationships to one another and the other-than-human world, always in cooperation with and because of land and always with the knowledge of consequences should those relationships go untended, they are provided rules to live by and systems to govern their growing nation.

Each of these stories dictate Cherokee duties duty to land, to one another, and to the other-/more-than-human world—these are the bedrock of systems of responsibility, reciprocal relations, and grounded normativity. The cultural and legal norms presented here are further evidenced in legal debates, treaties, and petitions that Cherokee Nation entered into and presented to the burgeoning United States from the revolutionary to the early national period, through Removal, and into the present. We can see the teachings provided in the creation, migration, Corn Mother, and origin of disease stories put into practice through a literature of landed resistance by Cherokee writers and politicians in the face of settler encroachment and theft. In order to understand how these stories and land continued to influence Cherokee resistance to settler colonial theft and violence, it is necessary to detail settler invasion and theft of Cherokee land.

II. Negotiating Agency: Early Treaties, Sovereignty, and Land as Improved Commodity

Settler encroachment in Cherokee Country had been ongoing since at least 1759, and it continued even after the Royal Proclamation of 1763 limited British settlement West of the Appalachian Mountains, made in part as a response to the Crown's annoyance with the Mason Case. Revolutionary leaders like George Washington and Thomas Jefferson were also leading land speculators, and it was the latter role that led them to ignore the Proclamation and incite the Revolutionary War (Ostler 53). Washington, Jefferson, and their contemporaries' views of and desire for land cannot be understated—their discussions of how to obtain and own land despite the Crown's Proclamation and Native occupancy are emblematic of the bedrock of settler colonialism: it “always needs more land” (Wolfe 395). In a 1767 letter to fellow land speculator and eventual land agent William Crawford, Washington makes clear that “I can never look upon that Proclamation in any other light (but this I say between ourselves) than as a temporary expedient to quiet the Minds of the Indians & must fall of course in a few years.” In case Crawford was confused about Washington's plans, he made himself clear: “By this time it may be easy for you to discover, that my Plan is to secure a good deal of Land.” Finally, because Washington was aware his “Scheme” could land him in serious trouble and he believed it was a good one, he recommended Crawford “keep this whole matter a profound Secret, ... if the Scheme I am now proposing to you was known it might give the alarm to others & by putting them upon a Plan of the same nature (before we could lay a proper foundation for success ourselves)” (“to William Crawford”). Even if Eleazar Wheelock believed land was a tool for converting Native peoples to Christianity and communing with a higher power, the first U.S. president's 1767 letter leaves little doubt that dominant settler views of land followed the philosophy that Connecticut colonists espoused in the Mason Land Case and the Connecticut

colony's charter. However, it is important to note that the colony's charter sought land, and all commodities that were on it and within it, as inert resources belonging to the Crown. With the coming Revolution, land and everything on and within it were increasingly seen as resources and property that could enrich individual landowners like Washington and his revolutionary allies.

The philosophies represented in Washington's letter are emblematic of dominant settler views of land following the Revolutionary War. Taking account of the ubiquitous nature of these philosophies amongst revolutionary land speculators who founded the United States through their writing provides insight into dominant settler views of land during the period. Studying the approaches to land within that writing alongside treaties made with Cherokee Nation prior to the removal period sheds light on U.S. approaches to land as fungible, inanimate commodity to be stolen. These views of land continued from the Connecticut Colony's Charter that undergirded the Mason Land Case, but they differ greatly from the Christian viewpoints represented in chapter two, which afforded land some semblance of vitality and functionality beyond being an inanimate economic base. In studying this settler avarice from Washington, Jefferson, Franklin, and territorial governors during the revolutionary period and early national period, we are able to trace settler views of land, which was quickly transforming from a tool to commune with a higher power into an individual and national economic resource. At the same time, we can see in Cherokee treaties, negotiations, and petitions prior to Removal an understanding of land as an agential partner, as a site of Cherokee personhood and Nationhood, and as tool for forging connection and partnership with newcomers as had been done since time immemorial. At the same time, these early treaties represent the beginning of changing Cherokee relations to land informed by the pressures of private property regimes, for-profit agriculture, and extractive capitalist economics.

Settler encroachment in Cherokee territory continued into the Revolution, and many Cherokee actively fled Revolutionary militias, “were refugees with the British”, or, under the direction of the leader Dragging Canoe, “built new towns along Chickamauga Creek off the Tennessee River” and allied with the British (Mooney 53; Ostler 57). However, by 1780, the Americans were attacking Chickamauga towns, and Cherokee Nation sent Beloved Woman Nancy Ward to make peace. In response, Major Arthur Campbell, sent by Jefferson to meet Ward, “proceeded to burn Settico Tuskegee, and Chota. The Virginians destroyed about a thousand houses, fifty thousand bushels of corn, and all but a few small towns” (Calloway 204). As the Revolutionary War continued, so did militia violence and settler invasion. After the Treaty of Paris marked the end of the Revolutionary War in 1783, Cherokee Nation continued to be “caught in jurisdictional disputes between the federal government, various state governments, and backcountry settlers attempting to create the new ‘state’ of Franklin” (Calloway 208). In order to quell this continual violence and active theft of land from actors on all sides, Cherokee peoples sought peace with the newly minted United States through a number of treaties. The first national treaty between the U.S. and the Cherokee Nation, the Treaty of Hopewell, took place in 1785 (Ostler 57).

The Treaty of Hopewell outlines the return of material property to each Nation that had been taken during the preceding war, and then focuses on the largest issues facing the two groups: land, laws over future encroachment on those lands by outside parties, and the United States’ duty to protect Cherokee peoples from anyone who might do harm to them over land disputes. Article III states clearly that Cherokee peoples are under “the protection of the United States of America, and of no other sovereign whosoever.” Article IV outlines boundaries around Cherokee hunting grounds, and Article V makes clear that if anyone attempts to settle West or

South of those hunting grounds “such person shall forfeit the protection of the United States, and the Indians may punish him or not as they please,” the only exception being those settled in a specific area on the “French Broad and Holstein rivers.” Ensuing articles allow the United States to prosecute Cherokee people for crimes against U.S. citizens, allow Cherokee people to bring charges against U.S. citizens who harm members of their Nation, allow the U.S. to regulate trade between Nations, allow the Cherokee Nation to send a delegate to the U.S. Congress, and require Cherokee people to report any neighboring tribes who might plan to do harm to the United States. The final Article of the Treaty, XIII, makes peace between the two nations clear: “The hatchet shall be forever buried, and the peace given by the United States, and friendship re-established between the said states on the one part, and all the Cherokee on the other, shall be universal; and the contracting parties shall use their utmost endeavors to maintain the peace given as aforesaid, and friendship re-established” (“Treaty of Hopewell”).

While the Treaty is clear in its wording, ensuing debates, actions, and subsequent treaties make clear that the two sides had very different views for following through with its articles. The Treaty must be seen as representing two very different views of land, future incursions, and the United States’ duty of protection to Cherokee Nation. On one side, Cherokee people see the Treaty as it is written: An agreement between two sovereigns regarding the protection for their people and their land, and, through that land, a way to partner with and become closer to the United States. As Cherokee people had always done, they viewed land as a way to bring disparate peoples and groups together. On the other side, the United States viewed post-war agreements with Native nations as a bloodless method for obtaining more land and territory.

This Cherokee perspective is best represented by Nancy Ward’s statement at the Treaty’s proceedings: “I have seen much trouble in the late war. I am now old, but hope yet to bear

children who will grow up and people our Nation, as we are now under protection of Congress and have no more disturbances” (Ward qtd. in Calloway 209). Ward’s declaration that the Treaty would result in protection and “no more disturbances” is emblematic of Cherokee partnerships with other Nations across their history, as represented in Cherokee stories. By entering into agreement with the United States through promising land, Ward and rest of the Cherokee Nation utilize land as a method to bring peoples together just as land brought Cherokee peoples and Mound Builders together for some time following migration, and just as land brought nonhuman animals, plants, and Cherokee communities together following disagreement and disrespect. In providing the United States land and protecting the land Cherokee people still resided on from U.S. settlement, the Treaty of Hopewell is a continuation of Cherokee relations amongst nations guided by Grounded Normativity, wherein land, at the center of all relations, guides ethical engagements across National boundaries.

Additionally, Cherokee people still practiced their traditional gender roles during this period when they send Ward, as their Beloved Woman, to take place in treaty proceedings. Ward continues bringing people together through her duty to land as a Beloved Woman, just as Selu brought strangers together through her directions to the boys to share their corn once it was planted on land. Ward enters into agreement with the United States, strangers on Cherokee land, and becomes familiar with the new Nation through a treaty, again with land at its center. As the Treaty centers land, it shows that land is necessary for making these disparate groups familiar with one another. In making familiar and coming into relationships with a neighboring Nation, Ward also renews relationships and protection for her people and the United States, just as a Beloved Woman would do during the Green Corn Ceremony (Perdue, *Cherokee Women* 26). Ward performs her ultimate duties as beloved woman in the Treaty: Bringing a people together

on and through land, and renewing ties between people and Nations. As modeled in the Selu story, in this way, Cherokee women, specifically Beloved Women, work alongside land to facilitate the “flourishing of a tribal livelihood” by creating new reciprocal relations that are centered on land (Whyte, “Justice Forward” 519).

The United States’s contrasting view is best represented by George Washington’s approach to land and treaties with Native tribes directly following the Revolutionary War. Washington viewed treaties and agreements with Native nations as an easier method for taking control of and owning land. Washington made this approach clear four days after the ink had dried on the Treaty of Paris, and two years before the Treaty of Hopewell. On September 7, 1783, Washington explained to founding father James Duane that:

I am clear in my opinion, that policy and oeconomy point very strongly to the expediency of being upon good terms with the Indians, and the propriety of purchasing their Lands in preference to attempting to drive them by force of arms out of their Country; which as we have already experienced is like driving the Wild Beasts of the Forest which will return us soon as the pursuit is at an end and fall perhaps on those that are left there; when the gradual extension of our Settlements will as certainly cause the Savage as the Wolf to retire; both being beasts of prey tho’ they differ in shape. In a word there is nothing to be obtained by an Indian War but the Soil they live on and this can be had by purchase at less expence, and without that bloodshed, and those distresses which helpless Women and Children are made partakers of in all kinds of disputes with them. (“to James Duane”)

For Washington, land was a commodity to be purchased from Native peoples, and when that failed, settlements would eventually drive Native peoples out and away from a growing United States. On the other hand, if violence was used to take land, Native peoples would still return to

land. In Washington's mind, this return is emblematic of the primitive nature of Native peoples laid out in the Mason Land Case. Even if Native nations were promised protection by the United States, Washington believed that Native peoples were pre-civilizational. Just like Jefferson's pronouncements to the Stockbridge peoples and Wheelock's remarks regarding the Haudenosaunee and Northeastern tribes from chapter two, Washington believed that Native peoples had no rights to their lands, as they were unable to understand property improvement, and in turn, property ownership. Like the Haudenosaunee, Mohegan, and Stockbridge peoples, though, Cherokee communities had been farming since time immemorial.

Washington's views of Native peoples as pre-agricultural and thus pre-civilizational were well off the mark, reflecting more the ideologies of savagery and civilization than material or historical reality. With the story of Selu and Kana'ti as basis, Cherokee peoples cultivated and cared for crops throughout the year. Cherokee towns grew large communal fields and smaller, family-owned private gardens. Perdue shows that farming roles were gendered, but men did help "women plant large fields that lay on the outskirts of their towns" (*Cherokee Women* 18). Following planting, "a priest of head of the household stood at the edge of the field at the cardinal points and wept loudly, perhaps for the death of Selu," and at the center of the cornfield one "sang songs to the spirit of the corn" (18, 19). It is important to note the approach to acknowledging Selu's death and sacrifice, even centuries after it occurred, through watering the land with tears. Moreover, corn is treated as a living being that must be cared for over the course of its life, just as Selu instructed the boys to do. As always, stories structured by and held in the land, continued to direct Cherokee life and their understandings of right relationships and responsibilities. As previous chapters have shown, it was necessary first to *live* knowledge,

especially through agriculture and ceremonial practice, before one can *know* it (Simpson, *Dancing* 104).

When corn was ripe, according to agricultural historian R. Douglas Hurt, Cherokee women harvested it, and “each family contributed a certain amount to the crib of the village chief. ... the crib provided a surplus from which any family could draw when its own supply became exhausted. They also used this reserve to help neighboring towns whose crops had failed and to provide food for travelers” (32). Cherokee communities put knowledge from stories into practice, and land creates connection between corn and community, and between different groups of people. Land is at the center of these agricultural practices, connecting people to one another: first through story, then through practice, and finally through reciprocal relationships that radiate outward and allow for life and tribal livelihoods to flourish.

These Cherokee agricultural practices were well established into the mid-eighteenth century (Hurt 32). However, just as Jefferson explained away Northeast Tribes’ agriculture through the lens of primitivism and property, his contemporaries did the same. For example, in 1755 Benjamin Franklin wrote that “America is chiefly occupied by Indians, who subsist mostly by Hunting. ... Land being thus plenty in America, and so cheap as that a laboring Man, that understands Husbandry, can in a short Time save Money enough to Purchase a piece of new Land sufficient for a Plantation.” As Daniel H. Usner Jr. has shown, “Franklin somehow failed to recognize that American Indian agricultural methods, especially their success with corn, helped make the rapid growth of the colonial population possible” (207).³⁸ Writings such as these not only erase Native relationship with land, but they also erase land’s agential role in Native and

³⁸ For discussion of colonies utilizing Native agriculture to grow and expand, see: Crosby, “Maize, Land, Demography, and the American Character.”

continental history. If the Mason Land Case sought to render land inanimate and Native people as barbarous under Anglo common law, Washington, Franklin, and Jefferson's alternate histories of the Americas erased Native relationship with land, Cherokee women's important role in society, and land's agency in nationhood and nation building since time immemorial. Erasing Native relationship with land erases land's influence on Native societies in favor of an empty and inanimate land—devoid of life, people, agency, and story—ripe for the plow, individual economic benefit, and settler understandings of private property over Indigenous landed histories and ongoing practices of relationality.

