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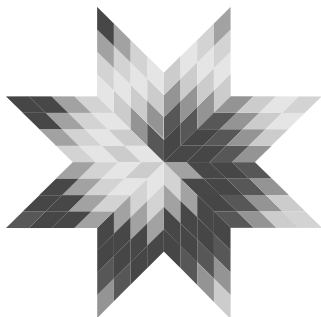
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FROM THE EDITORS

James Mackay orients us critically, historically, and politically in his introduction, but we want to take a brief moment to thank him and all the contributors for putting together such an impressive and timely special issue. This issue is the product of a conversation, in which Gerald Vizenor and Winona LaDuke participated, that remains evident on the printed page in the cohesive focus of the articles and reviews and the frequent intra-issue references to articles by the other authors. In the process of developing this new, exciting critical method, constitutional criticism, these authors identify the many specific places where the literary and political currently meet in our field. Equally exciting to the co-editors is that the issue is simultaneously tribal nation specific, Indigenous transnational, hemispheric, and global. Don't be surprised if you find yourself reading it at one sitting.

James H. Cox and Daniel Heath Justice



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U N I V E R S I T Y O F
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P R E S S

Special Issue
Constitutional Criticism

EDITED BY JAMES MACKAY

Introduction

JAMES MACKAY

Constitution is a country's youth.
It's a turbulent brook and its quaking banks.

It's an idea, an outlook and a vision;
A boat and its continuous journey.

Don't tell me it's just a book.
Shailendra Sakar, "Constitution"

Gerald Vizenor's name calls up some by now familiar associations, whether postmodern textual play or ironic political contrariness, controlled imagistic compression or exuberant trickster excess. The cannibalistic, violent, dog-sex shock tactics with which he burst onto the literary scene may no longer have such power to disrupt expectations of what an *indian* might write, but his teasing ability to make words and meanings kaleidoscope before your very eyes means each new text still carries an intellectual and aesthetic frisson few if any other writers approach. Still, his newest production, the "Proposed Constitution of the White Earth Nation," might just be the most shocking turn yet.

Asked to participate in a constitutional convention, then invited to become the principal writer, Vizenor (along with his co-framers) confronts some of the most fundamental questions facing Native nations. What is the purpose of a nation? What does it mean to be a citizen of that nation, and who has the right to be such a citizen?

How is authority vested in the nation's officers, and what checks and balances exist to insure against corruption and abuse of power? How can tradition inform governance, without running the danger of theocracy? What motivates interest in the future of the nation? How should the nation's finances be structured? How is the land base to be managed? How is sovereignty to be asserted, protected, and projected? How will the nation treat with other sovereign powers, including but not limited to the settler state that surrounds and enfolds it? How is the judicial system to be arranged, and *quis custodiet ipsos custodes*? How does a nation want to imagine itself? What is the language of the nation? How can the constitution be written so as to fulfill its triple responsibilities of being inspiring to those who would hear its idealism, precise for those who need to use it to make judgments, and clear enough so every citizen feels included in its embrace? At the time of writing, the answer to this last is uncertain: the proposed constitution has been ratified by tribal delegates but awaits a full citizen referendum.

As can be seen from the questions above, to participate in the creation of a constitution is to engage in a profound act of national imagination. Marilyn Nicely writes (on the homepage of the Native American Constitution and Law Digitization Project): "Tribal constitutions and codes are the heart of self-government for over 500 federally recognized tribes, and are the lifeblood of Indian sovereignty."¹ A skeleton for law and practice, the constitution provides an invisible structure for the citizen's interaction with the state. And constitutions, as Lisa Brooks reminds us later in this issue, are not some foreign import into Indigenous American affairs. Written constitutions pre-date Columbus; Native constitutions may have inspired the American founding fathers. Just as the continent's "discoverers" were met on the beach by others who had "discovered" it first, when the Tribal Organization Committee of Felix Cohen set out to help tribes create foundational documents, they found more than fifty examples already on file, created with or without the help of the federal government (Richotte 485).

Indian Reorganization Act paternalism lies behind the contempt with which many constitutions and codes are now discussed. David

Wilkins quotes from a memo Cohen wrote to John Collier in 1935—“I have, as you know, from the start, opposed the idea of sending out canned constitutions from Washington” (xxvi)—providing evidence to oppose Vine Deloria Jr. and Clifford M. Lytle’s assertion that “homogeneity rather than usefulness subsequently became the virtue” (101–2). Nonetheless Wilkins agrees that sample constitutions, templates, and outlines provided by the central government ended up being adopted wholesale, or almost wholesale, on too many occasions. A further injustice in 1934, the first year of the act’s implementation, was a creative interpretation of democracy in the running of adoption referendums, whereby every vote not cast or ballot paper spoiled was deemed to be counted for the “yes” faction.

Steve Russell calls the result “government on colonial terms, with constitutions based not on tribal traditions but on models thoughtfully provided by [the BIA]” (74), and it is difficult not to agree, especially after time spent clicking through the hundreds of near-identical examples displayed online by the Native American Constitution and Law Digitization Project. Wilkins provides evidence that Cohen’s “[initial] understanding of, and vision for, tribal constitutional development was heavily influenced, not by pre-existing tribal constitutions of other indigenous forms of government, but by the regulations of the municipal governments that dot the American landscape” (Wilkins, xxii), and certainly many constitutions use a language more appropriate to a town council, federally chartered corporation, or even voluntary association than a nation recognized through treaty and precedent. Centralized authority vested in a single branch of government, constant deferral of authority to the secretary of the interior, insistence on blood quantum requirements without precedent in most tribal traditions: certainly it’s quite easy to see how constitutions can become the poster child for colonial interference.

Still, as Wilcomb E. Washburn observes, “each tribal constitution differ[s] in one respect or another from every other tribal constitution” (21), and Wilkins also makes it clear that Cohen’s vision shifted as he learned about existing tribal governance (xxiii–xxiv). Cohen’s committee “was intent on learning and if possible, incorporating

‘traditional’ forms, symbols and understandings of tribal governance” wherever possible (xxv). More significantly still, constitutions were drafted in collaboration with committees of tribal members and ratified in most cases by majority vote in a plebiscite, so it would be injudicious to bow to a model of tribal passivity and federal wickedness. Since the 1970s, as David Carlson reminds us in this issue, Native nations have increasingly been involved in constitutional reform, often with more assertive language of sovereignty, more reliance on traditional ideas of kinship, and more innovative ideas for bringing both religion and custom (if indeed there is a separation between the two) into the running of a constitutional democracy.

