

The Farmer Was a Wife: Women, Work, and the Reordering of Property Relations North of the Ohio, 1780-1830

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This work emerges from a much larger manuscript titled Intimate Empires: Sex, Race, and Law in the Old Northwest. In that work, I argue that the struggle over inalienable property rights (what I refer to as intimate property or control of one's own body and influence, if not governance, over the bodies and things in intimate proximity to oneself) leads to a recrafting of American law itself. Households thus became a fundamental instrument of empire in the Old Northwest, key to property-making and property-taking.

It's a big book, and in writing it, I've spent much time thinking about reproductive and productive labor in the Old Northwest. In doing so, I've concluded that existing models are insufficient to analyze the gendered economy of this peripheral place. Historians of working women in the early republic focus on factory workers, or at best those women making the transitions between farm and factory. While there is a welcome growth in the literature on mid-19th century Midwestern farm women, the earliest period of American occupation in the Old Northwest – a place undergoing rapid transition from an extractive economy in fur production to a mixed agricultural economy – is under-studied and under-gendered (if that's a word).¹ Very few works on rural women in the 19th century

¹ Some promising work exists in dissertation form, including Denise Wilson, "Vincennes: From Colonial Village to American Frontier Town, 1730-1820," (Ph.D. Diss, West Virginia University, 1997) and Ginette Aley, "Westward Expansion, John Tipton, and the Emergence of the American Midwest, 1800-1839," (Iowa State, 2002).

examine white women's experience in a common frame with women of other racial or cultural backgrounds, which appears to be the domain of those who study the colonial experience. Attention to the particulars of place, particularly the connectedness of work and nature, seemed largely absent.² This paper then represents a provisional working through of some ideas, then, about the gendered economy of empire's periphery, a subject that requires me to draw from all these literatures but does not permit me to fit easily in any of them.

I'm going to start on familiar ground for women's historians, demonstrating that indigenous, white, and African-American women were a significant force in the regional economy. There is a well-developed historiography on women and the early American economy and by now, those who study such things can confidently predict that women's contributions to the

² The literature on American Indian women and capitalist transformation is robust and I seek to amplify the existing emphasis on linking environmental change to transformations in productive and political economy. See, for example, Lucy Murphy, *A Gathering of Rivers: Indians, Metis, and Mining in the Western Great Lakes, 1737 - 1832* (Lincoln: University of Nebraska Press, 2000); Claudio Saunt, *A New Order of Things: Property, Power, and the Transformation of the Creek Indians, 1733-1816* (New York: Cambridge University Press, 2000); Kathleen Braund, *Deerskins and Duffles* (Lincoln: University of Nebraska Press, 1996); John Taylor Carson, "Dollars Never Fail To Melt Their Hearts: Native Women and the Market Revolution," in *Neither Lady Nor Slave: Working Women of the Old South*, ed. Michele Gillespie and Susanna Delfino (Chapel Hill: University of North Carolina Press, 2002); Theda Perdue, "Women, Men, and American Indian Policy: The Cherokee Response to Civilization," in Shoemaker, ed. *Negotiators of Change*; Wilma Dunaway, "Rethinking Cherokee Acculturation: Women's Resistance to Agrarian Capitalism and Cultural Change, 1800-1838," *American Indian Culture and Research Journal* 21 (Spring 1997); and Clara Sue Kidwell, "Choctaw Women and Cultural Persistence in Mississippi," in *Negotiators of Change: Historical Perspectives on Native American Women*, ed. Nancy Shoemaker (New York: Routledge, 1995). For Indian women and their efforts to preserve property rights and cultural autonomy, see Susan Sleeper-Smith, *Indian Women and French Men: Rethinking Cultural Encounter in the Western Great Lakes* (Amherst: University of Massachusetts Press, 2001), esp. chapter 5. A review of literature on white women and the transition to capitalism in the Early Republic suggests that historians of white women's experience have been less attentive to environmental transformation as a key to understanding women's evolving place in the political economy of the household. For brilliant work that overlooks environmental transformation see, for example, Jeanne Boydston, *Home and Work: Housework, Wages, and the Ideology of Labor in the Early Republic* (New York: Oxford University Press, 1990); Catherine E. Kelly, *In The New England Fashion: Reshaping Women's Lives in the Nineteenth Century* (Ithaca: Cornell University Press, 1999).

family economy significantly shaped the transition to capitalism in the rural countryside. You might be surprised, however, to learn *how significant* that contribution was. Women's productive labor in the Old Northwest was often of greater economic value to their families and communities than men's labor. In many years, the trade in women-made goods generated more cash than all the corn and fur and whiskey produced by their menfolk. The surprise here is not the eagerness with which women embraced the market, but the size of their impact upon it.