Just as Washington planned, and despite continued Cherokee agricultural practice and U.S. treaty obligations, colonial settlement continued on Native lands following the Treaty of Hopewell. In July of 1787, Secretary at War Henry Knox went before the Continental Congress to report on frontier violence in Virginia. Knox advised that such frontier violence “renders a war, or treaty inevitable.” Knox explained that treaties with Native nations were preferable, because “the finances of the United States are such at present as to render them utterly unable to maintain an Indian war with any dignity or prospect of success” (Knox, “Report” 388). Beyond lacking the resources needed for war, Knox continued that if the U.S. were to commit to violence, “the United States may have the verdict of mankind against them; for men are ever ready to espouse the cause of those who appear to be oppressed provided their interference may cost them nothing; But the consequence may fix a stain on the national reputation of America” (389). However, Knox reminded Congress that with previous and future treaties:

the boundaries of territory then fixed, may again be discussed. But even in this case it may be wise to extinguish with a small sum of money, a claim which may otherwise cost blood and infinitely more money. A recurrence to the custom of Britain on this point will evince, that they thought a treaty and purchase money for land, was the most prudent measure and in no degree dishonorable to the nation. In some cases however they expended great sums to carry out expeditions into the indian country, but afterwards were compelled to effect by treaty the objects that were found too expensive or too impracticable to effect by arms. (389)

Four years after Washington's letter to Duane, and two years after the treaty of Hopewell, Knox makes the case to Congress that land can be had much cheaper through treaties than it can by war. The goal of the United States continued to be land acquisition through the cheapest possible method, even if Knox's language motions toward more "just" relations.

In August of 1787 the Committee on Indian Affairs agreed with Knox. They recommended a policy of signing fewer treaties with more tribes at once, providing Native nations with "tools of husbandry," and acting in a "Just" manner "to treat ... the Indians more on a footing of equality," in order to "convince them of the Justice and humanity as well as power of the United States and of their disposition to promote the happiness of the Indians" ("Report of Committee on Indian Affairs", 479-80). While the Committee recommended treating Indigenous nations justly, from the beginning this recommendation continues erasing Indigenous agricultural practices, and it sets the stage for future arguments against Native improvement of land that colonists argued was necessary for property ownership. In their recommendations the Continental Congress and Knox continue the same philosophy of negotiation that Washington outlined in 1783: negotiate with Native peoples so that the United States might save face and

money, but ultimately, obtain land. Further, the Congress's recommendation continues a refusal to recognize Native agriculture—and other methods of tending and being in relation to land and place—as “improvement” despite knowledge of such practices by numerous settlers. Both approaches to and views of Native peoples work toward the same ends: first, to gain land for the new United States and individual landholders so that both can be enriched; second, to erase Native history and write settler history in its place, both in colonial archives and on the land itself.

In April 1789, George Washington was elected President, and by July the borders of the Treaty of Hopewell were being tested by frontier settlers, just as Washington had predicted. Knox reported to Washington that in response to settler incursion onto Native land in the Southeast, “Although each nation or tribe may have latent causes of hatred to each other, on account of disputes of boundaries and game, . . . when they shall be impressed with the idea that their lives and lands are at hazard, all inferior disputes will be accommodated, and an union as firm as the six Northern nations may be formed by the Southern tribes” (“Gen. Knox, Secretary” 53). Knox, understanding the way that land and the threat of removal brought Native nations together, compares Cherokee, Choctaw, and Chickasaw Nations to the Haudenosaunee. Knox's comparison is apt for perhaps more reasons than he understood. The Haudenosaunee are always connected by land, literally, through their creation story and law. In much the same way, the Tribes that Knox details here are also always connected by land, made clear in Cherokee creation stories and in Cherokee common law grounded in those storied traditions.

While Knox may not have been aware of Native connection to and understanding of land as a binding agent, he did know that issues over land were making ties between the Native nations stronger, and he cautioned against allowing this to happen. Knox explained that frontier

settlers attacking tribes “leads naturally to such an union, and the present difficulties of the Creeks and Cherokees may accelerate and complete it.” At the same time, he worried that Spain might work to “form and cement such an union of the Southern Indians.” Fears of Spain’s involvement in the conflict were centered on land, as “it is certain that Spain actually claims a considerable part of the territory ceded by Great Britain to the United States” (52). Knox, aware that conflicts over land brought Native nations together, was ultimately worried that those conflicts would result in the United States losing land they had already appropriated from those Nations. Land is at the center of this conflict, organized around competing views about what land is and what land does.

Knox saw two paths forward: To raise an army and “chastise” the Creeks for their violence against Georgia settlers, or to enter into negotiations with the Creeks and Cherokee (52-3). He recommended the second option, just as he had previously, because it was the cheaper of the two for the United States. He also called to renew the 1785 Treaty of Hopewell with the Cherokee Nation, and to protect them within their “former boundaries” (53). Even if the second option was taken, Knox explained, national troops had to be sent to the frontier, as “the angry passions of the frontier Indians and whites, are too easily inflamed by reciprocal injuries, and are too violent to be controlled by the feeble authority of civil power ... the sword of the republic only, is adequate to guard a due administration of justice, and the preservation of peace.” If this were done, “the Indians would be convinced of the justice and good intentions of the United States, and they would soon learn to venerate and obey that power from whom they derived security against the avarice and injustice of lawless frontier people.” Finally, Knox argued that it was necessary that “a declarative law ... be passed, that the Indian tribes possess the right of the soil of all lands within their limits, respectively, and that they are not to be divested thereof, but

in consequence of fair and bona fide purchases, made under the authority, or with the express approbation of the United States,” which would make “the independent nations and tribes of Indians ... as foreign nations, not as the subjects of any particular State” (53). In outlining such a method for dealing with land disputes among frontier settlers and Native nations, Knox continues his previously recommended policy so that the United States might continue to appear fair and just.

Even if the United States appeared fair and just in their dealings, Knox’s goal was to attain Native land for the newly formed country. He reiterated U.S. philosophy in dealing with Native nations and United States land acquisitions: Civilizational progress would lead to natural Native disappearance, resulting in more land for the United States. Such disappearance would be written over by U.S. agricultural progress, regimes of private property, and territorial control of the U.S. government. In the end, land would hold settler history, not Native history. By stopping frontier settlers from encroaching on Native lands, Native nations would not be enticed to take up arms against the U.S., the U.S. would appear fair and just:

As population shall increase, and approach the Indian boundaries, game will be diminished, and new purchases may be made for small considerations. This has been, and probably will be, the inevitable consequence of cultivation. ... all the Indian tribes, once existing in those States now the best cultivated and most populous, have become extinct. If the same causes continue, the same effects will happen and, in a short period, the idea of an Indian on this side of the Mississippi will only be found in the page of the historian. How different would be the sensation of a philosophic mind to reflect, that, instead of exterminating a part of the human race by our modes of population, we had preserved, through all difficulties, and at last had imparted our knowledge of cultivation and the arts to the aboriginals of the country, by which the source of future life and happiness had been preserved and extended. ... Were it possible to introduce among the Indian tribes a love for exclusive property, it would be a happy commencement of the business. (53)

Knox outlines a plan for civilization, including deployment of missionaries, providing military commissions to Native leaders, and training in animal husbandry. Knox admits that his plan “might not fully effect the civilization of the Indians,” but it might attach “them to the interest of the United States” (54). Just as Franklin had detailed in 1755 and Washington related to Duane in 1763, Knox repeated the philosophy that Native nations would disappear or be enveloped by civilizational progress. Such an idea continues to erase Native farming practices in the past and the present of Knox’s writing, with an eye toward writing such practices out of history in the future. Further, Knox believed that Native peoples would adopt the idea of private property, rendering land inanimate, fungible, and alienable. Much like the Connecticut Colony’s philosophy in the Mason Case, Knox’s proposed Indian Policy dehumanizes Native peoples in

their current state and erases land's agency. Both philosophies were integral to creating and enriching the early colonies, and they continued into the early national period as national Indian Policy.

Washington agreed with Knox's policy, explaining to Northwest Territory governor Arthur St. Clair in October 1789 that "a War with the Wabash Indians ought to be avoided by all means consistently with the security of the frontier inhabitants, ... it is extremely difficult if not impossible to say that a war without further measures would be just on the part of the United States." However, he introduced an important distinction: "if after manifesting clearly to the indians the dispositions of the general government for the preservation of peace, and the extension of a just protection to the said indians, they should continue their incursions, the United States will be constrain'd to punish them with severity." By 1790, Knox wrote that such incursions by "the banditti Shawanese and Cherokees, and some of the Wabash Indians" continued. As such, it was of the utmost "importance and necessity of extirpating the said banditti" (Knox, "Summary Statement" 146). As Jeff Ostler has shown, while Knox, the Continental Congress, and Washington spoke of just and honorable dealings with Native nations, "should Indians refuse to give up their lands on terms the United States dictated, it would be just and lawful for the United States to inflict catastrophic violence on them" (94).

By the 1790's, U.S. policy regarding Native nations and land was settled: first, the United States would continue treaty-making and provide Native nations the tools to enter civilizational order as defined by the United States to endear those Nations to the federal government. Second, the U.S. population continued expanding into Native territory, necessitating more treaties and the purchase of additional Native lands, often in the contexts of violence and coercion. Further, land came to be commodified. While the Treaty of Hopewell did not include monetary compensation

for land in its articles, future treaties and negotiations made sure to commodify and provide monetary compensation for land. Finally, if Native nations reacted violently or refused to sell their land, the United States would engage in violent wars against those Nations who refused to sell. These policies rendered Native nations with little choice but to give up their land or engage in military conflict, and they also marked land as inert, commodified, private property that the United States and the individual landowners who created the Nation used to further enrich themselves. With this approach cemented, the U.S. moved to renegotiate Cherokee territory.

In 1791, following Native resistance to frontier squatters and U.S. violence, Cherokee leaders signed the Treaty of Holston, hoping to put an end to violence and U.S. encroachment on Native lands. With Holston, land began to take on new meaning in the legislative record for the Cherokee Nation, as it became tied to monetary value. Like Hopewell, Holston called for peace among the United States and Cherokee Nation, and it required Cherokee Nation to only enter into future agreements with the United States. The United States again recognized the Cherokee Nation as a distinct and sovereign Nation, and they promised peace between their two States. In turn, a new dividing line between the Nations was set with Holston. Land, although ceded again, brought the two nations together and promised peace, following Cherokee tradition.

However, with this Treaty, the Cherokee Nation is provided monetary compensation for the land they ceded to the United States. Here, while land brings the two nations together in peace, land itself is transformed into a commodity. Article IV of the Treaty states in part, “the United States will cause certain valuable goods, to be immediately delivered to the undersigned Chiefs and Warriors, for the use of their nation; and the said United States will also cause the sum of one thousand dollars to be paid annually to the said Cherokee nation.” While in traditional Cherokee law land brings peoples together agentially in communities of relationship

and responsibility, this is the first time in the National treaty record that land is refigured as commodity for the Cherokee Nation. Land's role shifted to meet U.S. demands, predicated on U.S. violence against Cherokee communities and Cherokee lands.

Even while land's influence and relationship with the Cherokee shifted with Holston, Cherokee peoples were still promised any land remaining West of the dividing line outlined therein. Article VI states, "The United States solemnly guarantee to the Cherokee nation, all their lands not hereby ceded." The United States enters into agreement with Cherokee Nation to engage in peaceful relations with a sovereign power and allow them free use of their remaining lands in whatever manner they see fit. Additionally, the Treaty renews all previous agreements relating to protection and right to try members of outside Nations on Cherokee and U.S. lands per the prosecuting Nation's customs. Cherokee customary law, made possible by land's agential influence on Cherokee people, still applies on Cherokee lands. While land might be increasingly seen as a commodity in the U.S. settler legal record, its influence on Cherokee society and legislation still holds during and following the Treaty of Holston.

Holston also introduces the rhetoric and theory of civilizational progress to U.S.-Cherokee legal relations. Article XIV states in part, "That the Cherokee nation may be led to a greater degree of civilization, and to become herdsmen and cultivators, instead of remaining in a state of hunters, the United States will from time to time furnish gratuitously the said nation with useful implements of husbandry, and further to assist the said nation in so desirable a pursuit." Such an article seemed to be a show of good faith from the U.S. government toward Cherokee Nation. However, considering Cherokee peoples had planted and cultivated crops since time immemorial and the U.S. government had insisted on ignoring evidence of Cherokee farming for decades, this article marks Cherokee people as occupying a pre-civilizational mode of existence,

setting the stage for future dispossession. If the United States provide Cherokee peoples with tools for agricultural progress and they continue ignoring Cherokee “improvement” of land as they had done previously, they could claim that they had acted beneficently toward Cherokee Nation, but Cherokee peoples were too primitive to improve and claim land. The Treaty of Holston continued the rhetoric of peace and benevolence toward Native nations. By continuing to bring disparate peoples together in some manner, land’s agency in legislative practice is still apparent. However, in Holston land begins bringing people together as the United States acts on land to make it an inert commodity. Even if land is seemingly bringing the United States and the Cherokee Nation together, in Holston, this Treaty sets the stage for approaching land as commodity in Cherokee thought, and it continued to leave the door open for future dispossession by the United States.