This is all part of what Chadwick Allen calls “a story still unfolding, its ending unknown but increasingly complex and hopeful” (28), whether seen in separatist terms as laying potential ground for economic, spiritual, political decolonization, or simply as the renegotiation of the compact between the people, their leadership, and the federal government. Constitutions are living documents, subject to change and renewal, by the people, for the people, and as such provide witness to the changing definitions and processes that structure the experience of even off-reservation tribal citizens. It is not just the documents themselves that should be the subject of enquiry but also, as Keith Richotte argues, the individual histories that lie behind their framing, their adoption, and ongoing attempts to change them. Even a bad constitution, placed in its historical context, reveals a great deal about the specificities of tribal self-understanding.

Interviewing Vizenor about his constitutional work in May 2010, I was struck by his fierce pride in having been asked to undertake the task. He honored the memory of his grandmother, Alice Beau-*lieu* Vizenor, who “had to leave the reservation with her family in 1932, at the heart of the American Great Depression, facing things I’ve never faced. She could never have imagined that her grandson would be sitting here talking about a constitution that he wrote.” This personal connection seems to have driven him to bring an astonishing ambition to bear on the task.² The constitution tears up the six-band Minnesota Chippewa Tribe and makes a declaration of

independence, indeed of “continental liberty.” It frames the Anishinaabeg of White Earth as a people of “courage, loyalty, humor, spiritual inspiration, survivance, reciprocal altruism, and native cultural sovereignty.” And to do so it draws on an astonishing array of sources. Vizenor listed his duties as ensuring that the document protected “everything that was protected by the Bill of Rights of the United States, as well as the Civil Rights Act of 1964, the existing Constitution established by the federal government, and then the special things that are part of a treaty relationship and sovereignty,” and he went on to discuss the way that the US Constitution and the Japanese Constitution proved useful models in thinking through the framing process.

Yet the final document is Anishinaabeg to its core, inspired surely by his own observations in reportage since the late 1960s, by tribal chair Erma Vizenor’s vision, and certainly not least by discussions with tribal delegates over two constitutional convocations and a lengthy, article-by-article ratification vote at a third convocation. The result is, as David Carlson’s essay in this issue demonstrates, a unique intellectual high-wire act that speaks to some of the more complex questions in modern jurisprudence. At the same time, it is a profound exemplar of what Lisa Brooks has called “the conversation at the kitchen table” (Weaver 233).

This special issue of *SAIL* was inspired both by the White Earth document and also by consideration of the broader relationship between tribal constitutional law and tribal literatures. Taken together, the essays herein form an argument for a “constitutional criticism” of American Indian writing. The writers build on recent assertions by Robert Warrior of a duty for critics to “recover the sense of sovereignty and self-determination embodied in the philosophical traditions of tribal nations and their emerging literatures—with that literature being defined broadly enough to include such things as constitutions” (92). Moreover they recognize the various current tribal movements for constitutional reform, reflecting what Duane Champagne calls “a growing sense of crisis” around colonial-era constitutions (11), and proposals for new constitutional definitions of tribal citizenship put forward by thinkers such as

Scott Lyons, Steve Russell, and Eva Marie Garroutte—not to mention Vizenor himself.³

A constitutional criticism, the contributions to this special issue show, might use the tools of literary theory to approach tribal constitutions, examining their attempts to reflect national values and carve out sovereign space. Equally it allows critics to use constitutions as theoretical texts in their own right, ones that guide us in interpreting American Indian literature in a manner that is tribally specific and reflective of complex histories. In his essay in this issue David J. Carlson thus uses the proposed Constitution of the White Earth Nation as a tool with which to examine both Vizenor's theoretical texts and also the recent accusations by literary nationalists, notably Craig Womack, that Vizenorian thought lacks praxis. Lisa Brooks situates the White Earth document in a broader hemispheric history of constitution writing, asking what it can mean to enshrine principles such as a right to "irony" in a document so foundational for future national identity. Kirby Brown employs the Cherokee Constitution in its several iterations as a tool that produces a sustained rereading of *Black Jack Davy*, the early romance by John Milton Oskison previously seen as little more than a deterritorialized accommodationist fantasy. The issue finishes with a review section devoted to the latest work by and about Gerald Vizenor.

A constitutional criticism, of necessity, opens some of the most difficult questions that might be asked in the context of a project of decolonization. Does a Native nation conceive of itself as a nation-state, a subordinate entity within the United States, a special interest group, or as something else altogether, something "not acceptable to Enlightenment/linear history" (Bauerkemper 38)? If the latter, how does it formally codify this understanding within the context of contemporary world politics? (The recent Haudenosaunee passports controversy in the UK is but one example of what can happen when such alternate understandings run up against the machinery of nation-states). How does the nation truly conceive of the relationship between biological descent and citizenship? It was a constitutional amendment, after all, that disenfranchised the Cherokee Freedmen, and "who is or is not an Indian" was undoubtedly a fac-

tor for the third of White Earth delegates who voted against the proposed constitution. Does the nation agree, with Lyons, Russell, Garrouette, and others, that citizenship should carry some responsibility of cultural engagement?

The advantage of such questions is that they start with an assumption of nation status, however problematized. This opens the way to internationalist comparisons with other nations, recognized states or not. It is to point to such a direction that I opened this introduction with a poetic definition from poet Shailendra Sakar, whose home country of Nepal is currently in the process of ratifying a new constitution. I would also like to gesture to my (adoptive) country of Cyprus. This tiny nation decolonized after almost two millennia of varying occupations, and yet, within three years, it tore itself apart thanks in part to a constitution that enshrined and enforced ethnic difference and injustice, demonstrating both the hope and the danger implied in a constitution.⁴ Placing Native peoples in this context is not a facile or naive model of postcolonialism but is rather a recognition of their sovereign potential. It is in this context, for example, that the proposed White Earth constitution's imagining of embassies to other nations should be seen.

But what business, a skeptic might ask, do literary critics have in trespassing on these weighty questions of (inter)national law? After all, there is a profound difference between the hermeneutic roles of critic and judge, as Noori Gana summarizes:

Unlike the pressured judge who interprets and applies in order to make a final sole decision, the less strained literary critic knows from the outset that his or her interpretation/application, no matter how highly he or she esteems it, would be only one among many coexisting possible, or equally acceptable, interpretations. The idea of coexisting plural interpretations, in what Wayne C. Booth calls the "critical commonwealth," cannot be embraced by a jurist whose objective is to reach a just and unfaltering decision. (319)

But constitutions, as Gana goes on to recognize, need to be "as abstract as to be comprehensive and paradoxically as abstract as to

be inconclusive and open for transhistorical discursive amendments and transformations” (337), and hence they require active readers who are not bound only by precedent. The incorporation of indefinable values in constitutions—whether “justice” and “cruel and unusual,” or now “survivance” and “continental liberty”—requires judges to read in part as literary critics and allow literary critics to “trespass” on legal territory.