Moreover, in continuing with the old news, not all women's work was market-oriented. Their reproductive labor – the shirts they made, the nursing they provided, the cooking and preserving and washing – was critical. Again, however, you might be surprised to learn the magnitude of the significance. In 1800, about forty percent of the population was under the age of ten, a full sixty percent under the age of sixteen; reproductive labor north of the Ohio, judging from its replacement value in the labor market, was worth its weight in gold.

Yet, as in all work on women and the economy, one eventually has to confront the fundamental question of property rights and labor control. In the post-revolutionary trans-Appalachian frontier, a lively legal contest emerged over property that can be boiled down to four basic questions: Who could make property? How did one make property? What or who could be owned? What or who could be sold? This contest over property opened a window whereby prior to 1807, women in the Indiana Territory (married or not, enslaved or not, indigenous, metis, African-American, or white) could be property-makers and

property-takers in their own right. I note a decisive shift in the laws of property-making and property-taking – particularly drawing the line between alienable (sellable) property and inalienable (intimate) property – between 1807 and 1815. The environmental disruption that the extension and formalization of American imperial law encouraged disproportionately disadvantaged certain groups of women while safeguarding and even advancing the interests of others. American historians of capitalist development discuss the early republican battle for the commons in curious ways, often ignoring both the sex and racial identity of those who argued that the woods should be a warehouse common to all. I am interested here in reconnecting the social and spatial geography of empire with the processes whereby race, class, and gender order is stabilized, the better to explain the interconnections between work, nature, and an emerging imperial social order.³

But before we reimagine American property law and rural class formation as we know it, we must first establish women as significant producers and reproducers of wealth. I should be clear at the outset that I do not find that this was a “good poor woman’s country.”⁴ An examination of the 1800 census returns indicates that in the eastern half of the Indiana Territory (now Indiana) had two non-indigenous population centers, containing roughly 2500 European-

³ For two excellent discussions of environment, economy, and social hierarchy, see James Feldman, “The View from Sand Island: Reconsidering the Peripheral Economy, 1880-1940,” *Western Historical Quarterly* 35:3 (2004) and Douglas Sackman, *Orange Empire: California and the Fruits of Eden* (Berkeley: University of California Press, 2004). Power, as historian Ted Steinberg notes, takes “place”; transformations of landscape are expressions of social power and material hierarchies of access. Ted Steinberg, “Down to Earth: Nature, Agency, and Power in History,” *American Historical Review* 107 (2002), 798-820.

⁴ For the differences between a “good poor man’s country” and a good poor woman’s country, see Stephen Aron, *How the West was Lost: The Transformation of Kentucky from Daniel Boone to Henry Clay* (Johns Hopkins 1999).

Americans.⁵ The population was, as I've noted, very young and the material conditions of life very poor. Adult women in those households, usually pregnant or nursing or both, lived in isolation, raising the laborers of tomorrow in lean-tos that sometimes only had three walls. Indigenous women, for their part, had survived waves of epidemic disease, outbursts of imperial violence, repeated forced migrations, and shifting in the political landscape that had begun to mute their voices in intercultural diplomacy. African-American women, in small but growing numbers, entered the region as enslaved domestics and field laborers. Yet, despite these conditions – and in large part because of them – women remained instrumental to the regional economy.