The United States also continued its strategy around Native dispossession following the Treaty of Holston. Despite the Treaty saying otherwise, strategies for dispossession in this manner take place in much the same way that Knox and Washington proposed it previously: propose benevolence and negotiation, and if those strategies do not work, threats of violence. The first can be seen in a 1796 speech from Washington to the Cherokee Nation, reprinted in *The Cherokee Phoenix* in 1828. Washington continued erasing the history of Cherokee agricultural practice, stating, “without other implements for tilling the ground than the hoe, you will continue to raise only scanty crops of corn. Hence you are sometimes exposed to suffer much from hunger and cold; and as the game are lessening in numbers more and more, these sufferings will increase. And how are you to provide against them? Listen to my words and you will know.” To cultivate the earth and to arrive on the stage of progress and civilization, Washington explains that “By using the plow you can vastly increase your crops of corn. You can also grow wheat,

(which makes the best of bread) as well as other useful grain.” Further, by raising livestock, Cherokee peoples can sell their products “to the White people.” If Cherokee Nation, and other Native nations, are able to produce crops in the manner described by Washington, “the beloved men of the United States will be encouraged to give the same assistance to all the Indian tribes within their boundaries.” However, “if it should fail they may think it vain to make any further attempts to better the condition of any Indian tribe; for the richness of the soil and mildness of the air renders your country highly favorable for the practice of what I have recommended” (“Washington and the Cherokees”). In conclusion, Washington invokes the Treaty of Holston and a memorial ceremony to celebrate the dividing line between the two nations and their competing understandings of their relationships to land and place.

Despite Washington’s supposedly compassionate advice ultimately, the U.S.’s goal was to set up a historical narrative that allowed them to take more land in the future, arguing that because Cherokee people are not civilized, they never did and never would improve land in the manner necessary to own it. Washington’s speech also represents further attempts to mark land as economic base and commodity rather than agential relation in Cherokee society. Washington implores Cherokee people to utilize the land to produce crops that they might sell. Cherokee people should, according to Washington, see land as an economic base and tool for connecting to markets and engaging in economic relations with the United States. Land may still be seen as a tool for relating to others in this manner, as it connects Cherokee Nation and the United States in economic trade. However, viewing the land and agriculture as an economic base is much different than the guidance Selu’s story provides, which connects people and land along ethical rather than monetary lines. Also, surplus corn previously grown on Cherokee land was put into the communal corncrib for those community members and families who ran out of corn outside

of the growing season. The ethical and communal relationships fostered by these provisions, dictated by land and people in Selu's story and made real in the corncrib, are not part of Washington's civilizational plan. According to Washington, to enter civilization Cherokee people must forget the ethical relationships and systems of reciprocity and responsibility that they have with one another and with the land. Surplus corn is now for individual wealth and economic trade, not for helping community members. Finally, Washington is sure to leave the door open for future dispossession if Cherokee people cannot, or refuse to, enter into such economic relations with land and the United States. If Cherokee Nation will not take advantage of land that is ripe for the plow and for production after all the help the United States provides, then it will be taken by the United States, because it is better served by white hands that will make use of land in the appropriate manner.

As Washington erased the long history of Cherokee agriculture, reciprocity, and land's influence on the Cherokee Nation as an agential relation, the United States' second strategy of dispossession was clear and present as well. If Cherokee people did not begin to view land and agriculture as a source of economic production, or the United States simply wanted their land, violence was the only remaining option. In the same period following the Treaty of Holston, Southwest Territory Governor William Blount told Cherokee leaders that "war will cost the United States much money, and some lives, but it will destroy the existence of your people, as a nation, forever" (534). Despite policy based in the supposed kindness of U.S. civilization that Knox and Washington advocated publicly, the U.S. government always planned to renegotiate treaties until the terms suited them and threaten violence if their demands for land were not met. At the turn of the century, the United States was clear in its Indian and Land Policy: Erase Native relations to land, negotiate treaties and render land inert commodity in the legislative record,

erase the history of Native agriculture held in the land, and if there was any resistance, commit to violence to claim land as an economic base for the nation and its landholders. This policy continued through the early national period and evolved into early attempts at outright removal with the election of Thomas Jefferson and the Louisiana Purchase. However, citizens of the Cherokee Nation and the land they remained on were quickly reconfiguring their own relationship to put into practice a landed resistance in the face of removal and erasure.

III. Breaking Treaties, Breaking Land: Early Removal, *Johnson V. M'Intosh*, and Literature of Landed Resistance

Following the Louisiana Purchase in 1803, the United States suggested that the Cherokee Nation remove to Arkansas from their ancestral lands protected under the Treaty of Holston. In 1808 President Thomas Jefferson suggested the Cherokee Nation should do so because he believed many Cherokee people “still choose to continue the hunter’s life,” despite the fact that a contingent of Cherokee people had just traveled to Washington and asked him for more “plows, spinning wheels, looms, and hoes for their people” (Jefferson; McLoughlin 131). Jefferson’s approach to Cherokee people is similar to his approach to Northeastern peoples and to Washington and Knox before him: refuse Cherokee agriculture and “progress” in order to negotiate removal. While some Cherokee members did relocate west, many stayed and created a “unified Cherokee council strongly opposed [to] exchanging eastern lands to western lands” (Ostler 192). The parties involved—the U.S. government, Cherokees favoring removal, the new unified council refusing removal, and the land that brought all three together—continued debating removal for decades.

As the ideas and methodologies presented by each party during this period of early removal shifted explicitly into removal policy, the debates between Cherokee Nation and U.S.

government show competing views of land as individual, economic property, and land as agential relation. These debates regarding early removal are most apparent in literature and negotiation from the Cherokee council and Cherokee women across the 1810s and 1820s. From 1817 into the mid-1820's, Cherokee Nation entered negotiation with the United States government that made clear the United States' bad-faith engagement in previous treaties, Cherokee knowledge of land's agency in those treaties and continued debates, and the vital, relational role of land in Cherokee society even as the United States attempted to separate the Cherokee peoples from those lands and lifeways. Over this period, a Cherokee literature of landed resistance became more apparent than it had been at any other point since initial colonization of Cherokee lands. This literature is where Cherokee ideas of land's agency most clearly appear in the colonial record, and where Cherokee people most clearly partner with land to resist colonialism. At the same time, the United States policy of erasing any Cherokee "progress," promising negotiation, and ultimately threatening violence so that they might continue to commodify and gain land continued during this period. The United States also found judiciary support in Chief Supreme Court Justice John Marshall's majority decision in *Johnson V. M'Intosh*, which reinforced U.S. right to land through the Doctrines of Discovery and Conquest, furthering land as inert commodity for territorial conquest. Settler strategy continued erasing Cherokee land claims and land's agency so that land might become private, economic property. However, this period of Cherokee landed resistance shows how land continued as an agent in the colonial record.

Following the initial stages of removal as suggestion, as some Cherokee agreed to move west and leave their remaining lands to the United States, U.S. government officials and landowners continued the policy that Washington and Knox had begun. Those who removed, led

by chiefs Tolluntuskee and The Bowl, agreed to exchange lands in the east for money and lands west of the Mississippi, but many refused to depart, much to the dismay of Cherokee agent Return J. Meigs (Ostler 192). In order to affect Cherokee removal, the U.S. began employing a selective re-reading of previous treaties. When a delegation of Cherokee led by The Ridge, John Walker, John Ross, and Richard Taylor went to Washington on behalf of the Cherokee council to contest then-General Andrew Jackson's attempt at allotting Cherokee land following the Treaties of Fort Jackson, wealthy U.S. landowners and government officials responded predictably. First, Alabama lawyer, planter, and friend of Andrew Jackson Leroy Pope,³⁹ wrote and disseminated a petition that claimed the "soil" the Cherokee Nation occupied was "fertile beyond description" and wasted in their hands (Pope qtd. in McLoughlin 202). Second, Meigs wrote to Secretary of War William Crawford that Cherokee peoples refused to sell their lands, going against his interpretation of the Treaty of Hopewell's ninth article, because "the United States ... have exclusive right to regulate trade and to manage all [Cherokee] affairs as they think proper ... This language undoubtedly includes the right of the allotment of land. When the Government, therefore, propose to them an alteration for their boundary line for a valuable consideration, they, in fact, have not the right to refuse a compliance with such proposal" (Meigs, "Cherokee Agency, August 19, 1816," 114). United States landowners, speculators, and officials came together to revise Cherokee history and treaty terms as they saw fit. Of course, Meigs' reading of Hopewell completely ignores Article VII of Holston that stated, "The United States solemnly guarantee to the Cherokee Nation, all their lands not hereby ceded." However, he had reasoning for this as well in a separate letter to Jackson: It was a mistake. According to Meigs, "the words

³⁹ See Alabama Historical Association "Leroy Pope Mansion" marker for celebration of connection between Pope and Jackson, whose mansion Jackson rested at following the Battle of Horseshoe Bend, the battle that culminated in the Treaty of Fort Jackson.

‘solemn guarantee’ are used instead of the word *alotted*” (“to Andrew Jackson, August 6 1816”). Such selective reading and revisionist claims related to treaties and Cherokee relations to land, from the presidencies of Washington, Madison, Jefferson, and Monroe, were about to become even more forceful under Andrew Jackson and his allies. At this point, United States revisionism moved beyond land and general history and into law and legislation.

In response to Meigs’ selective reading of treaties, some Cherokee leaders entertained the idea of land as commodity. Military leader John Lowrey, for example, “indicated that if he could be paid adequately for his holding, he would not oppose a sale” (McLoughlin 203). However, Cherokee women continued to listen to land and give it voice in political documents. In 1817, shortly after sales began, Cherokee women wrote and circulated the first of three petitions. The women, led by Nancy Ward, told the council members that they “raised all of you on the land which we now have, which God gave us to inhabit and raise provisions.” Further, “If a father or mother was to sell all their lands which they had to depend on, which their children had to raise their living on, which would be indeed bad, & to be removed to another country. We do not wish to go to an unknown country ... this act of our children would be like destroying your mothers.” The women “beg of you not to part with any more of our land. ... for it was the good will of our creator to place us here.” Moreover, they implore the council to “keep your hands off of paper talks, for it’s our own country. For [if] it as not, they would not ask you to put your hands on paper.” Instead, they tell the council, “don’t part with any more of our lands but continue on it & enlarge your farms. Cultivate and raise corn & cotton and your mothers and sisters will make clothing for you.” Ward closes the document by appealing to Cherokee futures on and with land: “I have great many grandchildren which [I] wish them to do well on our land” (“Cherokee Women Petition, May 2, 1817,” 127-28).

This petition, a gendered political document created on and with land, serves as literature of landed resistance in the face of burgeoning removal policy and the imposition of patriarchal political norms within Cherokee politics. The women's petitions clarify their engagement and relationship with land, and these petitions represent a political literature influenced by Cherokee peoples' relationship with land over centuries. Putting their relationship into writing, Cherokee women *and* land codify these relationships and land's agency into political systems. Much like Mohegan political writing during the Mason Case, Cherokee women's political writing in concert with land must be seen as land influencing both political resistance and literature alongside Cherokee women through Cherokee cultural norms. Viewing these petitions as part of a larger archive of literature of landed resistance shows active, reciprocal literary and political engagement with land across Tribal boundaries and centuries, strengthening Native claims to land, Native political structures, and illuminating land's continued contributions to Native resistance, politics, and writing.

As descendants of Selu, the Cherokee women make clear that they were placed on their land by Creator and are thus a part of the land. If they were to be removed, violence is done to the land, to Cherokee women, and to future generations of Cherokee people. Moreover, the women and the land make clear that the United States, through "paper talks," will continue renegotiating and reinterpreting treaties as they see fit to remove Cherokee people. As such, it is of utmost importance that the Cherokee Nation no longer engage with the United States in talks, but instead return to the land, where they belong. By enlarging farms, Cherokee continue their duty and relationship to land set forth in story, and they have the opportunity to prove their ability to produce and claim land through improvement philosophy. Cherokee women make clear that the Cherokee Nation can uphold and continue their duty to land and to each other at the

same time negotiating relationships with land dictated by the U.S. settler colonial order. Even if relationships to land were changing and land might have increasingly been seen as property under colonialism, continuing to enter into relationship with land through cultivation since time immemorial allows relations among the Cherokee Nation and the United States to flourish, just as Selu explained to her boys. In much the same way that Ward appeals to the Cherokee National Council not to forget their duties and obligations to land and to their female kin, Selu's teachings about land and relationality across generations is clear: land brings generations and peoples together. To part with land puts those relationships and nationhood in jeopardy.

As land cessions continued, the women wrote another petition a year later. In 1818 Cherokee women again invoked the idea that the "land was given to us by the Great Spirit above as our common right, to raise our children upon, & to make support for our rising generations." Because of this, "the Cherokee nation has been the first settlers of this land; we therefore claim the right of the soil." Further, the women invoke civilizational progress as reason to remain, and argue "that we, by this removal, shall be brought to a savage state again; for we have, by the endeavor of our Father the President, become too much enlightened to throw aside the privileges of a civilized life." Just as the women implored their men to stay away from paper treaty negotiations because they understood the U.S.'s goal to continually renegotiate treaties, they understand the United States' strategy of discounting Cherokee advances in "civilization" to claim rights over Cherokee lands. The women invoke and present their own civilizational markers as reasons to remain on their land. The only way that they would become "uncivilized" again would be removal, and that would be the United States' fault. To remove Cherokee people, then, would be hypocrisy and proof that the United States' plan was to remove Cherokee people in the name of land acquisition, and they never actually sought to civilize those Cherokee people.