For what, truly, is a constitution? Eric David Lemont states in his introduction to the collection *American Indian Constitutional Reform* (2006), “In many ways this book is about the soul of American Indian nations.” However, the word “soul” might here be seen as problematic in its religious assumptions and also in its implication of something unchanging and unchangeable. I would instead like to substitute a term such as “national narrative.” Niigaanwewidam James Sinclair, responding at NAISA 2010 to a panel made up partly of contributors to this issue, suggested that “Anishinaabeg narratives, in all their expressive forms, collectively make up our constitution.” Shailendra Sakar, as we can see, frames a constitution as far more than just the final (temporarily) agreed text, being both “boat” and “journey,” both the brook and the banks that contain and shape the living energy of the water. It is indeed as complex national narrative, both text and textual hinterland, that the critics in this special issue approach and make use of these documents in their work.

NOTES

I owe a strong debt of gratitude to Daniel Heath Justice and James Cox for their consistent encouragement, which forced all of us to deepen our engagement with the possibilities of a constitutional criticism. I would like to thank the contributors for their critiques of earlier versions of this introduction, and also Gerald Vizenor and Laura Hall, who generously gave up their time to welcome me into their house at the most inconvenient moment. And, as always, thanks to Polina Mackay for inspiration, advice, and coffee.

1. In this introduction I concentrate (for reasons of space) on tribal constitutions in the United States; similar work should be done on constitutions in other Indigenous spaces. For a more hemispheric reading, see the essay by Lisa Brooks.

2. This interview, carried out in May 2010 at Vizenor's home in Santa Fe, will be published in *Centering Anishinaabeg Studies*, edited by Jill Doerfler, Niigaanwewidam James Sinclair, and Heidi Kiiwetinepinesiiik Stark (forthcoming from Michigan State University Press).

3. Lyons puts forward three "hierarchies of membership" that would separate active citizens from both passive nationals and people whose membership was based purely on race (186–88). Russell tentatively endorses a criterion of cultural literacy that would allow the naturalization of new citizens and avoid race-based paradigms (133–34). Garrouette carefully delineates a possible model based on both kinship (understood without emphasis on biology) and "responsibility to reciprocity"—as with all of these thinkers, she emphasizes that no "one-size-fits-all" definition is possible. Vizenor has proposed that tribal nations that have benefited from casinos should prove their sovereignty by creating embassies to foreign nations and taking in "Kurdish, Tibetan, Haitian" stateless refugees (Vizenor 148).

4. This constitutional history was unfortunately omitted from Nancy Strow Sheley and Carol Zitzer-Comfort's otherwise excellent article "Expand and Contract" in the Summer 2011 edition (23.2) of *SAIL* (75–76). The omission leads the writers to inaccurately characterize the island's problems as intrinsic and ethnic in origin, when they should be seen as resulting in large part from British colonial tactics of divide and rule.

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Trickster Hermeneutics and the Postindian Reader

Gerald Vizenor's Constitutional Praxis

DAVID J. CARLSON

In his discussion of Kimberly Blaeser's 1996 book, *Gerald Vizenor: Writing in the Oral Tradition* (part of the long bibliographic essay that opens the collection titled *Reasoning Together*), Craig Womack raises significant questions regarding the meaning and value of Vizenor's own writing. While insisting that Vizenor is "a writer I greatly admire," Womack's survey of his work is, in fact, more full of "worry" than praise. Womack questions Vizenor's use of poststructuralist theory and registers anxiety about the implications of that theory for indigenous cultural and political self-definition ("Single Decade" 65). He suggests that the seeming open-endedness of meaning in Vizenor's texts makes it more "theoretically difficult . . . to mount an argument for prioritizing Indian readings of Indian literature" (67). He questions whether Vizenor's signature "trickster" discourse is, in fact, indigenous.¹ He wonders whether Vizenor's penchant for neologism is merely "annoying" (69). Finally, and most significantly in light of his own view (forcefully expressed in *Red on Red*) that "Native literature, and Native literary criticism by Native authors, is part of sovereignty," Womack doubts the "relevance of an inaccessible prose style toward intervening in the real world, where every year Native people face issues of land loss, threats to jurisdiction, new calls from redneck politicians for the federal government to end the trust relationship with tribes, and so on" (72).² At the end of all this, of course, one might wonder what is left in Vizenor's work to admire, especially at a moment in Native American studies where pragmatic political concerns are increasingly driving the

scholarly agenda. Indeed, if Womack's assessment is accurate, there would seem to be little place for Vizenor in an increasingly praxis-oriented field.

Many scholars have mounted compelling defenses of Vizenor's writing against skeptical criticism, of course, but those defenses have often been primarily literary in focus, exploring Vizenor's aesthetic achievements rather than responding to the kind of political challenge Womack delivers.³ In this essay I begin with the presumption that debates about whether political concerns should trump aesthetic ones in critical assessments of Vizenor are, in fact, misguided; his aesthetic *is*, in my view, deeply political. Vizenor's recent foray into the "real world" (his work as the principal drafter of the proposed new constitution of the White Earth Anishinaabeg) provides us with an ideal opportunity to explore that claim. Through an examination of both some of Vizenor's nonfiction criticism and his constitutional writing, I hope to demonstrate that a *functional* approach to understanding his work, one that emphasizes the effects of his language on readers (what that language does, in a performative sense), reveals the presence of praxis, a convergence of theory and practical action.⁴

But what is the nature of this praxis? In both his relentless dialectical critical essays and self-styled "trickster fiction," Vizenor has consistently challenged attempts to define and constrain "Indian" people within the frameworks of Western legal and scientific discourses.⁵ His approach to doing so is almost unique among contemporary Native writers. Vizenor invites his audience into a reading process that emphasizes the mobility of concepts and the performative nature of words themselves. Consequently, his prose seeks to interpellate a kind of ideal reader who will be self-consciously resistant, in other ways, to the colonizing effects of "the enemy's language." Vizenorian praxis, then, emerges in the synergy of aesthetics and politics, a synergy that appears most clearly when we focus our attention on the issue of interpretation in his work.