Indigenous women and their labor had long been central to the economic life of their villages. They had, of course, participated in the fur trade in a variety of ways; indigenous and metis women worked as hide processors, oarswomen, and traders themselves.⁶ Through trade, a few become successful whiskey vendors.⁷ Their agricultural production fed their families and surplus corn became as central to intercultural trade as pelts. As the fur trade declined, it was the strong corn harvests provided by women's fields that supported Pottawatomie, Miami,

⁵ For census of 1800, see Carter, Territorial Papers, volume 7, 24-25. See Andrew Cayton, Frontier Indiana (Bloomington: Indiana University Press, 1996), 182-184.

⁶ Madame Vigo, for example, ran the family trading business for months at a stretch while her husband was afield. Francois Vigo Papers.

⁷ For the image of a Munsee woman lugging a barrel of whiskey for sale to customers of her village on the White River, see Lawrence Henry Gipson, The Moravian Indian Mission on White River: Diaries and Letters, May 5, 1799 to November 12, 1806, Indiana Historical Collections, volume 23 (Indianapolis: Indiana Historical Bureau, 1938). Indigenous women's work in the whiskey trade was frequently a source of dissension within communities. For a discussion of similar work performed by Cherokee women and criticisms of Indian women's behavior, see also James Taylor Carson, "Dollars Never Fail to Melt Their Hearts," Gillespie and Delfino, Neither Ladies Nor Slaves: Working Women of the American South (2002).

Shawnee, Lenape, and Piankshaw people in war and peace.⁸ Some villages had also begun to incorporate livestock, with women managing small herds of cattle.⁹

Indigenous women were also successful harvesters of the woods and marshes, spaces that American land law often typified as second-rate, third-rate, or even “wastelands.” Feathers from abundant marsh birds adorned their cloaks. Knowledgeable women sought out local herbs, nuts, and succulents to add to their kettles. Reeds and fronds of cattails became, as fingers flew, mats and baskets for use or trade.¹⁰

In terms of cash-exchange value, however, maple sugar was the premier item produced by mothers and daughters throughout the region. As the snow grew wet underfoot and the leaves dripped, women harvested thousands of pounds of maple sugar each year. As the fur trade itself diminished, maple sugar produced by women became the more reliable – and more profitable – export commodity.¹¹

These woodland products, while important in their own right, took on added significance for the usufruct claims that they underwrote. Indigenous

⁸ For a valuable examination of Potawatomi women’s agriculture, see Susan Sleeper Smith, Indian Women and French Men, ch 5.

⁹ For one Lenape village and their livestock, see Lawrence Henry Gipson, The Moravian Indian Mission on White River: Diaries and Letters, May 5, 1799 to November 12, 1806, Indiana Historical Collections, volume 23 (Indianapolis: Indiana Historical Bureau, 1938). For intercultural trade whereby American settlers relied on indigenous herds to increase their own stock, see also Ginette Aley, “Bringing about the Dawn: Agriculture, Internal Improvements, Indian Policy, and Euro-American Hegemony in the Old Northwest, 1800-1846,” in Daniel P. Barr, ed. The Boundaries Between Us: Natives and Newcomers along the Frontiers of the Old Northwest Territory, 1750-1850 (Kent State University Press, 2005).

¹⁰ For an account where indigenous women, “who worked considerable at basketmaking” traded baskets for cloth and other goods, see Alexander McCallister Memoir, Madison Courier, 2/21/1874.

¹¹ For Miami women and the maple sugar trade, see Daniel Richter, “Believing That Many of the Red People Suffer Much for the Want of Food”: Hunting, Agriculture, and a Quaker Construction of Indianness in the Early Republic,” Journal of the Early Republic, 19:4 (1999), p. 605-606.

women's agriculture anchored them to the productive landscape of their fields. Their acknowledged role as the chief producers of maple sugar fortified indigenous women's usufruct claims to maple groves passed through the female line. Hundreds of such tracts existed in the lands north of the Ohio, forming the basis of substantial real estate claims by indigenous and metis women.¹² Likewise, as historian Laurel Thatcher Ulrich has noted for another place and time, basket- and mat-makers harvested the raw materials for their craft in particular places – and by their repeated history of environmental use and transformation, gained a potent use-right not easily wrested away by would-be imperialists.¹³