In closing, the Cherokee women point out key differences in how settlers and Cherokee people approach land. They state,

There are some white men among us who have been raised in this country from their youth, are connected with us by marriage, have considerable families, [&] who are very active in encouraging the emigration of our nation. These ought to be our truest friends but prove our worst enemies. They seem to be only concerned how to increase their riches but do not care what becomes of our Nation, nor even of their own wives and children. "Cherokee Women Petition, June 30, 1818," 128-29

In calling out the white community members who have seemingly integrated into the Cherokee Nation through marriage, time, and family, Cherokee women show that these men are unable, or refuse, to actually listen to Cherokee land, and this ignorance of land's agency resonates with the men's misogynistic disregard of the cultural practices and even lives of the Cherokee women whom they have married. If these men were truly members of the Cherokee Nation, they would understand Cherokee history, created with land, and they would have relationships to the land as well as the human members of the Cherokee Nation. Instead, these men only see land as an economic base, the same way that settler landowners and government officials do. While these men might be married to Cherokee women and have Cherokee children, they are not truly members of the Cherokee Nation, because they do not understand land's importance to Cherokee people, nor can they listen to the history, law, and relationships that land makes possible. As such, they are incapable of caring for their families, because the wellbeing of their wives and children are dependent on their relationship to and the wellbeing of the land. Land makes all relationships, whether familial or national, possible and those relationships are integral to Cherokee understandings of wellbeing and continuance.

In these first petitions, the Cherokee women make clear their relationship to land, in place since time immemorial and held in story and history. Such relationships are only possible if one is aware of a history created with land: the makeup of women's roles as life-givers, teachers, caretakers, agriculturalists, and political representatives are delineated in Selu's story and reflected in plant and animal councils in the story of disease and medicine. Cherokee rights to soil, relationships to land, and understandings of personhood and nationhood, are only understandable if one knows the values, relationships, and responsibilities outlined in such stories. Cherokee people and land's agency are bound together. Despite women's leadership roles diminishing in the Cherokee Nation under pressure from U.S. patriarchal social, economic, and political norms, the relationships women have to land are put into writing to create a *gendered* literature of landed resistance. In so doing, Cherokee women demonstrate how such relationships might continue, despite shifting circumstances in the face of civilizational relations with the United States.

Despite the women's petitions, U.S. encroachment continued, and the Cherokee Council sent another delegation to Washington in 1819, culminating in the 1819 Treaty of Washington, which further ceded territory "with the belief—or at least the hope—that this treaty would finally put a stop to U.S. demands for Cherokee lands. Nonetheless, during the 1820s Americans continued to try to push the Cherokees west" (Ostler 193). In 1823 the Supreme Court decided *Johnson V. M'Intosh*, which stated that the United States inherited the Doctrine of Discovery from Britain after the Revolutionary War and argued that Native nations only had rights to occupy land rather than own it. After this decision, the state of Georgia increasingly put pressure on Cherokee people to move from their homelands, while the Cherokee Council invoked their own landed relations in continued negotiations with U.S. commissioners and deputies to

Cherokee Country Duncan G. Campbell and James Merriweather. These negotiations provide continued insight into two competing views of land and land claims. On one side, Campbell and Merriweather continue the U.S. policy of erasing Cherokee relationships to land as simply occupation and revising the terms of previous treaties as the United States expanded. On the other, the Cherokee Council invokes an understanding of rights anchored to ongoing relationships to and with land that have been in place since time immemorial.

Prior to the negotiations of 1823 and 1824, Chief Justice John Marshall affirmed U.S. right to property and Native inferiority in the National judicial record, and he did so by following the histories and strategies laid out and created by Washington, Jefferson, and Franklin. In deciding *Johnson V. M'Intosh* in favor of United States' right to property, Marshall wrote that Britain gained exclusive rights to the land it "discovered," and then through conquest they claimed that land from Native nations, who only had rights of occupancy. The United States gained such land from Great Britain through the Revolutionary War. Land the United States had taken belonged to them, and any land Native peoples remained on was only occupied, not fully owned or possessed. That land then became property in sale to the United States, which was the only entity that could purchase land from Native nations.

Marshall's decision implies that Native nations, comprised of inferior peoples, cannot hold land as property, per precedent set in colonial courts from the outset of settler colonization and continued in histories written by United States founding fathers to excuse land theft. At the same time, Marshall's decision provides the United States judicial backing for the Nation's goal from Washington's letters prior to the Revolution to Meigs' letters during the Red Stick War: take Indian land for the growing nation as cheaply as possible. Marshall's decision goes a step further, though, according to legal scholar Eric Kades, as the United States "prevented

competitive bidding for Indian lands” with private citizens, because the Nation’s ultimate goal was “acquiring Indian lands at least cost” (1189). In solidifying Native inferiority and United States right to property in the United States judiciary as the foundation of federal Indian law, *Johnson V. M’Intosh* set the stage for negotiation with the Cherokee Nation in the following years based on Meigs’ idea that the Cherokee peoples’ “lands were forfeited” in the Treaty of Hopewell (“to Andrew Jackson, August 6”).

Following Marshall’s February decision, in October Campbell and Meriwether entered negotiations with the Cherokee Council regarding Georgia settlers’ movement on Cherokee land. Campbell and Merriweather began by invoking their right of discovery through the 1802 Georgia Compact. According to the commissioners, as of that Compact, “Georgia held the right of sovereignty over an immense space of country, extending even out to the Mississippi river. . . . The limits of Georgia are known to you; and the amount of territory occupied by you, within those limits, is also known to you.” Because of that right, they “propose to purchase of the Cherokee Nation the whole, or a part, of the territory now occupied by them, and lying within the chartered limits of the State of Georgia. We do not confine ourselves to Georgia limits, because we are Georgians, but because the President has appointed us at the instance of Georgia.” On methods of expansion, the commissioners argue that the United States, as the owner of that land, ask the Cherokee Nation, as the occupiers of that land, for “consent” regarding “the extinction of your title to the soil within the Georgia lines.” They then “concede that the terms must be ‘peaceable’ and ‘reasonable.’ Our offer establishes the first; and the consideration which may be agreed on, we trust, will be satisfactory as to the second.” As far as purpose for expansion, as had been the reasoning since Washington’s administration, Campbell and Meriwether explain that “white people are becoming so much crowded, that they are driven from friends and connexions

[sic] to foreign lands. Others are confined to a scanty piece of soil, without timber for fencing or fuel. . . . we need only refer to the amount of our population, and the rapidity of its increase.” Of course, they continue, “This difference is too great ever to have been intended by the Great Father of the Universe, who must have given the earth *equally* to be the inheritance of his white and red children.” In exchange, they offer the Council “a large allowance . . . even enough for thousands yet unborn” (“Friends and Brothers, New Town, October 16”).

Campbell and Meriwether continue to work from the basis of U.S. land and Indian Policy originally written by Washington: If settler populations continue to test Native boundaries, Native peoples will have no choice but to cede land through negotiation and purchase. Now backed by the nation’s judiciary, the commissioners present the United States as a sovereign nation with rights to Cherokee land, which the Cherokee Nation only held in occupancy. Finally, as opposed to previous colonial and U.S. engagement with Native peoples, Campbell and Meriwether appeal to Cherokee markers of “civilization” rather than assumptions of Indian inferiority. By invoking “the Great Father of the Universe,” they appeal to Cherokee peoples’ Christianity mentioned years earlier in the Cherokee women’s petitions. Campbell and Meriwether imply that if Cherokee people are truly civilized, they will give up their land because of the charitable nature of true Christians, on land created for all human inhabitants of the earth to share. Taken on its face, this argument might see in land its ability to bring people together in a Christian manner. However, for the United States, it is an inanimate connector of disparate peoples. In negotiations structured the decision in by *Johnson V. M’Intosh*, land is taken from relational Cherokee frame of reference and rendered inanimate as connector of peoples through a Christian god’s divine plan, presented as property to be purchased (or taken) by its rightful owner, the United States.

In response, the Cherokee Council lays out a very different view of land. Pathkiller, Major Ridge, and John Ross first accept thanks from Campbell and Meriwether for their military support during the Creek uprising years earlier. They do so by making note of “the blood which was lost on that occasion,” and are sure to name where the blood was spilled, “at Tallasseehatchie, Talledega, Hillabees, Enotichoepa, Emuscaws, and Tehopha (Horse Shoe)” (“In General Council, New Town, October 20, 1823”). From the start of their response, the leaders of the General Council make clear to Campbell and Meriwether that land is not simply a commodity to be bought and sold, nor does it generally connect people through economic purchase or Christian charity. As Perdue and Green note, since time immemorial, recording “whose blood soaked the soil in wars with Europeans and other Indian tribes” was important, as it “commemorated kin” (11). Land holds stories and histories of battles, and in this case, partnership between the Cherokee Nation and the United States. Land, and specifically the sites of shared conflict, will not forget that partnership, even if the United States is quick to utilize such circumstances to purchase more Cherokee land. As land holds blood and history in this manner, it also becomes kin, because it binds and holds the bodies and blood of those who came before and died in battle. Land both holds generations of kin and is kin in its own right.

The Council continues by explaining that those who left Cherokee land earlier “have suffered severely since their separation from this nation and settlement in their new country. ... many of them, no doubt, would willingly return to the land of their nativity, if it were practicable for them to do so ... the tears flow in our eyes, and we weep.” Additionally, those who remain have no desire to leave, because “They loved the soil which gave them birth, and they have continued thereon” (“In General Council, New Town, October 20, 1823”). The Council makes it explicit to the United States that those who have left suffer immensely because they have lost the

reciprocal relations and systems of relationality that land makes possible. In their new land they have lost connection to their kin that land makes possible. Moreover, the Council explain that their homelands birthed them—Cherokees literally come from the land, as will future generations. As the Cherokee women make note of in their petition years earlier, to sell land is to sell one's mother. By invoking their relations to land throughout their response to Campbell and Meriwether and showing the commissioners that Cherokee people are a part of, and are kin with, the land itself, they cannot be separated from it. As members of a nation created in relationship with land, the General Council invokes kinship and blood ties that were made real by land. Land influences Cherokee thought and response in this moment. By writing these kinship ties into the colonial record, Cherokee people work beyond Marshall's decision on occupancy and write land's agency and land's role as life giver, as relative, and as holder of history and story into the colonial legislative record, despite colonial dispossession and colonial judicial decisions that aim to rob Cherokee people of their land.

As land influences the General Council's response alongside Pathkiller, Ridge, and Ross, the writers of the document, influenced by land itself, close by questioning the United States' supposed altruistic position as influenced by a Christian God. The Council asks, if the Supreme Father's intention was truly to have an ever-expanding settler population inherit land from Native nations, then "why do the laws of civilized and enlightened nations allow a man to monopolize more land than he can cultivate, to the exclusion of others?" ("In General Council, New Town, October 20, 1823"). Cherokee people are familiar with Christian teachings, but they are also familiar with the land they reside on and come from. If one resides on and with land, then it should be for the good of all people and their Nation, and one must enter into relations with the land through relational and reciprocal cultivation, just as Cherokee stories have

explained since time immemorial and Cherokee women explained years earlier. To do otherwise is not only at odds with land and Cherokee teachings, but Christian teachings as well. These overlaps between Cherokee understandings of land's agency, and Christian understandings of relationality, first seen in Cherokee women's petitions, continued across Cherokee negotiations with the United States.

Despite previous messages couched in charitable Christianity, or perhaps in response to Cherokees people questioning of that charitability, Campbell and Meriwether responded in an aggressive, familiar manner. Invoking U.S. "sovereignty of the soil by the *right of discovery*," followed "by conquest," the commissioners threaten the Council by telling them that any Native peoples who stood against "the conquerors ... All shared the same fate." However, in order to avoid that fate many tribes entered treaties, and according to Campbell and Meriwether, when the Cherokee Nation entered into the Treaty of Hopewell they surrendered their sovereignty. Their lands were "made the subject of 'allotment,'" and "All the lands which they now hold have been 'allotted' to them; their original title is forever gone—first, by discovery; secondly, by conquest; and thirdly, by treaty." Even more, "the surrenders which have been made from time to time by the Cherokees go still further, and authorize the United States to 'manage the trade of the Cherokees as they may think proper.'" Additionally, it is not only Cherokee people who are under U.S. control—it is the soil itself: "All the people on her soil must be hers, and her laws must, sooner or later, pervade the whole" ("Friends and Brothers, New Town, October 21, 1823").

From Meigs' revisionist interpretation of Cherokee sovereignty in the Treaty of Hopewell to Marshall's decision in *Johnson V. M'Intosh*, Campbell and Meriwether's reply renegotiates treaty positions and imparts United States law on Cherokee land. Doing so runs counter to

customary laws articulated in Cherokee oral traditions as well as those the Cherokee Council invoke in their original reply and that Cherokee women cite in their first petitions. Cherokee laws were made with land as a product of cultural production, place, and the relations that land brought together since time immemorial. In this reply, the United States continues to revise treaties in order to suit land acquisitions. This revision creates new law that refuses to see land as agential relation. Instead, this revised legislation acts upon land for colonial gain at land and Cherokee peoples' expense.

Three days later, the Cherokee Council responded to Campbell and Meriwether's selective interpretation of Hopewell, explaining that they would not cede land, as they had the right to do according to the seventh article of the Treaty of Holston. They state further that they "are fully sensible that we are dependant upon the Govt. of the U.S. for *protection*, and have never manifested a disposition to conduct ourselves in such a manner as to comfort without duty in that respect." As Nancy Ward explained before signing the Treaty of Hopewell, treaties created on and with land bring disparate Nations together and bind them to one another in protection and kinship. To disregard the ethical relations that land allows for through grounded normativity and written into treaty negotiations is to disregard land itself.

The Council explains that their goal under U.S. protection is also tied to land and "civilization." Relations to past and future generations through land need not always be opposed to civilizational progress. It is their hope "that monuments of science may be raised, by our hands, on the dust of our progenitors." Building from their ancestors in the ground, and the history represented in the land as holder of story, Cherokee Nation seeks to create new structures and societal well-being for future generations. This can only be done with land, and with U.S. protection as advocated in treaties, also created with land. To do so, though, the Council must

remain on their land, and they make it clear: “We beg leave to present communication as a positive and unchangeable refusal to dispose of *one foot* more of *land*” (Pathkiller, Major Ridge, and John Ross, “In General Council, New Town, Cherokee Nation, October 24, 1823”). If the United States was going to continue in its attempts to cast land as economic possession or property through economic exchange through revisionist readings of treaties, the Council made it clear that they were not going to remove, and that they intended to build on the land, with the land, and with their ancestors.