Interpretation is simultaneously the subject and object of much of Vizenor's writing, and in the pages that follow, I suggest that "trickster hermeneutics" (Vizenor's term for the reading practice

into which his texts seek to interpellate their ideal reader) has profound implications in the realm of constitutional law, where debates over the meanings of words and the canons of textual interpretation are central preoccupations. Vizenor's recent foray into constitution writing (the production of a text whose manifest purpose is to be interpreted, with very real consequences) usefully refocuses our attention on the political implications of his other belletristic work, implications I would argue have always been there, even if sometimes they have been hard to discern.⁶ Appreciating the hermeneutic continuity between Vizenor's postmodern experiments in literary prose and his legal writing, then, allows us to more fairly assess his contributions to present-day struggles for sovereignty in White Earth and, by implication, throughout Indian Country. If, as I concede, there are significant limitations to Vizenor's approach, those limitations are not the result of what Womack characterizes as "a grab-bag relationship with theory" that involves "latching onto ideas without much consideration for their broader implications" ("Single Decade" 72).⁷ They involve a problem that even the contemporary literary nationalist or separatist critics (in the United States, at least) cannot evade: in a society where plenary power still rules over tribal people, it is difficult for *any* texts to force the ruling legal order to change or to guarantee the success of decolonization strategies employed by entities of tribal governance. That said, even if a solely pragmatic test is to be applied to contemporary Indian literature and criticism (assessing it, as Womack does, in terms of its ability to directly advance the cause of sovereignty throughout Indian country), I maintain that Vizenor's voice remains an extremely valuable one.

THE DIALECTICS OF NATURAL REASON:
VIZENOR'S POSTINDIAN READER

Finding a discrete entry point from which to begin discussing Vizenor's work can be difficult, especially as a typical Vizenor text regularly directs its reader's attention away from itself—to works by other writers, to other works by Vizenor, and so on.⁸ Fortunately for

my purposes here, one particular essay appearing in *Manifest Manners* offers as concise an overview of the concept of, and experience of, “trickster hermeneutics” as one might hope for. For that reason, I want to indulge in a somewhat detailed, stylistic examination of that piece, “Postindian Warriors,” both in order to discuss the experience of reading it and also to highlight how it renders certain key theoretical concepts meaningful.⁹ Those concepts, in turn, underpin my subsequent analysis of the White Earth Constitution in the second half of this essay.

The opening lines of “Postindian Warriors” may be taken as representative of the style of most of Vizenor’s critical nonfiction written during the 1990s—his period of most direct, and sometimes parodic, engagement with academic discourses. Invoking the Lewis and Clark expedition of 1804–06, Vizenor observes that this journey “would become the most notable literature of tribal survivance” (1). Such a seemingly paradoxical statement arrests the reader immediately, focusing our attention on the importance of individual words as loci of meaning in Vizenor’s writing.¹⁰ Considering just two of those words can help begin to illustrate some of the key functional dimensions of his prose style.

Even though it is one of Vizenor’s now well-worn neologisms, “survance” is a word that still defies straightforward definition.¹¹ Vizenor implies a legal etymology for the word in his preface to *Manifest Manners*: “survance means the right of succession or reversion of an estate, and in that sense, the estate of native survivancy” (vii).¹² However, current English-language legal dictionaries do not include it as a term, employing instead the word “survivorship” to express a related concept of property inheritance.¹³ The present-day link between Vizenor’s use of “survance” and traditional legal discourse would seem to be metonymic then. Understanding his word as a legal concept requires a lateral movement between texts and discourses, and, significantly, that kind of mobile thinking encourages a range of simultaneous, varied readings of the sentence just quoted. We might, on the one hand, take Vizenor to be saying that the Lewis and Clark expedition marks the origin of colonial experience for western tribes, necessitating survivance in

its wake. On the other hand we might read the sentence as a way of taking the historical event of the journey and allegorizing it. A few sentences later Vizenor locates the essence of the expedition in Lewis and Clark's desire to "be seen" by Indian people (more on this shortly). That gesture encourages us to retroactively gloss "survivance" as "the act of being recognized." Such a move, in turn, might lead us to understand survivance as a political act standing at the heart of sovereignty itself—the act of asserting autonomy and having that autonomy acknowledged by others.¹⁴ And this, in turn, takes us back to the original sentence again, which we can reread now as a comment on the fact that the expedition initiated a struggle of competing assertions of sovereign recognition.¹⁵

The word "notable" is capable of various interpretations here as well. In the case of this term we can see that neologism and intertextuality are not Vizenor's only strategies for suggesting the multiple significations of individual words; context and syntax render "notable" polyvalent. "Significant" is one possible gloss, of course, but our word's appearance in a sentence discussing Lewis and Clark's journal suggests that "notable" might also connote something related to record keeping, quotation, or the abstracting of information. Especially in light of Vizenor's avowed interest in poststructuralism, "notable" begins to signify something like "iterable" (the state of being repeatable and capable of redevelopment and elaboration through recontextualization).¹⁶ Such a reading makes sense, especially in light of the preceding discussion of "survivance." Colonialist history and law has "reiterated" the story of the Lewis and Clark expedition many times, and so too have tribal literatures. "Notable," in this sense, can clearly be linked back to the previous comments about this journey as a key moment in an ongoing struggle for political and legal recognition.

I could continue on in this vein, of course (for example, asking what would happen if we read the sentence ironically), but one should by now be able to see how, in less than twenty words, Vizenor is able to introduce his readers to an interpretive universe where the meaning of words and concepts is highly mobile. This is Vizenor's primary debt to poststructuralist theory, and the difficulty of

his prose style derives from its perhaps grotesque exaggeration—for effect—of these hermeneutic possibilities. Understanding or interpreting a text like “Postindian Warriors” requires a reader to be willing to follow the “traces” of Vizenor’s language throughout, and sometimes across, texts (his and others’).¹⁷ And it requires an awareness that the precise meaning of a term or concept can vary depending upon its placement in a specific context.¹⁸ This fact, of course, renders the creation of a Vizenor “glossary” a complicated sort of endeavor. At the same time, though, it seems important to note that Vizenor’s interest in the mobility of meaning does not equate to a nihilistic rejection of the possibility of *any* meaning, a charge often leveled against deconstructive critics. Even as texts can multiply interpretive possibilities, community, in some sense, becomes the final arbiter of meaning for Vizenor. As I hope my examples reveal, Vizenor does not engage in an unending form of regressive linguistic play; the meaning of words in his prose is multiple, but not indeterminate (as Womack seems to fear).¹⁹

The broad understanding of the relationship between reading (or, in an oral context, listening) and meaning making that I have sketched here stands at the heart of what Vizenor, throughout his work, calls “natural reason.” Natural reason, I would suggest, is essentially a form of dialectical thinking, the kind of thinking that Vizenor seems to believe characterizes traditional tribal consciousness and the trickster discourse that re-expresses it today.²⁰ For Vizenor, the natural reason of tribal consciousness involves a rejection of the premises of formal logic, especially the presumption that things or concepts must be *either* identical *or* different from one another, in absolute terms, but never both.²¹ Formal logic begins with an attempt to set and fix definitions of terms or concepts, while dialectical, natural reason seeks to emphasize how a single term may mean differently depending upon the set of “relations” in which it is placed. The kind of reader called for by Vizenor’s critical prose, then, is one who is comfortable setting aside a desire for a priori, prescriptive definitions and is instead willing to work at the production of meaning throughout the reading experience.²² A text like “Postindian Warriors” interpellates a naturally reasoning, dialectical subject as its ideal reader.