That was because early-arriving European-American households also depended heavily on the woods and property in the wild and staunchly defended the legitimacy of environmental use as a way of creating property. The vast majority of European-American farming families prior to 1807 did not own their lands and could not buy them because they were not for sale; instead, they squatted on public lands and hoped that their continued usage of meadows, the

¹² For one woman's insistence on the enforcement of usufruct rights passed to her by her mother, see Madame Alary to Judge Ayme Comte, 1/16/1784, as reprinted in Alvord, volume 5, 353. For evidence of the corresponding practice in Vincennes, see Tardiveau Memorial, 2/28/88, reprinted in *ibid.* 462-465, in which Tardiveau notes that "a few among them took up....small tracts in the woods of between eight and twelve acres in superficies, where they used to make their sugar, and which, from that circumstance, they call their sugar-camps."

¹³ For the usufruct claims inherent in indigenous basket-makers' work and the processes of social and environmental change that would marginalize them, see Laurel Thatcher Ulrich, The Age of Homespun (New York: Knopf Publishing Group, 2002), chapter 10. I see little evidence that indigenous women grew more economically dependent on men's work, despite the increase in importance in commodity hunting; instead, it appears that their crafts (always a part of their productive life) received somewhat greater emphasis because of the desirability of these objects as trade goods. For a similar interpretation in the American Southeast, see Michelle LeMaster, "'Thorough-paced Girls' and 'Cowardly Bad Men': Gender and Family in Indian-White Relations in the Colonial Southeast, 1660-1783" (Ph. D. diss., Johns Hopkins, 2001).

cutting of trees, and so forth – all of these activities labeled under American property law as “waste” and “trespass” – would give them superior pre-emptive rights. When it came to the creation of property through the use of goods in the woods, Indiana’s poor yeomen and their Native American neighbors were in full accord.

Unlike the grain production of Native American women, the agriculture practiced by in-migrating yeoman squatters – even their modest attempts at subsistence – did not initially thrive. Detailed descriptions of American migrants’ farming practices in the early 19th century come to us through men’s descriptions of improvements in applications for federal land donations, through travelers’ accounts, and through court records over disputed land claims. Most farms detailed in those documents amounted to a three-sided lean-to or single-room cabin, an acre or two of corn, a meadow, and some fruit trees too spindly to earn the name of orchard. Only a few farmed with the expectation of export and despite their enthusiasm, they would find no profit in their labors. Men who euphorically bragged about a bumper crop of grain in 1802 floated it down the river to New Orleans only to find the market glutted and prices low.¹⁴ They spent the long walk home dreading the ruin that awaited them and wondering what they would tell their creditors.¹⁵ In 1803 and 1804, “weevils” and “fly” (probably species of flea beetles) made the corn leaves look like green lace; their larvae cut

¹⁴ At least some men tried to outsmart Spanish tax collectors by selling above New Orleans. See George Logan Memoir, Madison Courier, 11/1/1873.

¹⁵ This was a customary way of returning home until the 1820s, when regular steamboat travel made the return trip less cumbersome.

at the roots of other crops. Potatoes blighted, as did turnips and tomatoes. They bitterly complained to any governmental official who would listen that even when they “produced something to sell, there was no market place, no demand, and no price.”¹⁶

Those who generations of historians have assumed were settlers often could not, in such conditions, settle at all. Families planted in the summer, decamping back to Kentucky after harvest to avoid their creditors. Debt suits note a ceaseless seasonal milling among men, with women and children left to spend a miserable winter north of the Ohio as husbands and fathers tramped for work in Cincinnati, Louisville, or down the Maysville Road.¹⁷

To make down payments on lands, or even to support themselves, European-American men turned to the woods. Their use of the woods, particularly in hunting, did not secure much money, however. American hunters killed too much and killed too often. Peltry diminished in quantity and quality. Running hogs or cattle was modestly more lucrative, but only provided that one could catch creatures that rapidly went feral. Elite lawmakers decried what common-law described as “waste” and fretted that Euro-Americans seemed utterly unwilling to settle themselves and take up the plow. The territorial legislature adopted common-law principles time and again, hoping to discourage poor families from relying on adverse possession to claim preemption rights.