In response, the commissioners presented a revised reading of the Treaty of Holston. They explained again that Marshall reinforced the U.S.’s right to land through discovery and conquest, and they hint at future violence if the Cherokee Nation refuses to remove. Campbell and Meriwether stress that the territory promised to the Cherokee in the Treaty of Holston, just like Hopewell, does not “amount to anything more than *possession at the will* of the U.S.” At the same time, Cherokee people block United States progress, as the U.S. desires to forward the “general interests of all the American people” through agriculture and expansion. However, such improvement can “never be done by your monopoly of such extent of territory.” At this point, Campbell and Meriwether have thrown off any supposed commitment to Cherokee civilization. They acknowledge Cherokee progress, but emboldened by *Johnson V. McIntosh* and decades of treaty revisions, the United States continued to lay claim to land simply by right of discovery, conquest, and supposed Native submission. Native peoples may no longer remain with their land, even if they relate to it in an acceptable, “civilized” manner. They can only remain with their land if the U.S. government allows them to do so. Similarly, Campbell and Meriwether tell the Cherokee Nation that the government will remove Georgian squatters currently on Cherokee land, but Cherokee people will have to remove eventually. If they do not, “You cannot suppose

that all these things, taken together, are to pass away and produce no effect. What effect may be, we are not exactly prepared to say... Time will disclose it” (“Friends and Brothers, New Town, October 25, 1823”). As the removal crisis intensified, and as conflicts with Georgia increased, U.S. policy moved beyond the charade of Indigenous civilizational, progress, and improvement and into direct coercion and forced removal.

In final response, the Council attempts to explain to the United States that Cherokee title to land is held with the land itself. Such title is evident in relationship to land represented in treaties and law that land played a role in creating. They make clear that the Treaty of Holston promised all unceded land to the Cherokee Nation, but in reality that promise does not matter, nor does Marshall’s decision reinforcing discovery and conquest as the basis for “legitimate” claims to land and property. The foundation of Cherokee title “has emanated from a Supreme source, which cannot be impaired by the mere circumstance of discovery by foreigners; neither has this title been impaired by conquest or by treaty.” Further, U.S. title and treaty holds no weight, as “it would have been superfluous and useless for the United States to convey to the Cherokees a right and title which was already vested in the Cherokees themselves, and not in the United States.” From Creation and migration, to narratives of First Woman and First Man to customary law and practice evidenced in Cherokee oral traditions, creation and law in Cherokee Country had always been created not simply on land but in reciprocal relationship with it as ordained by “the Supreme source.” The United States’ “discovery” holds no weight. That discovery does not result in a becoming with the land or an understanding of how this specific land structures personhood and nationhood. As such, the Cherokee people “have rejected ... propositions because we love our lands, and have none to dispose of,” and “The offer of money is not a consideration which can effect to alter the rejection which has already been made”

(Pathkiller et al. “In General Council, New Town, Cherokee Nation, October 27, 1823”). Love of the land, created and nurtured across centuries in responsibility to that land and the relationships that it is a part of cannot be traded as part of an economic system. Relationship to and love of the land is something more than discovery, conquest, or purchase can effect. At the close of 1823, as the United States inched toward removal as policy through conquest, the Cherokee Council heeded the words of the Cherokee women and the land. They renewed their right to land by their own history on and with it, and they refused to commodify it further.

Despite U.S. promises to remove Georgia settlers from Cherokee land, encroachment continued, and in early 1824 a new Cherokee Council returned to Washington to reinforce the philosophies and histories that structured Cherokee relations to land. On January 19th, 1824, George Lowrey and Elijah Hicks joined Ross and Ridge in a letter to President James Monroe that explained, “It is a gratifying truth, that the Cherokee are rapidly increasing in population; therefore, it is an incumbent duty on the nation to preserve, unimpaired, the rights of posterity to the lands of their ancestors. We have told of the decisive and unalterable disposition of the nation, in regards to their lands.” Bound in the language of civilization and progress, Ross, Ridge, Lowrey, and Hicks continue the argument laid out in the Cherokee women’s petitions: following the path toward a “civilized life” does not remove or harm one’s relation to land. In fact, doing so continues the connection Cherokee peoples have to their ancestors in the dust mentioned on October 24th of the previous year. Building on that land, with their ancestors, creates a new world for generations that will come after them. Generations held in the land from past, present, and future benefit from Cherokee people remaining on their land as they have always done. The only harm that comes to Cherokee people, their land, and the construction of a civilized future, comes from “the repeated appropriations which are made for the purpose of

holding treaties with them for lands” (“Extract of a letter”). The Cherokee Council puts into practice a literature of landed resistance that spans generations of Cherokee peoples. As land’s agency is codified in the historical record, this literature of landed resistance shows the United States that the only impediment to Cherokee progress is the United States.

In response, John C. Calhoun, Secretary of War and eventual Vice President for the Adams and Jackson administrations, argued that the only way for Cherokee people to remain with land was to take a view of the land as property, made so through purchase. Cherokee nationhood was untenable unless the Nation removed west of the Mississippi. To remain with ancestral lands, the idea of land as community had to be eliminated: “the title to which you hold to lands, as a distinct community, must be extinguished ... If any of you acquire that right to land, and remain there after the bond which holds you together as a distinct community is dissolved, and your present title is extinguished, it must be by purchasing the property, and acquiring the title from the State within which it is” (“Department of War, January 30, 1824”). Any land that now fell in the confines of Georgia was to be individually held property, and it could only be owned by individual Cherokee through purchase from the State of Georgia. Beyond continuing to remove any sense of agency from land, Calhoun’s letter removes Cherokee ties to land even if they remained. Land can no longer be held in common by the Cherokee Nation, stripping Cherokee personhood and nationhood from land just as land is rendered inert. As the Mason Land Case rendered land inanimate and Indigenous peoples as unable to enter the colonial order as fully-fledged human beings, the legal and ethical philosophy Calhoun presents strips land of its agency and strips the Cherokee people of their Nationhood following continued attacks on Cherokee sovereignty. By arguing that land had to be allotted and then individually purchased by Cherokee people so that they might stay with it, land no longer connects the

Cherokee Nation, and the history that land holds is forever changed. It is not held in common by, and as an agential relation of the Cherokee Nation. The future generations that might come from land to continue building Cherokee society are stripped of land that is necessary to continue as a people. As the people became one nation with land following their migration, they are split apart as land is divided, made inert, and commodified.

When Ross, Lowrey, Ridge, and Hicks responded to Calhoun in February, they put his suggested violence against the people and their land in the context of colonial history. They explained,

The happiness the Indians once enjoyed, by a quiet and undisturbed ease, in their primitive situation, before the face of the white man was seen on this continent, was now poisoned by the bad fruits of the civilized tree which was planted around them. ... seriously reflect on the true causes which have universally produced the extinction of Indian tribes, when they became merged into the white population; and we doubt not that it will be admitted at once that, by ambition, pride, and avariciousness of the civilized man, the untutored sons of nature became prey. Defrauded out of their lands; treated as inferior beings, on account of their poverty and ignorance, they became associated with the lowest grade of society, from whom the habits of intemperance, debauchery, and all the vices of degradation peculiar to that class, were by them soon imbibed. Their lands having been swept from under their feet by the ingenuity of the white man, and being left destitute of a home, ... they became straggling wanderers among strangers; ... to settle their doom of extinction. ... such would be the fate of a large portion of the Cherokee nation, were they to cede away all their lands, and now become incorporated with the whites. (“City of Washington, February 11, 1824”)

In contextualizing colonial violence against Indigenous peoples and Indigenous lands from the outset of colonization, the Cherokee Council demonstrates that to give up land as other Nations have been forced to do may completely destroy Cherokee nationhood. Cherokee peoples became—and continue to become—a nation on, with, and through land, over the course of their emergence, migration, and subsequent stories and histories. To constitute themselves as a people across that history, they listened to land and they settled on the land that spoke to them and allowed them to become a people. Cherokee laws are still in some manner a product of the culture and place that land makes possible. To force Cherokee people to remove, or to portion their land and assimilate to U.S. laws removes their connection to land, imposes laws upon their nation that they that they did not create in concert with land, and thereby destroys the Cherokee Nation itself.

Additionally, the Council firmly reminds the United States “that the Cherokees are not foreigners, but original inhabitants of America; and that they now inhabit and stand on the soil of their own territory. ... we have no hesitation in saying that the true interest, prosperity, and happiness of our nation demand their permanency where they are, and to retain their present title to their lands” (“City of Washington, February 11, 1824”). If Cherokee peoples and the land are going to remain Cherokee, the people must remain on that land. The two are linked, and the two together hold their story, law, history, and generations of people past, present, and future.

Cherokee resistance to settler encroachment, theft, and destruction in petitions and in treaty and political negotiations, was written in the colonial record throughout the early 1820’s. At times adopting the language and discourses of civilization, progress, and private property, while at others critiquing how such regimes disrupt longstanding Cherokee lifeways and systems of relationship and kinship, Cherokee people kept their eye toward maintaining relations with the

land and the National history held therein. U.S. insistence on land as lifeless, private, commodified property as necessary for civilization and land tenure, meanwhile, continued. As the United States revised treaty terms, threatened violence, and claimed a right to land through discovery and conquest, they came to realize that Cherokee connections and relations to land could not be erased or commodified, especially by law written outside of land's purview. As the decade progressed, the Cherokee Nation put land's agency into writing and legislation further with their own Constitution. At the same time, as the United States saw Cherokee civilization progressing through their relationship with land, U.S. national policy hinged on removing land's agency and Cherokee people.

IV. Removing Land's Agency: The Cherokee Constitution, The Indian Removal Act, and Landed Resistance

Following the founding of a new capitol city in New Echota in 1825, in July of 1827 the Cherokee Convention met at New Echota under the direction of Convention President John Ross to create and sign the Constitution of the Cherokee Nation. Done in observance of building toward the posterity of future generations on unceded ancestral lands, Ostler has explained that the adoption of the Constitution "offered a serious test of the U.S. commitment to a policy of civilization," as did writing from Cherokee intellectuals like Elias Boudinot (208). Together, such literature and law continued a Cherokee literature of landed resistance in the face of removal. Keeping with previously established patterns, the U.S. denied Cherokee civilization, and the United States continued working toward removal based in the settler colonial philosophies of U.S. right to land and need for a base for its increasing population. Andrew Jackson's election in 1829 did little to change U.S. policy, as the new president continued to espouse the same ethos of removal he had followed as a general and in letters with Return J.

Meigs. Building on the basis set before him and the rationale he cultivated in letters with Meigs, Jackson created a new settler-centered history of land wherein land is inanimate and subdued by settler superiority across generations, first in Europe and then in the United States. This period presents an important view of Cherokee landed resistance and civilization working in tandem through legislation and writing by laying the groundwork for Cherokee response to U.S. removal policy and showing shifting U.S. relations to land as the Jackson administration aimed to revise land's history and indigenize settler colonists.

The Cherokee Constitution is grounded, literally, in duty to land and the boundaries that make the Cherokee Nation a sovereign, distinct State. In order to “establish this Constitution for the Government of the Cherokee Nation,” the nation sets its boundaries from Article I, Section 1, delineated “by the Treaties concluded with the United States” (Ross et al. 1). Beginning the Cherokee Constitution with the nation's boundaries set in treaties, the Convention calls attention to treaties with the United States in multiple ways. First, the Constitution continues to emphasize the way land brings people and nations together in mutual protection. As Nancy Ward made plain with the Treaty of Hopewell, and Pathkiller, Major Ridge, and Ross reinforced in 1823, when the Cherokee people signed treaties, those documents are agreements entered into between sovereigns made possible by being in, on, and with the land. Treaties denote land's power through grounded normativity, guiding ethical relationships, and they create new systems of relationality and responsibility for nations to uphold to one another and to land. Second, following Cherokee rights to land affirmed in precedent by treaties, the Constitution names all land that encompasses the Cherokee Nation. Just as Cherokee stories make note of where they occurred, the Constitution affirms the history of land and the law of the land by naming the boundaries of Cherokee Country. Land does not only hold Cherokee story and history; it also

holds the law within it, as law is a system of rights, responsibilities, relationships, and obligations that emerges in specific times, places, and cultures. The Constitution, made possible by Cherokee boundaries and Cherokee land, is held within the boundaries delineated by the Constitution's first section. Third, the Constitution reinforces the ideas set forth in the women's petitions and the General Council's diplomatic missions regarding treaty language. While the United States may try again to revise treaties and deny Cherokee sovereignty over their lands, taken on their face the treaties denote Cherokee rights to all unceded territory as laid out in the original writing and again in the Constitution itself. Treaties, influenced by land, set precedent for the Cherokee Constitution. Land's influence on legislation and its centrality to Cherokee Nation continues into the Cherokee Constitution of 1827 and reinforces Cherokee connection to land through Cherokee sovereignty.