Returning to the text of Vizenor's essay with these ideas in mind, we should note that the focus of "Postindian Warriors" is to engage its readers in dialectical thinking about three interrelated concepts—"survivance," "simulation," and "postindian." Getting a clear sense of how this process works requires us to recreate further the experience of reading the text. After the paradoxical opening sentence discussed above, Vizenor continues his exploration of survivance, doing so primarily through strategies of juxtaposition and implication.²³ As mentioned before, the reader is told that Lewis and Clark reported in their journals that "they wanted to be seen by tribal people on their expedition," a comment that seems to gesture toward a fixed definition of survivance as *the act of being seen by others* (1). And yet the ambiguity produced by Vizenor's syntax and the mobility of meaning at the level of individual words draws the reader on in a search for greater conceptual clarity. *Seen* in what sense, we might wonder? Does the context of seeing affect the meaning or signification of the act?

The fact that the Lewis and Clark expedition was a colonialist voyage of legal discovery is not lost on Vizenor, and he clearly recognizes that not all forms of "being seen" are equal in a colonial context.²⁴ In that light the essay's immediate juxtaposition of an unexpected supplementary example, Luther Standing Bear's journey east to attend the Carlisle boarding school in Pennsylvania during the Allotment Era, makes sense as a mechanism to advance and complicate the interpretive process. Standing Bear's willingness to expose himself to the colonizing gaze of the other was obviously also a form of *being seen*, but the reader will likely feel compelled to ask, *how is this, too, survivance?* Surely there is a difference between Standing Bear's experience and that of Lewis and Clark encountering the Mandan? Vizenor's way of urging his reader to work through the commonality and variation between the two experiences (he notes that both "created simulations that would honor their survivance in literature") becomes a classic invitation to dialectical thought (1). We are urged to consider how "Standing Bear" and "Lewis and Clark" are simultaneously the same and different, how their experiences signify survivance differently owing to their different con-

texts. It would seem that each asserts sovereignty in some sense (e.g., each engages in a process of trying to “being seen” and “recognized” by others), but sovereignty cannot mean the same thing for both of them because of the different contexts in which those assertions take place. Puzzling this out fully, however, requires the introduction of the next relational term.

It is clear from numerous references throughout Vizenor’s work that “simulation” is a word he adopts from post-Marxist thinker Jean Baudrillard. As Baudrillard uses the term “simulation” refers to the hegemony of artificial “imitations” of the “real” in late capitalist or mass media society.²⁵ Indeed, Baudrillard’s use of term can often veer into the melancholic or fatalistic—as he sees the real being, finally, displaced by artifice in a manner that is not necessarily liberating. In reading Vizenor’s work, especially “Postindian Warriors,” however, it seem clear that he is not using the term “simulation” with precisely those connotations. Simulation, in Vizenor’s dialectical use of the term, does not necessitate the destruction of the real (of, for example, tribal consciousness), though it certainly could do so. Again, comparing Standing Bear and Lewis and Clark, Vizenor notes that their expeditions were more than “mere simulations of savagism and civilization” (2). How so? the reader asks, sensing again that simulation, like survivance, means differently depending upon its context. Here is one possible answer. Lewis and Clark were simulations in the sense that they represented and embodied civilization (as a legal fiction) on a state-sanctioned voyage to *discover* and *possess* savage lands. (I am using those terms in their legal sense here.) But they were also men whose autobiographical experiences, as documented in their journals, somehow exceeded their legal roles and functions. Standing Bear was a somewhat different kind of simulation, one who represented a different kind of legal fiction (the assimilable Indian) for many Americans during the Allotment Era. And yet his autobiography hints (often through irony) at other levels of experience and tribal consciousness.

Sorting out the valences of simulation in this way requires considerable engagement on the part of the reader, of course. Vizenor’s textual reconstructing of a process of natural reason demands that we continually set aside our desire for static definitions, engaging instead

in the progressive play of ideas and examples. It is this seeming open-endedness that understandably troubles some readers (like Womack). And I would concede, too, that continuing with the kind of dramatization of a hypothetical reader response that I have been offering here risks making Vizenor's writing seem needlessly tedious or circular. (Parsing Vizenor's critical prose is a bit like writing an extended explanation of why a joke is funny.) The essential point I wish to make will have been made, though, if my reader gets a sense of the kind of interpretive process Vizenor's text elicits. It is also important to recognize that this interpretive process, trickster hermeneutics, is built on the premise that concepts *mean* through a provisional process of definition and redefinition, positioning and repositioning. Engaging in trickster hermeneutics involves being wary of rigidly authoritative statements and being open to the prospect of evolving significance in key terms and concepts. Each time one encounters a critical term, in Vizenor's writing, one must consider the possibility that its meaning has shifted somewhat because of the new context in which it has been placed.²⁶ And this use of language is politically significant, for as I suggest at the end of this essay, trickster hermeneutics is opposed to the interpretive canons of the common-law tradition that underpins Anglo-American colonialist discourse.

At this point, and to conclude this portion of my argument, I would like to offer a more sweeping statement regarding the significance of the third key relational term, "postindian," in that essay. To do so I want to trace a series of discrete quotations from the essay that use the term, gradually teasing out its meanings. I follow each quote with a partial, provisional gloss of my own, in italics. This provides a final example of the ways Vizenor's prose invites the reader into the world of dialectical thought:

Standing Bear seemed to envision the onset of the postindian warriors of simulation; that sensation of a new tribal presence in the ruins of representations of invented Indians. (3)

The postindian is a new kind of subject position that involves the creation of an image of the "Indian" that directly debunks colonialist stereotypes.

Postindian warriors encounter enemies with the same courage in literature as their ancestors once evinced on horses, and they create their stories with a new sense of survivance. (4)

The postindian is a literary figure, a producer of texts. This type of literary production is a form of conflict, requiring courage and skill.

The postindian simulations are the core of survivance, the new stories of tribal courage. The simulations of manifest manners are the continuance of the surveillance and domination of the tribes in literature. Simulations are the absence of the tribal real; the postindian conversions are the new stories of survivance over dominance. (4)

Postindian discourse parodically represents the "Indian" as a way of contesting colonialist discourses and their images of tribal people. Those parodic representations have transformative power, both for the postindian subject and the colonizing subject.

The postindian outs the inventions with humor, new stories, and the simulations of survivance. (5)

Postindian writing or storytelling is comic and innovative, even when combating colonialist discourses. Postindian writing liberates even the colonizer from a life of lies and self-deception.