¹⁶ As quoted in Ginette Aley, “Bringing about the Dawn: Agriculture, Internal Improvements, Indian Policy, and Euro-American Hegemony in the Old Northwest, 1800-1846,” in Daniel P. Barr, ed. The Boundaries Between Us: Natives and Newcomers along the Frontiers of the Old Northwest Territory, 1750-1850 (Kent State University Press, 2005), p. 206.

¹⁷ Steve Ross, Workers on the Edge: Work, Leisure, and Politics in Industrializing Cincinnati, 1788-1890 (1985).

Judges drawn from the local population, however, like juries and men who petitioned the federal Congress for suffrage based on their creations of such property, continued to argue for rights in the woods.¹⁸

Given the shaky material circumstances in which most European-American families found themselves, yeoman women's domestic production became central to family welfare. Textile production kept their families clothed and preservation of foodstuff kept them fed. Wheels, cards, looms – rarely found in estate inventories in the late 18th century – could be found in many European-American household inventories in the early 19th century.¹⁹

White farmwives' textile work also was used to barter with local tradesmen, as James Craven's account books demonstrate. Between 1803 and 1804, Cravens kept a still near the Ohio River. Although only one woman bought whiskey, women-made goods, including socks, carded batting, and lengths of cloth, paid for hundreds of gallons.²⁰ Merchants in Vincennes accepted "country made cloth" in trade for other goods and resold them to slaveowners who then clad their servants in coarse linen.²¹ By 1810, the first time such things were

¹⁸ Stephen Aron, "Pigs and Hunters: 'Rights in the Woods' on the Trans-Appalachian Frontier," in Andrew Cayton and Fredrika Teute, eds., Contact Points: American Frontiers from the Mohawk Valley to the Mississippi, 1750-1830 (Chapel Hill: University of North Carolina Press for the Institute of Early American History and Culture, 1998), 175-204.

¹⁹ For an example of the evidence of textile production in inventories, see the Harrison County will of Elisha Wright, entered in September 1813, in which he bequeaths the "loom and all its tackling, tubs, pails, and buckets, and spinning weel" to his wife Pheba. The tubs and buckets were used to soak (ret) flax. See, for the changing meanings of textile production to the life of the early Republic, see Ulrich, Age of Homespun.

²⁰ James Craven Account Book, Jefferson County, Indiana (1804-1830s).

²¹ See US v Ethelred Bass (1806), in which Bass was accused of larceny for stealing four yards of "country-made cloth." Knox County Common Pleas Minute Book, 1801-1806, County Records

systematically counted, the Territory contained 1,350 spinning wheels and 1,256 looms, meaning that roughly one out of four adult women possessed such equipment; women's production of cloth added \$159,000 to the territorial economy, which outstripped tenfold the worth of whiskey produced by men (\$16,230).²² Knitting also provided an in-kind good to trade.²³

Getting a handle on the worth of reproductive labor is nearly impossible. I can merely suggest here that those who needed to replace women's labor in the home often could not afford to do so. Young women were rarely available as day workers and most would not live in service. Elite families had to pay handsomely for washing; it was arduous work and could not be had for under \$3 per week. When communities attempted to buy care for the paupers of the region, it became the single most costly item in the county budget. Nurses for the sick commanded \$5 per week, whereas the nurture of poor infants cost communities up to .75 per day. In fact, the commodification of reproductive labor made nurture extremely lucrative. As a southern Indiana visitor noted "The girl help, if one can now and

Microfilm Reel 60, 254. See also Jones v Bazadone (1801), in which Bazadone is held responsible for his servant's purchases of country cloth. Knox County Case Files, Box 5, fl 435.

²² Cayton, Frontier Indiana, 181. Even accounting for under-reporting of a taxable good like whiskey, this is still a sizeable difference and suggests that historians should more closely investigate women's domestic production as a critical economic input on frontier farms. Even as sufficient factory-made cloth became available to purchase in the post-statehood period, European-American women continued to spin and weave – in part because it was a lucrative good that could be readily traded in neighboring stores. This appears to be a common phenomenon in the early trans-Appalachian frontier. See, for example, Anne Cameron McRae, "Women at the Loom: Handweaving in Washington County, Tennessee," (MA, East Tennessee State University, 2001). For an interpretation that privileges women as consumers, see Elizabeth Perkins, "The Consumer Frontier. Household Consumption in Early Kentucky," Journal of American History 78 (September 1991): 489-490.