Cherokee relation to land through legal precedent is set in section one. Cherokee sovereignty is explicitly reinforced in section 2. Section 2 states, in part, "The Sovereignty and Jurisdiction of this Government shall extend over the country within the boundaries above described, and the lands therein are, and shall remain the common property of the Nation." Land is held in common by the Cherokee Nation, and cannot be sold to the United States without express consent of the officials elected by that Nation. At the same time, "the improvements made thereon, and in the possession of the citizens of the Nation, are the exclusive and indefeasible property of the citizens respectively who made, or may rightfully be in possession of them" (Ross et al. 1). The Convention makes clear that citizens of Cherokee Nation may change and improve the land, and they may even make the land more valuable. However, they may not sell those improvements to anyone outside of the Nation, as those improvements still reside on Cherokee Nation land. The purpose of such language is twofold: first, no individual member of

the nation may promise land to anyone outside of the Nation which would open Cherokee Nation to individual settler or U.S. national encroachment. Second, it shows that the nation improves and builds on their land, enacting some of the markers of civilization and laying claim to the land in a way that the U.S. *should* recognize. As the General Council explained to the U.S. three years earlier in Washington, building on Cherokee land was necessary to continue being Cherokee, as such buildings were made in partnership with the dust of their ancestors in the land and for the well-being of future generations that came from that land. To make improvements on Cherokee land during this period is both evidence of Cherokee capacities for “civilization” and continued evidence of Cherokee customary relationships with land, ancestors, and descendants. Civilizational improvement and relations with the land are not mutually exclusive, even if the United States believes land must be inanimate and commodifiable for it to be built upon and legitimately claimed as property.

While the Constitution maintained an eye toward the land from its outset, and land’s agency is present in its creation, the Constitution also continued to adopt gendered philosophies of U.S. civilization that distanced the people from land by weakening female leadership. All leadership positions available in the nation were to be held by men, and only Cherokee men could vote (Ross et al. 2). This act was a continuation of civilizational progress that began in 1810, when “The Cherokee government rather than a Cherokee’s family now assumed responsibility for punishing murder and, by implication, for protecting a person’s life.” These were major changes to Cherokee society, because “a most sacred duty had passed from the matrilineal clan, an extended kin group that included women and conveyed membership through women, to the exclusively male council. ... Rendering clans powerless had a corresponding effect on women” (Perdue, *Cherokee Women* 142-43). Female leadership in Cherokee Nation

had weakened significantly with the adoption of American civilization programs, and the Constitution made male leadership law.

Barring women from holding office and voting significantly weakens Cherokee relationship to land. From Selu, to physical engagement with the land through agriculture, to yearly renewal of relations, Cherokee women have distinct history and relationship to land that Cherokee men cannot replace. While land's agency is very much apparent in the Constitution and in its precedent, relationship to land is in some part lost by officially removing women from leadership positions. As Carroll explains, "Cherokee state-building had effectively decentered the relationships that had once made up the foundation of Cherokee governance" (53). However, to completely write off Cherokee women's power during this period is a mistake. Cherokee women's petitions, always influenced by relations with land, deeply influenced the General Council's decisions and negotiations. As land speaks through the women's petitions, women and land are both heard through the General Council. Cherokee women's influence is certainly not as direct during this period as it had been for centuries past, but it still existed and was exerted forcefully. Beyond legislation, the Cherokee Nation's newspaper, *The Cherokee Phoenix*, echoed the values of civilization and Cherokee progress toward it. Editor Boudinot's writing celebrated Cherokee civilizational progress, at times at the expense of past female leadership (Boudinot 102-3). Cherokee male leaders, while still influenced by land, oriented their legislative and cultural production away from historical landed relations on the eve of Removal in an attempt to remain.

It would seem that following the Constitution and as evidenced in the *Phoenix*, Cherokee civilization was undeniable, even for the United States. However, by 1830 President Andrew Jackson and his allies in the U.S. Senate and House introduced the Removal Bill. In early 1830

governor of Michigan Territory and eventual Secretary of War under Jackson Lewis Cass was invited by Jackson supporters to pen a call for removal in *The North American Review*. Cass's article lays bare the philosophies that underpin the policy, which echo those promoted from the outset of settler colonization in North America: Indigenous inhabitants of North America are "A barbarous people, depending for subsistence upon the scanty and precarious supplies furnished by the chase," and as such they "cannot live in contact with a civilized community" (63).

Regarding Cherokee "improvement," Cass makes mention of the *Phoenix*, Cherokee writing, and Cherokee education, but argues that "the long night of aboriginal ignorance" had not ended, and could not end, as Native peoples are unable to understand even the idea of property (70).

Echoing and continuing colonial sentiment in the Mason Land Case, Washington's scheme to expand into Native territory, and the purposeful ignorance of Native civilization, Cass continues the racializing project that began at the outset of colonization in favor of attaining land for the settler state, aligning savagery and primitiveness with Indianness and the moral and social markers of "civilization" exclusively with whiteness.

In continuing the project of racialization and philosophy of natural disappearance of Native peoples, Cass writes that even if Cherokee peoples claim to have property, theirs is still only a right of occupancy. They are too inferior to understand ownership. As such, "the persons living upon these lands before their sale are subject, as well as afterwards, to the jurisdiction of the states within which they lie" (83). If Cherokee people cannot understand that treaties are now invalid because they must submit to the state of Georgia's laws, then of course, according to Cass, "these Indians are too ignorant and barbarous to ... duly estimate their value" and "to establish and maintain a government which shall protect its own citizens and preserve the necessary relations and intercourse with its neighbors" (90). Allowing Native peoples to remain

on their own lands organized by their own laws and social structures, with their laws, would only result in “Extensive tracks of land ... held by the Indians in a state of nature” (93). However, “If they choose to remain ... they will be protected in the possession of their land and other property, and be subject, as our citizens are, to the operation of just and wholesome laws” (95). Cherokee people are unable to relate to improve land as property, to understand civilized law, and if they want to remain on their lands, they must submit to Georgia’s laws. Cass argues that Cherokee people can of course keep their land and property if they do so. However, Cherokee peoples would be U.S. citizens only, and the land would default to the state of Georgia and the United States. It would no longer belong collectively to the Cherokee Nation. As with the Mason Case almost a century before, Cass erases Cherokee sovereignty and relations to land simultaneously. A social death is again delivered upon Cherokee communities and their land. This death, though, is articulated as one of United States care for Cherokee people: if Cherokee people are subjected to the “just and wholesome laws” of the United States, they will be better off than they were in their presumably barbarous state.

Cherokees were aware of the connections between Cass’s ideas and settler colonial land theft from the outset of the United States founding. A year earlier *Cherokee Phoenix* editor Elias Boudinot made these colonial hypocrisies clear and put them in their historical context. He wrote that “the illustrious Washington, Jefferson, Madison, and Monroe were only tantalizing us, when they encouraged us in the pursuit of agriculture and Government, and when they afforded us the protection of the United States, by which we have been preserved to this present time as a nation” (108). Connecting empty promises of U.S. civilization policy across United States leaders, Boudinot makes clear that Cass’s arguments are simply a continuation of U.S. philosophies around removal, renegotiating treaties, and taking land to enrich the United States.

Boudinot's arguments are clear and correct; however, the settler racialization of Native peoples as primitive beings, unable to understand the concepts of civilization necessary to see, accept, and approach land as property in service of land theft goes back farther than Washington. Cass's comments about Native peoples as "ignorant and barbarous," without government, and unable to hold land in any form other than in a "state of Nature" are emblematic of the Jackson administration's National Removal Policy, and this policy and its foundational philosophies have their roots in the seventeenth century with the Mason Land Case (Cass 90; 93).⁴⁰ In arguing for and supporting removal policy, Jackson and his allies simply bring the Mason Case's strategies and philosophies to the forefront of United States Policy.

Shortly after the Removal Act was signed into law in May of 1830, Georgia settlers invaded Cherokee land. Cherokee people still refused to remove from their homelands. With the Removal Act signed but not enacted, Jackson addressed Congress in late 1830. He echoed Cass's sentiments regarding Native inferiority, but he also aimed to put into practice a new philosophy that went beyond land as property and economic base for United States expansion. In addressing Congress, Jackson raised the idea of settler indigenization based on rendering U.S. land inanimate in the present, and the European land his ancestors came from as inanimate in the past. Jackson began to create his own, settler centered history of land that excuses colonial violence and casts the United States as rightful owners of land due to its original and forever inanimacy.

Jackson opened by explaining that as settler civilization and population progressed west, Native nations in the east removed or disappeared. Because of this imagined Eastern tribes' destruction, removal policy was beneficial to Cherokee Nation, as it protected them. Jackson, of

⁴⁰ See Chapter II, pages 54-58 for racialization of Native peoples in service of land theft during the Mason Land Case.

course, wanted to be clear that he understood how hard it would be for Cherokee people to remove:

Doubtless it will be painful to leave the graves of their fathers; but what do they more than our ancestors did or than our children are now doing? To better their condition in an unknown land our forefathers left all that was dear in earthly objects. Our children by thousands yearly leave the land of their birth to seek new homes in distant regions. Does humanity weep at these painful separations from every thing, animate and inanimate, with which the young heart has become entwined? Far from it. It is rather a source of joy that our country affords scope where our young population may range unconstrained in body or in mind, developing the power and faculties of man in their highest perfection.

In comparing Cherokee removal to settler emigration from Europe and colonization of the Americas, Jackson excuses settler colonial violence and erases his ancestral connection to land across the ocean. That land, according to Jackson, constitutes one of his forefathers “earthly objects,” something “inanimate with which the young heart” was “entwined.” While the land of Jackson’s ancestors meant much to them, it was ultimately inanimate. In a similar manner, for centuries settler colonists in the United States viewed land as an inanimate economic base for U.S. settlement. With removal, though, Jackson makes a case for land as something new for American settlers: Jackson creates an argument for settler indigenization on the frontier. By working this new inanimate land over centuries, Jackson inherits land and identity both from his European ancestors and the presumably vanished Native peoples receding into history. By leaving their homelands, settler ancestors chose a future for their descendants on new land inherited from the Indigenous peoples who previously occupied them. In subduing and stripping that land of its animacy, settlers achieved their “highest perfection.”

Additionally, Jackson argues that Cherokee Nation can continue their civilizational progress in much the same manner as his settler ancestors, and by rendering land inanimate they too can achieve their “highest perfection.” Cherokee people can “purchase the lands they occupy, and support themselves at their new homes from the moment of their arrival.” He then asks, “Can it be cruel in this government when, by events which it can not control, the Indian is made discontented in his ancient home to purchase his lands, to give him a new and extensive territory, to pay the expense of his removal, and support him a year in his new abode?” Continuing the rhetoric of kindness, Jackson calls on Cherokee people to purchase and improve their new lands, to create an inanimate economic base and follow in the footsteps of the United States, as that is the natural order of civilization.

Finally, Jackson asks Congress, “And is it supposed that the wandering savage has a stronger attachment to his home than the settled, civilized Christian? Is it more afflicting to him to leave the graves of his fathers than it is to our brothers and children? ... He is unwilling to submit to the laws of the states and mingle with their population.” In addition to reinforcing the false idea that Cherokee people are landless and godless, Jackson again compares Cherokee forced removal to the history of his and settle squatters’ ancestors. Jackson erases Cherokee relationship to land and his own ancestral relation to territory in Europe. In following the tenets of settler colonialism, he “destroys to replace” (Wolfe 388).

Again, Jackson renders his own indigenous lands in Europe inanimate in an attempt to erase Cherokee relations to agential land in the Americas. In a similar manner, he continues the colonial practice of impressing colonial law on Indigenous land, where legislation has been created in concert with Cherokee people since time immemorial, and most recently in some ways with the Cherokee Constitution. By erasing land’s relationship to the Cherokee, land’s agency

across history, and land's influence on legislation Jackson further attempts to indigenize settler colonists. By building on Washington, Franklin, and Jefferson's revised histories of land and people, Jackson aims to create settler indigeneity in their place. Jackson's speech represents another step in settler relations to land: beyond land as an economic base, by erasing Cherokee relations to land and land's agency through history, Jackson attempts to create new settler relations to land by removing Cherokee people in the present and land's agency across history.

As the Removal Act loomed over Cherokee Nation and Georgia settlers invaded the territory set out in the Cherokee Constitution, Andrew Jackson and the Cherokee Nation presented two distinct, shifting views of land. Jackson unanimated land in speech and legislation in favor of settler claims to indigeneity, an evolution of simple deanimation through improvement and private property meant to enrich the settler Nation. Cherokee men and women, fighting for sovereignty and control of their ancestral territories saw gendered civilization, education systems, and writing systems as ways to continue engaging with the ancestors who remained in the land, while building a prosperous future for generations yet to come, albeit with more restricted social and political leadership for Cherokee women. Land, for both sides, took on new meanings and roles.

V. Conclusion

In studying Cherokee views of land's agency from precolonial, civilizational, and pre-removal story, writing, legislation, and history, we are offered a clearer understanding of how land's agency was shaped and contorted by settler colonization and invasion in the Southeast. At the same time, we are provided further evidence of land's agency and its role in creating and maintaining societies beyond the Mohegan and Haudenosaunee. Even as land influenced Cherokee society as agential relation, Cherokee conceptions of land's agency changed over

almost a century in an attempt to continue as a Nation across generations on ancestral land. As relations to land changed, so too did Cherokee relations to one another. Specifically gender roles, marked first and foremost by one's relationship with and responsibilities to land and the more-/other-than-human world, took on new meaning as Cherokee people took up the philosophy of U.S. civilizational progress as a method for remaining on/with their home-lands. Even as relationships to land changed in the face of colonial violence and removal, land's agency and knowledge of generations that came before remained. Cherokee women reminded men that to remove meant forsaking the land and their responsibilities to their mothers and maternal kin. The Cherokee General Council insisted that erecting monuments and buildings dedicated to the civilizational tenets of science, education, and Christian religion were always based in the land of their ancestors and in the generations yet to come. In this writing and the law/legislation that stems from it, land's agency continues to influence Cherokee society even as they enter what Elias Boudinot called an "improved state" (71).