The postindian arises from the earlier inventions of the tribes, only to contravene the absence of the real with theatrical performances; the theater of tribal consciousness is the recreation of the real, not the absence of the real in the simulation of dominance. (5)

Postindian writing is performative in a pragmatic linguistic sense. It involves the use of language to create real effects in a communal context. The postindian, in this sense, can be thought of as ceremonial. This performative impulse is part of tribal life, predating colonialism. Postindian writing is a reinvention of this impulse.

The postindian warriors are the new indicators of a narrative recreation, the simulations that overcome the manifest manners of dominance. (6)

The presence of postindian texts is an index of reasserted sovereignty.

The Indian was an occidental invention that became a bankable simulation; the word has no referent in tribal languages or cultures. The postindian is the absence of the invention, and the end of representation in literature. (11)

Postindian writing marks a shift to nonmimetic expression in "Indian" texts. The postindian in this sense represents a reinvention of mythic consciousness.

Postindian simulations arise from the silence of heard stories, or the imagination of oral literatures in translation, not the absence of the real in simulated realities; the critical distinction is that postindian warriors create a new tribal presence in stories. (12)

Despite its relationship to colonialist discourses, postindian writing is not merely negative. It has a positive content emerging from tribal traditions.

Trickster hermeneutics is the interpretation of simulation in the literature of survivance. (15)

A specific reading process is required to appreciate the performative nature of postindian writing.

The first thing to notice here in this series of dialectic statements defining the postindian warrior is Vizenor's refusal to offer stable nominative claims pinning down what such a person *is*.²⁷ To the extent that he does define, those definitions are fluid and context-bound—relational, in the dialectic sense. Indeed, we should note that Vizenor seems primarily concerned with defining the postin-

dian in terms of functions—what it does as opposed to what it is in some ontic sense.²⁸ So what is it, then, that the postindian does? The postindian derives its existence and form, at least in part, from the ongoing control of literary and political discourses by the colonizers. In that sense, to the extent that we can designate it as a thing, the postindian is really a historically contingent rhetorical position or storytelling pose defined by its primary function—resistance. There is nothing in Vizenor’s writing to suggest his sense that some type of postindian identity represents the inevitable future for, or essence of, tribal people in the wake of colonialism. Postindian does not coincide with a tribal real, in other words (here we see its intersection with his use of the term “simulation”).²⁹ Instead, it may be more useful to think of the term “postindian” as a way of describing resistant reading and writing practices. “Postindian,” in this sense, signifies either (1) a kind of performative mask that allows a writer or activist to engage in an evolving dialectical contest with the colonizing institutions and discourses that invent Indians in order to dominate them, or (2) an approach to reading that is attentive to this dialectical contest. This is part of what Vizenor seems to mean when he positions “postindian simulations” against the “simulations of manifest manners.” For a writer to function as a postindian warrior, then, is to engage in simulation that negates the invented “Indian” of the colonizer, but to do so in a way that avoids being pinned down, in turn, as a simplistic and binary “Anti-Indian”; this point highlights why it is so difficult to define “postindian warrior” as a static thing. And if, as I am suggesting, the phrase refers to both a rhetorical posture and a set of hermeneutic practices that push back against whatever forces would prevent tribal people from being seen or recognized in their own terms, we can see how all three key terms I have been discussing—“postindian,” “simulation,” and “survivance”—interact with one another. The essence of survivance for Vizenor, then, is the act of nurturing “postindian” creation of counternarratives and the employment of reading practices that clear away colonial simulations to create a space for the recreation of the real, the sovereign right of indigenous people to determine how,

or how much, they are *seen* by others. The culmination of survivance, in this respect, might well be the composition of an innovative constitutional text that makes particular demands of its readers, demands with the potential to facilitate this vision of sovereignty.

TRICKSTER HERMENEUTICS AND
THE WHITE EARTH CONSTITUTION

As James Mackay's essay in this volume demonstrates, the text of the proposed Constitution of the White Earth Nation (CWEN) is a communal document that reflects the contributions of many voices. President Erma Vizenor of the White Earth Nation designated three persons—Jill May Doerfler (of the University of Minnesota, Duluth), Jo Anne E. Stately (vice president of development for the Indian Land Tenure Foundation), and Anita Fineday (chief tribal court judge of the White Earth Nation)—to serve as an advisory committee to the principal writer (Gerald Vizenor). The final text of the document also involved alterations and compromises based on the views of delegates to the three constitutional conventions (on October 19–20, 2007, January 4, 2008, and October 24–25, 2008). There is no inconsistency, however, in my noting the communal nature of the CWEN while also reading the text as an attempt to reimagine postindian literary practices into the realm of law. In the discussion that follows, I hope to reveal the CWEN as a legal document of survivance, in the sense that Vizenor uses the term. At the same time, in stressing the “Vizenorian” rhetorical qualities of the text I gesture toward a richer appreciation of the “real-world” foundations of Gerald Vizenor's thought in Anishinaabeg cultural and political life.

Overtly, the CWEN engages with and reworks its key sources, particularly the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe (hereafter referred to as the Minnesota Chippewa Constitution), an IRA-era document that it is intended to supplant.³⁰ We also see clear evidence of postindian rhetorical strategies in the CWEN's approach to defining White Earth Anishinaabeg subjectivity. Not surprisingly, though, considering what we have

already seen regarding the qualities of Vizenor's prose, the CWEN also performs its trickster hermeneutics in more subtle, implicit ways, interpellating the same kind of dialectic, naturally reasoning reader we noted in the preceding discussion of "Postindian Warriors."³¹ Taken together, all of these textual features reveal the CWEN to be an intriguing legal experiment that asserts Anishinaabeg sovereignty in, at times, strikingly aggressive and innovative ways, while also maintaining a degree of engagement with the dominant legal discourses of the Anglo-American tradition. That the results of this experiment cannot be known for some time (assuming the text is ratified) should not diminish our appreciation of the postindian praxis it represents.

The Preamble of the CWEN immediately foregrounds many of the key features of Vizenor's postindian rhetoric. Preambles to tribal constitutions, especially in the past few decades, are commonly the places where some type of definition of the nation or polity is offered.³² The Preamble, then, is also typically the most explicit statement of Native identity one will find in the entire text (as well as the place where some suggestion regarding the spirit in which the text is to be read might be offered). It is interesting, in this regard, to note the language of the CWEN Preamble and to contrast it with the opening of the earlier Chippewa Constitution:

**Revised Constitution and
Bylaws of the Minnesota
Chippewa Tribe, Minnesota**
Preamble

We, the, Minnesota Chippewa Tribe, consisting of the Chippewa Indians of the White Earth, Leech Lake, Fond du Lac, Bois Forte (Nett Lake), and Grand Portage Reservations and the Nonremoval Mille Lac Band of Chippewa Indians, in order to form a representative Chip-

**The Constitution of the
White Earth Nation**
Preamble

The Anishinaabeg of the White Earth Nation are the successors of a great tradition of continental liberty, a native constitution of families, totemic associations. The Anishinaabeg create stories of natural reason, of courage, loyalty, humor, spiritual inspiration, survivance, reciprocal altruism, and native cultural

pewa tribal organization, maintain and establish justice for our Tribe, and to conserve and develop our tribal resources and common property; to promote the general welfare of ourselves and our descendants, do establish and adopt this constitution for the Chippewa Indians, of Minnesota in accordance with such privilege granted the Indians by the United States under existing law.

sovereignty.