²³ In Gibson County, for example, a young man accused of desecrating a corpse to steal the worsted wool socks from its feet insisted that he had bought the easily recognizable knits at a nearby country store, where the ladies of the neighborhood had exchanged their textile work for goods. Gibson County Circuit Court Records (1811).

then be had, is pert and proud as her mistress, and requires her parasol at six dollars and her bonnet at ten or twelve.”²⁴

European-American women, especially widows, owned businesses such as taverns, inns, and some of the most lucrative ferries on the Ohio River. Most did not distill, but did brew “by the smalls,” selling their potables by the half-gill and gill. Licensing lists show that in the towns of Madison, Jeffersonville, Princeton, and Vincennes, women operated modestly successful dramhouses. Even women who opened their homes occasionally stood to make a tidy sum; travelers’ accounts complain of the conditions of the housing and the cupidity of their “lady-hosts.” Women also operated lucrative ferry stations. Early territorial tax lists demonstrate that women such as Sarah Lusk and Hannah Ash were some of the busiest carriers of the cross-Ohio trade.

Although relatively few Afro-French and African-American women lived in the rural settlements along the Ohio River prior to 1807, in the other center of American influence near Vincennes, evidence of Afro-French and African-American women’s economic activities abound Esther Bazadone, purchased as Laurent Bazadone as a domestic for his tavern, soon proved herself far more adept at running the business than he did. Her control over the business and her reinvestment of its profits convinced at least one creditor (and several licensing committees) that she was a free woman.²⁵ Another enslaved woman named Lucy

²⁴ Faux, 216.

²⁵ She was licensed independently two times in the 1790s before the Vincennes Court required her master to be licensed in her stead. Likewise, creditors of the tavern (like merchant Thomas Jones, who had sold Esther a half-dozen tumblers from which to serve her tafia) soon learned that they

kept hens and sold eggs door to door out of a “pretty basket” of her own design; marketers like her were a common sight before the construction of central marketing places. Some enslaved women kept all or some portion of their profits, while others labored for the benefit of their European-American masters and mistresses.

Beyond the cash value or substitute value of goods in trade, women-made goods served as important items of intercultural exchange. It has long been a commonplace of writing on women and the market to note that women eagerly embraced the market as a means of enhancing family security and constructing social relationships.²⁶ What I offer here is slightly different. While it is true that European-American women became eager participants in market culture as a means of establishing familial security, they had more than financial well-being on their minds.²⁷ If yeomen households in the Old Northwest became, in the memorable phrase of Ginette Aley, “a small but useful intersection of economic activity” between indigenous and Euro-American neighbors, then the goods most often sought were produced by women and the exchanges themselves were conducted by women.²⁸

could not sue her for debts but would have to sue her master. See Jones v Bazardone (1801), Knox County Case Files, Box 5, fl 435.

²⁶ As historian Ellen Hartigan-O'Connor has noted, “market transactions constructed social relationships and affective ties shaped economic transactions.” Hartigan-O'Connor, Ellen “Abigail's Accounts: Economy and Affection in the Early Republic,” Journal of Women's History 17: 3 (2005) pp. 35-58.

²⁷ Rugh.

²⁸ Ginette Aley, *Bringing about the Dawn*: 205

Unlike those who moved north of the Ohio in a later period, settlers who moved across the river between 1795 and 1807 welcomed indigenous trade and recognized its peace-making potential. Jefferson County residents recall Potawatomi hunting parties throughout the early 19th century trading fresh venison for shirts, knitwear, and bread near the Ohio River. Settlers near Madison universally spoke of the peaceful trading relationships sustained between indigenous and Euro-American households.²⁹ One man, George Logan, recalled that his mother had sent him to get cold water to refresh a visiting Lenape family; she baked her visitors' biscuits, offered preserves, and bid them to eat their fill. It was the beginning of a long-lasting trading relationship. Later in the year, the Logan family visited the Lenape encampment; there, they were treated as honored visitors, with his mother receiving a beautiful pair of shoes, a split-bark basket, and the right to bargain for a pile of pelts.³⁰ Others memoirists recalled Lenape and Munsee women keenly evaluating the quality of a southern Indiana farm wife's yard goods, critically comparing weave and the consistency of the dye in various offered pieces.³¹