At the same time, settler society's views of land were also shifting based on previous tenets of relations to land. From the outset of the Revolution, the United States' founding fathers viewed land as inert economic base, and the Native peoples on it as barbarous, inferior peoples standing in the way of land acquisition for the new Nation. Methods of removing Native peoples from this inert base hinged on erasing Native relations to land and land's agency across history seen in legislation, kinship ties, and the land itself through agriculture. This erasure attempted to destroy Native sovereignty and Native claims to land, and it strengthened settler claims to land as property. As settlers erased historic relations to land and histories held in the land, they revised legislation and treaties made with the Cherokee Nation, ignoring the connections that land made possible and protections that land structured. Once those connections and relationships were

erased, Native peoples could be more easily removed, and land rendered an inert, commodified product. As land came to be viewed historically as an object to be acted upon or a resource to be capitalized, Andrew Jackson could begin his ultimate revisionist history: the indigenization of settlers on inert land anchored to doctrines of discovery, conquest, and racial incompatibility, all of which denied an ethical, relational, orientation to land embodied by Cherokee stories and Cherokee literatures of landed resistance.

In viewing settler rhetoric and philosophy in its historical context from the Mason Case to the Removal Period, obvious links to Kavanaugh's 2022 opinion emerge. Native peoples' land belongs to the colony, the United States, or a specific State because Native peoples cannot care for or relate to land in an appropriate manner. Native peoples must be stripped of their sovereignty and colonial legislation must be imparted on Native peoples for their own good. As a result, Native nations would cease to exist and land would no longer be recognized as an active, agential relation of and responsibility for any nation. U.S. Removal Policy from the past to its present manifestation destroys Indigenous Nationhood, casts Native peoples as inferior beings who need U.S. protection, and frames land as an inert substance that the State of Georgia, or presently, Oklahoma, can build on.

At the same time, land's agential relationship with Cherokee peoples and its influence on Cherokee culture, law, and narrative must be traced as well. Studying land's role as agential relation during the creation of Cherokee worlds and society, thereby clarifying land's influence across Cherokee history from creation to early removal, (re)animates land and strengthens Cherokee claim to land from creation to the Cherokee Constitution. Understanding the history of land's agency across this period through the literature of landed resistance works against Jacksonian settler indigenization which is dependent on removing Indigenous people from the

land and transforming land itself into an inert, commodifiable object. A Cherokee literature of landed resistance not only works to revise the historical record; it also resists contemporary attacks on Native sovereignty in the Supreme Court. In outlining settler colonial strategies to erase Native histories and sovereignty, revise treaties, and indigenize settler colonists, we are better equipped to see those same strategies at work in contemporary legislation. Once these strategies—from the *Mason Case*, to Removal, to contemporary judicial decisions—are connected and their fundamental structures proven to be erroneous, they can be dismantled with a (re)animated land.

As the Cherokee migration story demonstrates, a people can maintain their sovereignty and remain a nation with, and because of, the land. Land, and a people, actively become one together even as others attempt to remove their history, being, and agency.

CHAPTER V: AFTERWORD: LAND'S LESSONS

Even as Cherokee people followed land's lessons and put into practice a literature of landed resistance, Jackson's United States moved to force Cherokee people off and away from their land. The Cherokee Nation, faced with mounting violence and settler invasion, split into two factions: The Treaty Party and the National Party. The former favored removal as the only option to continue as a Nation in the face of settler violence. The latter favored remaining on their homeland and working through the U.S. legal political system for support. Following the teachings that land had created with Cherokee people across history, the Treaty Party favored the migration story as a method for remaining a Nation and becoming a people again on and with new land. Reflecting Cherokee creation and origin stories which located Cherokee people in the southeast since time immemorial, the National Party listened to land's voice in terms of relationships to specific Cherokee lands and remaining in the places through which they had already become a people. As the Cherokee Nation split and removed to Indian Territory, they wrestled with ideas around what it means to become a people in relationship to new lands away from their ancestors, and what it means to displace others already in ancestral relationship with those lands. Recovering land's voice in this moment of crisis, caused by colonial legislation and physical violence, may allow us to continue looking toward land's lessons during ongoing colonial attacks on Native sovereignty, nationhood, family, and land. Understanding how Cherokee people came to utilize colonial violence against other Native peoples in a time of crisis, working against the reciprocal connections that land makes possible and asks of us, provides insight into how settler colonialism erases land's teachings to turn possible allies into agents of colonial violence. To listen to land's voice and take land's instruction into

consideration may allow us to unpack the ideological pressures settler colonialism impresses today so that they might be navigated, in partnership with land, in the present and future.

In June 1830, after the Removal Act's signing and Jackson's 1830 address, Ross challenged Georgia's incursion on Cherokee land in U.S. Courts in *Cherokee Nation v. Georgia*. In March of 1831, Justice Marshall decided that the Cherokee Nation and other Tribes' relationship "to the United States resembles that of a 'ward to its guardian'" and as a result they were considered "domestic dependent Nations" under the protection of the U.S. government (2). This decision meant that the Cherokee Nation was not a fully sovereign, foreign state; rather, they were "domesticated" under U.S. law and in this decision, and, as such, had no legal standing in U.S. Courts, although the Court left open the possibility for relitigating their decision at a later date (2). While Indigenous Nations were still separate from U.S. and state governments, as "domesticated" nations they did not have the standing to sue in United States courts.

However, later in March, missionaries Samuel Worcester and Elizur Butler were arrested for being on Cherokee land, breaking a Georgia law that required white men to have license from the State of Georgia to be on Native lands. As U.S. citizens, Worcester and Butler did have political standing and were able to contest Georgia's laws in *Worcester v. Georgia*. On March 3rd, 1832, Marshall stated that the "laws of Georgia ... are repugnant to the treaties, and unconstitutional and void," as "The Cherokee nation ... is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter, but with the assent of the Cherokees themselves, or in conformity with the treaties, and with the acts of congress" (515; 520). Based on previous treaties, the Cherokee Nation was a sovereign state, however, "dependent" on U.S. protection. Georgia had no constitutional legal standing to deal with the

sovereign Cherokee Nation and their lands—only the United States did. The previous treaties realized by U.S. courts, the Cherokee Nation, and influenced by the land, were agreements held between sovereign nations. Cherokee literature of landed resistance—from the Treaty of Hopewell, to Cherokee women’s petitions, to negotiations with the United States—continued to inform and influence major decision in the United States’ highest court. Through the influence that literature of landed resistance exerts, alternative understandings of landed relationships, nationhood, and sovereignty were written into the colonial record and into U.S. settler colonial discourse and law. The Cherokee people and their claims to and relationships with the land had again effected legislative change across generations in order to remain together.

In the ultimate example of ignoring agreed upon negotiations, Marshall’s ultimate decision meant little to Jackson. The President responded with condescension, “the decision of the supreme court has fell still born, and they find that they cannot coerce Georgia to yield to its mandate” (Jackson qtd. in Greeley 194). With this response, total removal from ancestral lands, whether by choice or by force, was inevitable. Cherokee factions split between the two options. It became necessary for Cherokee communities to lean on their old relations to land so that they might create new ones in the West.

Following Jackson’s statement, Elias Boudinot came to believe that “the Cherokees were powerless, and their only alternative was removal” (Perdue, “Introduction” 157). Along with Major Ridge, John Ridge, and David Vann, Boudinot advocated for removal so that the Cherokee Nation could continue as an independent polity by entering into relationships with new lands in the West. In 1835, this minority group signed the Treaty of New Echota, agreeing to Cherokee removal West, against Cherokee law and without the consent of the majority of the Cherokee Nation, the National Council, and its Principal Chief, John Ross. Perdue explains that

“Some of the signers . . . were no doubt motivated by the prospect of financial gain; others, including John Ridge, had political ambitions they believed could be served by the treaty” (157). However, Boudinot stated clearly following the treaty that his utmost and strongest reason for advocating removal was that “the Cherokees cannot be relieved from their peculiar difficulties and afflicted condition, by a continued application to the General Government for redress under the treaties and laws of the United States” (“Letters and Other Papers” 179). He clarified, “although we love the land of our fathers, and should leave the place of our nativity with as much regret as any of our citizens, we consider the lot of the Exile immeasurably more to be preferred than a submission to the laws of the States, and thus becoming witnesses of the ruin and degradation of the Cherokee people” (176-77, emphasis in original). To continue fighting the U.S. government, even to remain with their beloved ancestral lands, was to put in jeopardy “the moral condition of this people, as affected by present circumstances” (222).

The ideologies reflected in Boudinot’s writing echo the Cherokee lessons taught by the Cherokee migration story. As Cherokee people previously acted to continue as a community by moving from lands that had become uninhabitable so that they might remain a people and (re)create community with new lands, so too does Boudinot. When fire caused the undrinkable water to rise in Cherokee homelands, they had no choice but to move (Teuton 56). Even if they loved their lands, their existence was threatened by the rising waters. In similar fashion, Boudinot explains that the Cherokee Nation was in “danger . . . from an overwhelming white population” who considered Cherokee people “as their inferiors” (168). Because of this, Boudinot argued, “our people cannot exist amidst a white population,” which would “completely destroy every thing like civilization among them” (176). Even if, like those in the migration story, Boudinot and his peers cry because they “had lost the Mother Land,” for Cherokee

existence to continue it was necessary to remove because of the rising white tide (Guess qtd. in Teuton 72). While Boudinot's first choice was to remain with his homelands, which he loved, in order for his people's and Nation's existence to continue, Jackson's refusal to enforce Marshall's decision forced Boudinot's hand and made it necessary to remove. Boudinot held his homelands dear, but he held his people dearer. If the Cherokee Nation did not remove, the United States would take their current land and destroy them, politically and physically. In order to remain a community, it was necessary to (re)create that community with new lands.

On the other hand, the majority of the Cherokee Nation disagreed with Boudinot's appeal to their moral condition. They saw John Ross, still Principal Chief of the Nation, as their constant leader and their only hope to remain with their homeland. Ross "was indefatigable in his attempts to have [The *Treaty of New Echota*] abrogated or, when that seemed impossible, to have it amended in order to provide better terms for the Cherokees" (Perdue, "Introduction" 157). Contrary to Boudinot's ideas about national continuation in the West, Ross and other National Party members believed that the only way to continue as a people was to remain with their lands, as their identity, history, culture, society, and Nation were created with and tied to their ancestral lands and relations. The National Party wrote to Congress in December 1835 that

By the stipulations of this instrument [the *Treaty of New Echota*], we are despoiled of our private possessions, the indefeasible property of individuals. We are stripped of every attribute of freedom and of eligibility for legal self-defence. Our property may be plundered before our eyes; violence may be committed on our persons; even our lives may be taken away, and there is none to regard our complaints. We are denationalized; we are disfranchised; we are deprived of membership in the human family; we have neither land; nor home, nor resting-place, that can be called our own. And this is effected by the provisions of a compact which assumes the venerated, the sacred appellation of “treaty.” (Ross et al. 12)

Even in viewing land as private property, Cherokee nationhood, political enfranchisement within that nation, family, home, and resting places are tied to land. Reflecting the relationships, responsibilities, and obligations embedded in Cherokee creation, migration, and ethical stories, in their resistance to Removal, Ross and the National party saw Cherokee nationhood, personhood, and family as tied to their ancestral lands. To remove the Cherokee people from their land and force them to seek out new land was to ignore all that land told them since their creation together, and all that land has done alongside them in resistance to removal. Boudinot and Ross, representing the Treaty and National Parties, were influenced by complementary histories of Cherokee landed relations, but they came to two different conclusions.

Even if the Cherokee Nation was to do as Boudinot argued, and they did remove West to continue there, Ross believed that given the history of U.S. Treaty renegotiation, it did not matter what provisions were in the *Treaty of New Echota*: The United States would eventually come for Cherokee land in the West as well. In a July 1836 letter Ross wrote,

suppose it should suit the policy of the United States hereafter to pass a law organizing a territorial government upon the Cherokee lands west? That law necessarily destroys the character of the Cherokee nation as a distinct community; the nation becomes legally extinct; the lands revert to the United States, and the Cherokee people are bound, by assenting to the conditions of the pretended treaty, to acquiesce in this law providing a plausible pretext for their annihilation. (“Letter from John Ross” 5)

If the United States wanted Cherokee land and they wanted the Cherokee Nation to be politically undone, the federal government would make it so, no matter how far Cherokee people ran, so long as the Cherokee Nation had ethical, cultural, and political relations to land within U.S. territorial borders.

Up until the Summer of 1838 Ross was still fighting for “a better knowledge of the case of my native land,” against “the whiteman's idol, money” (“To Francis P. Blair and John C. Rives,” 590; “To Lewis Ross,” 612, emphasis in original). May 23rd of that year marked the deadline for removal, after which “U.S. troops began [to] round up the Cherokee Nation” (Ostler 270). By mid-June Cherokee peoples had left Georgia, and by March of 1839 all surviving members of the Nation who had not hidden elsewhere arrived in Indian Territory (271-73). When all was said and done, as Ostler puts it, “American ‘benevolence’ had resulted in a Cherokee population decline of at least 20 percent” (274).

As Cherokee people arrived in Indian Territory, they encountered the Indigenous peoples of that land, the Osage. Since Cherokee Old Settlers had removed at the beginning of the century they had come into violent conflict with the Osage. As arrivants on Osage land displaced by U.S. settler colonial violence, Cherokee peoples engaged in violence against the Osage so that they might claim Osage land. To do so, they mobilized civilizational and racial legal rhetoric against

the Osage. As Kirby Brown explains, “Possessing a greater familiarity and longer history with U.S. cultural mores and legalese, Cherokees often positioned themselves as helpless victims of Osage savagery rather than as unwelcome arrivants in Osage territory who had their own political interests in gaining access to rich Osage lands” (133). The racial tools of colonial property ownership stretched from the Northeast during the Mason Case to the American West a Century later, this time by way of Cherokee arrivants forcibly removed into Osage homelands.