We the Anishinaabeg of the White Earth Nation in order to secure an inherent and essential sovereignty, to promote traditions of liberty, justice, and peace, and reserve common resources, and to ensure the inalienable rights of native governance for our posterity, do constitute, ordain, and establish this Constitution of the White Earth Nation.

First of all, we might notice that the Minnesota Chippewa Constitution created a federal system linking together various bands of Anishinaabeg people in a manner that is both paternalistic and assimilationist, reflecting much of the ambivalence inherent in the IRA constitution-drafting process.³³ The emphasis on the “development” of tribal resources and “property,” which is picked up even more strongly in Article I (“the purpose and function of this organization shall be to conserve *and develop* tribal resources and to promote the conservation *and development* of *individual* Indian trust property . . .” [emphasis added]), underscores the nature of this 1934 document; the Chippewa Constitution is essentially a business plan for the confederated bands. Likewise, the clear acceptance of US plenary power in the final sentence of the preamble is a far cry from the kind of assertion of sovereign “national” identity we have come to expect from constitutions written since the mid-1970s. Rather, it is more of a reflection of early twentieth-century attitudes regarding the limitations on tribal sovereignty within the framework of US Indian law at that time.³⁴ The Minnesota Chippewa Constitution is an “Indian” constitution, in the sense Vizenor would use the term. Even insofar as it represents a progressive move away from the extreme assimilationism of the Allotment Era, the document still reifies a simulated identity for tribal people that relegates them to a subordinate position in a colonialist hierarchy.

With this image of the immediate constitutional precedent before us, it becomes easy to see that one of the functions of the Preamble of the CWEN is to ironically reimagine the earlier written document.³⁵ When we consider both what the CWEN Preamble says (its content) and how it says those things (its performative or functional dimensions), we see how the new document offers a strikingly different approach to “defining” Anishinaabeg identity and legal subjectivity. The Preamble approaches the topic of “national” identity in a classic Vizenorian manner—employing neologisms, complicated syntax that troubles our sense of denotative meaning, functional as opposed to nominative statements of definition, and invocations of other texts whose presence supplements the meaning of what is on the page before us. Designating the Anishinaabeg as “successors of a great tradition of continental liberty,” for example, is both a radical departure from the Minnesota Chippewa Constitution’s focus on blood quantum (an addition to that earlier text, made under pressure from the US Department of the Interior in 1964) and a complex provocation to the reader in its own terms.³⁶ What is the “great tradition of continental liberty” referenced in this foundational document? Is this to be taken simply as an invocation of a pan-Indian “democratic sensibility,” predating colonial contact?³⁷ We might note, in this context, that in the Wednesday, September 2, 2009, edition of *Anishinaabeg Today*, a series of “definitions of selected words” from the CWEN (which is also printed in that issue) was published. This list of definitions includes “continental liberty,” but the definition offered functions more to expand the meaning of the word than to limit it: “Continental liberty refers to the Continent of North American [sic], and native liberty refers to the natural freedoms and rights of natives before contact with Europeans. Natives had established extensive and active trade routes throughout the continent and hemisphere. Trade routes, and other associations of native communities required a sophisticated sense of rights, travel, trade, and native liberty” (19). Is this an embrace of at least one important strand of American (i.e., US) constitutionalism? Vizenor cites the US Constitution as another one of his model texts, we should remember, and the second paragraph of the Pre-

amble certainly echoes its US counterpart.³⁸ Perhaps it is an attempt to position the CWEN as a text in the tradition of Native survivance, looking back to the writing of turn-of-the-century figures such as Charles Eastman, Zitkala-Sa, or the clearly admired Standing Bear? Or perhaps, better than all these alternatives, we could see the text as doing all of these things—making a complex point that Anishinaabeg subjectivity and nationhood, in the present moment, combine multiple stands of historical and conceptual experience, that (in legal terms, at least) Anishinaabeg is best defined dialectically (e.g., relationally or situationally).

Other phrases in the opening paragraph of the Preamble reinforce this impression. “Totemic associations,” we can readily infer, signify clan structure as a basis for social and cultural organization.³⁹ At the same time, though, to reduce “totemic” to a single meaning would surely be a mistake. Vizenor’s use of the term in a discussion of Anishinaabeg pictomyths and picture writing, for example, associates totemic with symbolic “transformations by vision and memory” spanning historical time.⁴⁰ And is “native constitution of families” simply a reiteration of totemic, or is it something else? Syntactically the answer is ambiguous, but clearly the choice of the term “constitution” here is provocative and pregnant with multiplying possibilities of meaning. If, for example, “constitution” *denotes* creation in a manner that *connotes* something about the way that webs of interrelationships in complex kinship structures function, does that very connotation have the potential to reshape, dialectically, the meaning of the White Earth Constitution? Is the Preamble gesturing toward a subtle reformulation of our understanding of how to read a constitutional document—rendering such a document a textualization of interrelational and totemic identity?⁴¹ I confess that I am unable to answer that question as a lone reader and a nontribal member, though I suspect this may be part of the point, and the performative nature, of the text. There should be no question, however, that the CWEN Preamble approaches the definition of Anishinaabeg nationhood and sovereignty in a radically different manner than the business committee model of the Minnesota Chippewa Constitution.

Another intriguing aspect of the CWEN Preamble's approach to national self-definition involves the text's functional emphasis, its delineation of the Anishinaabeg primarily in terms of what the constitution calls on them to *do*—create stories. We should also note here, though, that the precise nature of that storytelling cannot be pinned down solely by reference to the CWEN itself—another example of the political dimensions of Vizenor's emphasis on intertextuality as an essential aspect of interpretive practice. A useful way to grasp this is to imagine a tribal court judge endeavoring to read the CWEN Preamble while preparing an opinion in a case bearing directly on Anishinaabeg sovereignty or constitutional law. (This is the kind of “real world” situation about which one can imagine critics such as Womack worrying.) This hypothetical judge would reasonably conclude from the text in front of her that the “story” of Anishinaabeg national identity involves the promotion of the right of representative self-governance and the preservation of public order. However, neither *Black's Law Dictionary* nor the standard legal fictions and precedents of US Indian law would enable said judge to easily make sense of terms like “natural reason” or “survivance.” Indeed, even formulations such as “native cultural sovereignty” and “reciprocal altruism” become problematic terms for legal interpretation.⁴² In moments like these, then, notwithstanding the fact that it opens a text that has a strong formal relationship with Anglo-American constitutionalism, the CWEN Preamble clearly directs a reader's interpretive thinking outside of itself and away from the discourse of US Indian law. The text cannot be read in good faith, I would argue, without moving beyond a colonized legal historical framework and examining alternative, indigenous sources of meaning. These would include, interestingly enough, Vizenor's own literary and critical oeuvre (the most obvious place to look for definitions of neologisms like “survivance”), as well as the broader discourse of Native American studies, where “survivance” has been adopted as a term of art. Even if there is no guarantee that the CWEN will be read in good faith, the potential transformative power of this postindian Preamble is undeniable.