A little care went a long way in smoothing the path to trade. One clever Euro-American mother used her knife and some peach pits to delight some

²⁹ See *Madison Courier*, 1873, passim. These happy memories of peaceful interaction would seem to contradict Patrick Griffin's assertion that the American Revolution irrevocably set intercultural interactions on a path to violence in the Old Northwest. See Patrick Griffin, "Reconsidering the Ideological Origins of Indian Removal: The Case of the Big Bottom Massacre," in Cayton and Hobbs, *The Center of a Great Empire: The Ohio Country in the Early Republic* (Ohio University Press, 2005).

³⁰ George Logan Memoir, *Madison Courier*, 11/1/1873.

³¹ James Burns' Memoir, *Madison Courier*, 12/6/1873.

Lenape children who lived only three miles away. Her kindness in making “poppets and playthings” proved instrumental in promoting trade between the communities.³² This kindly attention to the social and emotional worlds of one’s trading partners as well as their commercial interests provided a continuity in gifting practices that had characterized intercultural relations in the region prior to American occupation but which were increasingly absent when men conducted trade and politics. While doll-making and diplomacy might seem disconnected, in reality the daily relations of women’s trade promoted local good feeling between people increasingly at odds over control of boundaries and resources.³³

Several processes intersected between 1807 and 1815 and permanently reordered property-making, taking, and holding. First, as the population grew and counties formed, a new cadre of formally trained jurists and lawyers arrived to enforce American common-law. Common-law took a dim view of common-rights; property in the wild was no property at all. Under common-law, things became property through work, but not just any work. To signify ownership, courts looked for specific actions taken by specific (usually male) actors to disrupt the landscape and place the human presence squarely in evidence. Because of this, real estate, or more precisely the methods by which one created and defended property rights in land and the products one found upon on it, became deeply intertwined with the systems of labor used to produce goods for use and market.

³² David Hoover Memoir.

³³ In this the area is reminiscent of the Susquehanna Valley of the 1740s and 1750s, where Euro-American and Native American neighbors found themselves with considerable social, political, and economic interests in common. See Jane Merritt, *At the Crossroads: Indians and Empires on the Mid-Atlantic Frontier, 1700-1763* (University of North Carolina, 2003).

The most successful claimants to property would not be the man who had learned to live easily in the woods, but one who managed and controlled a number of bodies working together to turn woods into farms. In the case of dependent laborers such as wives, children, servants, and slaves, who lacked self-ownership, their labor created property for whoever claimed their bodies.³⁴ The work performed to transform the landscape – and the property claims that emerged from this work -- would not only remake the physical world but also would tighten the connection between real estate and racial and sexual control in the household.³⁵

Newly formalized American law also reframed all adult women as dependent wards of their husbands, placing both their labors and their goods conceptually under intimate property controlled by men. As students of American women and law know, in theory this was no change; in practice, however, it was very different. Even as more white men took up permanent co-residence with their wives – a fundamental part of establishing one’s head of household status – court records reveal that struggles over who would control marital property created by women became a pervasive source of tension within river county marriages.³⁶

³⁴ John Locke, Second Treatise Of Civil Government (Amherst: Prometheus Books 1986), 20-22.

³⁵ The intertwined history of labor and property, in the words of environmental historian Douglas Sackman “reveal vital dimensions of environmental history—a history made from and inscribed on the human body.” For a brilliant elaboration of the connection between work, workers, and the natural world in the creation and stabilization of empire, see Douglas Sackman, “‘Nature’s Workshop’: The Work Environment and Workers’ Bodies in California’s Citrus Industry, 1900–1940,” Environmental History 5 (January 2000): 27-53.