As arrivants, Cherokee people were displaced by U.S. violence and Jacksonian indigenization; however, Cherokee Nation utilized their experiences with colonial violence and theft to indigenize themselves to their new land. Using their familiarity with colonial law, made so by their resistance to removal and violence in their original homelands, Cherokee people acted to render the Osage “absent and foreign in their own lands,” and in turn indigenize themselves to their new land (Byrd 60). Here Cherokee people can be seen as exemplifying “colonial manifestations and representations ... of settlers, arrivants, and natives that serve to other the other” (66). Settler colonialism forces its violent legal structure onto land and people, a far cry from the reciprocal relations modeled in Indigenous story. This violence forced Cherokee peoples onto Osage land as arrivants, where settler colonial legalities were deployed against the Osage.

Cherokee aggression toward the Osage through physical and legal violence culminated in the U.S. government forcing the Osage into the Treaty of 1839. The Treaty forced the Osage into what would become Kansas, and it provided them compensation in the form of monetary payments, grist mills, cattle, and housing in their new lands further West. The Treaty of 1839 continued the same ideology of commodification of land and forced removal that Cherokee communities experienced in the Southeast. In June of that same year, Boudinot and his Treaty

Party allies, including Major Ridge and John Ridge, were assassinated by National Party collaborators. The legal and physical violence that colonialism is based in, beginning with the Mason Case in the Northeast, continued harming Indigenous peoples and the land as it made its way across the continent.

However, such practices are not foregone conclusions. Such violence may be held in and remembered by the land, but the legal structures colonialism creates and imparts, and the violence it fosters, are not reflected in land's teachings. To see, to hear, to know what land teaches, we need only look back to the instructions that land has provided since time immemorial, detailed in previous chapters. As Melissa K. Nelson (Turtle Mountain Band of Chippewa Indians) explains, these lessons are reflected in stories, which provide "the literal and metaphorical instructions, passed on orally from generation to generation, for how to be a good human being living in reciprocal relation with all of our seen and unseen relatives. They are natural laws that, when ignored, have natural consequences" (3). The stories that land influences, plays a role in, and holds delineate these instructions. As an agential relation for the Indigenous Nations studied herein, land's lessons and narrative instructions form the framework for reciprocal responsibilities, relations, and tribal futures. For the Mohegan and Haudenosaunee, land created and strengthened partnership and alliance. Occom, Johnson, and others took up Christianity, but still saw the land as an active member of their Nations who bound them together and aided their resistance to theft and displacement. Even if some of the partnerships at Brothertown were fleeting, the architects of that Nation partnered with land to create something new and ultimately enduring in place of colonial destruction and legal imposition. While the Cherokee people who arrived in Osage Country after the Old Settlers utilized settler law and racialization to remove other Indigenous peoples, John Ross also called together numerous

Indigenous Nations, including the Osage, for the International Indian Council of 1843. At the council, Ross explained that his intent was to “extend the hand of peace from tribe to tribe, till peace is established between every nation of red men within the reach of our voice” (Goode 74). Important to establishing such peace was a compact signed by the Cherokee, Creek, and Osage Nations to never cede any lands presently held to the United States (Moulton 135). In the same way that Cherokee peoples’ familiarity with settler legalities were utilized to displace Osage peoples upon arrival, the Cherokee Nation employed such knowledge to the benefit of new Indigenous relations. Such strategies would also be deployed by the Cherokee Nation in order to remain on these lands as Oklahoma was incorporated into the United States in the early twentieth century. As new lands brought new peoples together, the Cherokee Nation continued practicing a literature of landed resistance with new allies.

Those at Brothertown and Cherokee arrivants in Indian Territory both saw themselves as continuing to listen to land even after removal. Occom through partnership with the Oneida, Narragansett, and other Tribes via collective farming, Ross and Cherokee people through adopting settler legalities and civilizational discourse in order to create new relations to new lands, and then working to create new relations amongst Indigenous peoples on those new lands. As Cherokee people arrived in Indian Territory, they also worked to create new relations and make kin with other-/more-than-human beings. The new Cherokee territory includes the Ozark Highlands and Boston Mountains, which, while providing elevation like the mountainous regions of Cherokee homelands, are much smaller than those found in Southern Appalachia (Alfred 406). There are “broadleaf deciduous forests” which are similar to Cherokee homelands (Carroll 59). However, these forests are drier, and the vegetation there is made up “of drought-resistant oak/hickory woodlands with intermittent strands of pine. Moving further west, the terrain

becomes mostly prairie flatlands” (Carroll 59). These differences in vegetation were perhaps the most stark and important, as “nearly one-third of the plant species that were identified and utilized by the Cherokee Indians prior to removal were not present in the Oklahoma landscape at the terminus of the Trail of Tears. Many of the species that were lost were relied upon for numerous different uses, indication of a high degree of cultural salience” (Alfred 405). Such “cultural salience” is clear from the beginning of Cherokee history, as plants were in many parts responsible for Cherokee existence, governance, and legal structures as represented in the story of disease and medicine. If Cherokee people were going to continue their existence, they would have to look toward the land, and its lessons, to create new connections between peoples and more-/other-than-human relations in their new home.

Despite the differences between this new land and their homelands, Cherokee people related to land in the West as previous Cherokee story created with their Eastern homelands outlined. Forced onto this new land as arrivants who mobilized settler-constructed violent structures against the Osage, Ross and the Cherokee Nation still listened to land and entered into relationship with it as they had always done. When Ross died in August of 1866, almost thirty years after he had removed to Indian Territory, his nephew William P. Ross said of his final resting place,

It is proper, that here, should his dust mingle with kindred dust, and that a suitable memorial should arise, to mark the spot where repose the bones of our greatest chieftain.

It will keep alive within our bosoms a spirit of patriotism. It will impart strength and hope in the hour of adversity. It will teach us to beware of domestic strife and division. It will serve to unite us more closely in peace, in concord and in devotion to the common welfare. It will soften our asperities and excite the thoughtful youth of our land to patience, to perseverance, to success, and to renown. (260)

William Ross explains that by returning to the land, mingling with those Cherokee who came before him to Indian Territory and the land itself, John Ross strengthens future generations who are now also part of that ground, that land. The youth, who also come from and enter into relationship with the land, are guided by Ross's teachings and the land from whence all came and to which all must return. This physical, spiritual, and generational mingling is then detailed in speech and writing. Even in death on new land, a literature of landed resistance is put into practice, historicized, and archived, in the land and on the page. Though arrivants who displaced Osage peoples through colonial legislation and civilizational discourse, the Cherokee people came to see themselves as Indigenous to Indian Territory. At first glance, such legal and physical violence could be seen as similar to the Jacksonian indigenization outlined previously. However, by taking into account the lessons that land imparted on Cherokee peoples and following those original instructions, Cherokee peoples cultivated new systems of responsibilities, and they put into practice landed relations they had with their previous homeland following migration. To do so, Cherokee peoples nurtured new connections among previously known Indigenous nations such as the Creek Nation, they forged new alliances with the Osage Nation at the Intertribal Council, and they fostered new, reciprocal relations to other-/more-than-human kin.

Although Mohegan, Haudenosaunee, and Cherokee relations to land changed over the course of colonial encroachment and violence, all nations continually (re)created nationhood, community, and society on, in, and with the land. Such (re)creation requires constant attention to what the land says and how one relates to the land. This attention is exemplified and reflected in literature and resistance to colonial order, even as those legislative borders are more complicated with Cherokee arrival in Indian Territory, and land's influence on Indigenous legislation in some ways influences colonial legislation. Utilizing civilizational, racial, and colonial legal discourse in the service of displacement is yet another example of why it is important to listen to the lessons that land imparts. If one is listening to the land, following the teachings that land provides, one can see how wrongheaded colonial law is in comparison to the law of the land.

The lessons, histories, and legislation put into practice with land still hold weight. For example, according to *Worcester v. Georgia*, treaties between the United States, the Cherokee Nation, and land still hold weight. Land's history, land's influence, is imparted on those pages, and it details partnership between Nations just as land has always done. If the agreements made in those treaties still matter, then the treaties and agreements Mohegan peoples and land put into legal practice with colonists must be revisited, and land's voice taken into consideration. On the ground and on the page, land brings disparate peoples together so long as land is listened to and not imposed upon.

Land's active role in history, in storytelling, in society, and in community- and nation-building outline a law of the land that predates colonial legislation in what would become the United States. Land's voice is apparent throughout early British and U.S. Courts, U.S. Christianity, and U.S. civilizational discourse. Amplifying that voice shows how land continues to make itself and its relations to the Indigenous peoples of Turtle Island known in United States

literature, history, and legal precedent. Such amplification strengthens Indigenous sovereignty and claims to land, even if that land might be viewed as an inert resource for commodification and profit, as individually-held private property, or as a religious tool for communing with a higher power on the way to salvation and eternity, separate from land.

Utilizing the frameworks herein, it is necessary to trace the way that land has acted following the removal period. According to land's action over the period of this study, precedent in cases like *Sherrill* and *Castro-Huerta* are faulty. If this is truly the case, then what has land told us between the end of this study and these cases? How has land continued to act following removal, and what directions might it give for these current case decisions? How might the United States courts and government, ignoring land's voice and renegotiating treaty and legal decisions to continually undermine Indigenous sovereignty and appropriate Indigenous lands, be questioned by land's agency between removal and the present? How might a literature of landed resistance across history—from Allotment and Termination through Reorganization and current renegotiations of *McGirt* in the Supreme Court and cases like *Haaland v. Brackeen*—provide insight into the multiple facets of land's agency in the ongoing contexts of settler colonial legislative theft? How does land influence literature, law, and history across these periods and recontextualize its precedent set in the previously studied periods? Once we come to recognize land as an historical actor, influencer of texts and legislation, and agential relation, what does this knowledge provide us moving forward, legislatively, nationally, and communally?

If land is truly an agential relation with the ability to influence legislation and bring people together as the primary documents studied herein attest, legal precedent in the United States relating to land and Native peoples must be approached differently. If land's agency is apparent in early treaties between Native nations and the United States, land's agency must be

represented in contemporary court cases drawing on those treaties, such as *Oklahoma v. Castro-Huerta*, despite the manner in which those treaties have been previously misread. If land's agency is apparent in the Mason Land Case, then the precedent drawn on in cases like *City of Sherrill v. Oneida Indian Nation of NY*, dependent on land's inanimacy, is shown to be erroneous and improper. If land is an agential relation that has brought Native peoples together, and that treatment of land as an agential relation is written into law, then the unfounded manner in which land has been approached by U.S. legal structures (as economic base and resource) and the manner in which the U.S. has claimed land is also shown to be mistaken. This willfully mistaken interpretation of land's agency is based in erroneous precedent beginning with the Mason Case and false ideas of civilizational benevolence toward peoples deemed savage and pre-civilizational in history and legislative precedent. Recovering land's voice in literature, law, and history shows that each of those strategies for taking land and removing Indigenous sovereignty are flawed. Perhaps more importantly, they are patently illegal if we listen to land's voice and follow the precedent that land sets in law. Land, from the beginning of U.S. legislation, has belonged to and belonged with Native peoples as a site of belonging, identity, and nationhood. U.S. claims to land, based on misreading of law and discounting land's agency and land's role as agential relation, are shown to be faulty, if not criminal, based on the law of the land. U.S. law across history must be revisited and restructured, especially if land continues to act after the period of this study.

Coming to understand and approach land as an agential relation whose influence has been set in legal precedent from the outset of literature, law, and history also opens up new approaches to environmental justice and environmental protection in an age of climate catastrophe. If land has been an influential agent in law and history from the beginning of U.S. legalities, that

precedent must be drawn on, and land must be protected as an agential relation rather than an inanimate economic base and site of resource extraction. Just as *Oklahoma v. Castro-Huerta* may come to be seen as a failure to uphold treaty precedent once land's agency is accounted for, decisions in court cases like *West Virginia v. Environmental Protection Agency*⁴¹, which protect extractive industries' right to emit greenhouse gases, must come to be seen as a failure to uphold one's reciprocal duty to protect land given the influence it has had on legislation and society across history. If land is a relation that one holds foundational reciprocal duties to, then land must be protected and cared for rather than extracted from. To uphold one's duty to land as an agential relation that has influenced culture and law would mean putting an end to the fuel and mineral extraction protected in decisions like *West Virginia*. Putting an end to such extractive violence on the land also works toward putting an end to the violence that these extractive enterprises enact on relations beyond the land—specifically human, other-/more-than-human relations and kin, and climate systems that are impacted by the toxins released onto the land and into the water, and greenhouse gases that are emitted into the air. During ongoing climate crisis especially, defending and taking care of the land as a relation means defending and taking care of the larger systems impacted by violence to the land. To uphold one's duty to land means to protect and uphold one's duty to climate systems, peoples, and relations always interconnected in larger systems of responsibilities. Working towards an environmentally just future means beginning with land, and beginning with the land means revisiting previously held precedential truths and previously enacted legislation with eyes and ears toward the ground. Legislation must be revisited, restructured, and relitigated with a distinct understanding of land's influence, and

⁴¹ Decided on June 30, 2022, one day after *Oklahoma v. Castro-Huerta*.

also with knowledge of the legal responsibilities one has to land as an agential relation across history.

If land is an actor, as recognized by the Indigenous nations studied in *Land Acts*, the legal precedent those nations and land have practiced since time immemorial must be followed and strengthened. Recovering land's voice recovers Indigenous claims to relationship with that land, and surely upsets settler attempts at historical and legal indigenization. (Re)animating land renders colonial land claims and U.S. property ownership as inanimate, lifeless from its very founding. Protecting land means protecting the relations that land has made possible in the past, and it means protecting those relations in an environmentally just future. As land structures law, treaty negotiations, and Native resistance across Tribal boundaries, it also creates ethical, egalitarian relationships. Across culture, history, law, and literature, *Land Acts*.

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