³⁶ For similar evidence of New England husbands and wives struggling over property distributions within the household, see Mary Beth Sievens, “To Assist Me in the Support of My Family: New

The connection between household order and real property deepened when federal land commissioners arrived in Vincennes in late 1806 intent upon settling land claims stemming from American occupation. Again and again, they turned to family configuration and household authority as the taproot of empire. Under various American land acts, “heads of family,” understood as male by default under American law, were given superior claim to title. Commissioners repeatedly titled women’s real property claims, secured through their own labors, to men. Men married to indigenous and metis women received titled to their wives’ usufruct claims gained through sugar production and the real property of widows of all ethnicities was titled to their sons. Indigenous women’s agricultural production was labeled “happenstance” because it was not performed by men with plows; despite their substantial and lucrative history of market-oriented agriculture, women’s farming was disregarded as a source of preemption rights.³⁷ Imperial law again worked to create race, gender, and ultimately class order through imposing hierarchy on bodies at work in nature.³⁸

With full-scale environmental transformation the new rule, intercultural competition for resources and violence would soon result. Moreover, the trend

England Women, Markets, and the Household Economy, 1790-1830,” [Working Papers in the History of Women and the Economy](#) (Library Company of the Philadelphia, October 2005).

³⁷ See Williams-Searle, “Intimate Empires: Household Order, Property Relations and the Law in the Western Country, 1760-1830,” ch 3.

³⁸ The federal commissioners also firmly described real estate as an alienable good, emphasizing this indifferent to the varieties of productive landscapes by locating granted acreage far from the sites where those claims were produced. One’s so-called sugar right, for example, might be ten miles upstream from the nearest maple tree. This laid the conceptual groundwork that underwrote Indian removal – second-rate and third-rate lands became infinitely substitutable, even if they lay several hundred miles to the West.

towards expansive labor control included dramatic new protections for slaveholders who wished to migrate to the putative free territory of Indiana. With conditions favorable to the man who controlled much labor, Indiana masters predictably began to accelerate their purchasing and leasing of African-American slaves from Kentucky, piedmont Virginia, and North Carolina. The most desirable slaves, judging from deed and indenture books, were African-American women with young children. The relative freedoms of petty marketing and quasi-ownership of self and businesses evaporated in the legal and political world of American empire ascendant. As suffrage expanded to include white men of modest property, their civic inclusion in the Empire of Liberty was secured directly by their coercive control of both land and household labor.

War further divided the fortunes of indigenous and Euro-American women. Euro-American women's property (consisting mostly of moveables) could be evacuated; we have lengthy descriptions of refugee wagons cramming blockhouses fair to bursting with bedding, wheels, reels, and "all the comforts of home." Indigenous women's major sources of income, however, were rooted in specific productive landscapes. The corn surrounding their villages, for example, was repeatedly lost to American torches. Their cattle was driven off or fed to soldiers. Maple groves were felled for farms redistributed to European-American men. When some Native American communities withdraw northward to places that their American counterparts found unusable – that is, wetlands or island – they looked to these remote locations not merely for protection, but also for

productive landscapes to replace the ones Americans had destroyed in the south.³⁹ Over 6,000 Indians remained in Indiana throughout the 1830s, holding over 3 million acres. However, the process by which they would be transformed from sovereign owners into – in that hateful phrase of Supreme Court Justice John Marshall – “perpetual inhabitants with diminutive rights” was already well underway.

In the Old Northwest, the struggle to determine the boundaries of real property ownership in a period of rapid environmental and economic change was linked to disruptive intimate reordering of households and the property claims that flowed through them. By reuniting work and nature, and by centering my analysis on the process and consequence of their uncoupling for women, I hope that I have revealed the logic of theft inside American households that marked the maturing of the American settler-state.

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³⁹ Dozens of enclaves, situated on swamps or islands, became havens. The micro-communities of Beaver Lake, Bogus Island, and Red Oak Island, for example, developed notorious local reputations for the physical toughness and economic cupidity of the women who lived there. See Williams-Searle, “Mix’t Like Jacob’s Cattle: Tri-Racial Communities in the Old Northwest,” (forthcoming).