Before moving on to some of the other powerful and innova-

tive aspects of the CWEN, I would also like to draw attention to a final way that the full text of the document, not just the Preamble, approaches the definition of Anishinaabeg subjectivity in a manner broadly consistent with Vizenor's postindianism. Throughout the text multiple signifiers are used to designate the community as a whole and its individual members. While some variation of this kind is inevitable, the CWEN's use of such variation is unusually extensive. The prior Minnesota Chippewa Constitution, even in seeking to create an economic federation of multiple Anishinaabeg communities, nevertheless used only two labels for its subjects—the "Minnesota Chippewa Tribe" and "Members of the Minnesota Chippewa Tribe"—a textbook example of the kind of colonial simulation that Vizenor has consistently challenged throughout his career. And even a much more assertive, contemporary constitution, that of the Saint Regis Mohawk, or Akwesasne, limits itself to one phrase, "the Saint Regis Mohawk Tribe" (or "members of . . ."), to designate its "subjects." In contrast to this precedent, the CWEN uses eight different phrases to signify White Earth Anishinaabeg subjectivity, with different terms seeming to connote different facets of Anishinaabeg legal experience.⁴³ The CWEN references "The Anishinaabeg of the White Earth Nation," highlighting the simultaneity of White Earth's political autonomy and its larger "tribal" affiliation. Phrases like "The White Earth Nation" and "Citizens of the White Earth Nation" signify in a narrower way a primarily local, political definition of identity. Elsewhere, the expressions "the people," "no person," and "citizens" are used in those parts of the CWEN focused on civil rights, suggesting an interplay between a more liberal experience of individual rights and community authority. Add to this list expressions such as "The Anishinaabeg and their descendants" (a phrase that picks up on the aforementioned retreat from blood quantum) and an interesting oscillation between cultural positions in designating the chief executive alternately as the "President" or the "White Earth Chief," and we find a document that seems to be using textual variation to emphasize that the experience of legal subjectivity at White Earth is richly various and implicated in a range of contexts and discourses. The CWEN strains to avoid interpellating a single

type or model of “Chippewa” subject. Instead, it implies that to be a member of this political community is to function at times as a part of a culture that transcends lines of political governance, at other times as an individual enmeshed in the rights talk and liberal ideology of the modern United States, and at still other times as a part of a community whose sovereign independence from that American modernity is paramount. Significantly, in this respect, the CWEN innovatively registers a particular vision of the real complexity of indigenous political life in our present historical moment.⁴⁴

And yet the inventiveness of the CWEN extends even beyond its striking acknowledgment of political complexity. Especially significant in light of the argument I am advancing here, the document incorporates a variety of strategies to shape the process of reading itself. First of all, the CWEN is organized through a provocative use of trope in order to immediately signal its difference from other constitutional texts. The CWEN is divided into “chapters,” not “articles” (the term “Article” is reserved for subdivisions within the chapters), a move signaling that the Anishinaabeg law-ways being codified here also participate in a larger narrative or storytelling tradition.⁴⁵ Such a point is picked up in other ways throughout the text, as in, for instance, the explicit commitment to the practice of restorative justice in tribal courts (a central theme in contemporary indigenous jurisprudence) or, more idiosyncratically, in explicit guarantees of the “freedom of thought and conscience, academic, artistic irony, and literary expression.” Another indication of the text’s implication of its reader in a specific hermeneutic universe is its creation of both Community Councils and Councils of Elders to advise the Legislative Council and president. These political structures explicitly link this written document of constitutional governance with Anishinaabeg cultural practices and oral traditions. The Community Councils’ charge is to “promote, advance, and strengthen the philosophy of *mino-bimaadiziwin* [the good life],” and the Councils of Elders are expected to “provide ideas and thoughts on totemic associations, traditional knowledge, . . . native survivance, . . . etc.” And here we see, once again, the document’s most subtle and perhaps most important innovation—its persistent direction of its users’ interpre-

tive thinking, even as it mandates behaving as a nation in a manner that far exceeds domestic dependence.⁴⁶

In a document that so frequently and variously raises the issue of interpretation, it should probably come as no surprise, then, that the CWEN establishes a potent and multilayered Anishinaabeg judiciary. (This is in direct contrast with the typical IRA-era constitutions, which emphasized centralized executive authority to a much greater degree.) This multilevel court system is assigned both "original and appellate" jurisdiction, as well as the power of "judicial review" over any legal matter of the nation. Such provisions, if put into full effect, place tribal interpretive bodies at the center of White Earth political life and governance. At the same time, in doing so the CWEN urges those engaged in its interpretation to look both inwardly and outwardly in the process of meaning making in this new, national narrative. The document explicitly notes, in Chapter 4, Article 17, that its "inspiration" incorporates not just "inherent and tribal sovereignty" but also the "rights and provisions provided in the articles and amendments of the Indian Civil Rights Act of 1968 and the U.S. Constitution."⁴⁷ And in this respect, the full text of the CWEN complements the complex, situational definition of Anishinaabeg identity discussed earlier.

In the end, then, we can see that the CWEN has been invented (rhetorically) in a way that would seem to guarantee that it will need to be interpreted using sources outside of itself. We can also infer, based on the performative dimensions of the text that I have been discussing, that its interpreters are expected to approach the text in the same spirit of trickster hermeneutics that underlies Vizenor's literary work. The ideal reader interpellated by the CWEN will be a natural reasoner aware of the multiplicity and relations of Anishinaabeg political subjectivity within a web of relationships and legal discourses. He or she will also be able to function as a postindian warrior who strategically advances the causes of liberty and sovereignty. This is a high burden to place on readers of this constitutional text, a point that is reinforced in the document's explicit standards for Anishinaabeg judges.⁴⁸ Those key interpreters must be graduates of a law school accredited by the American Bar Associa-

tion, be admitted to the bar to practice law in Native communities and in state and federal courts, be experienced lawyers, magistrates, or judges, and have knowledge of Anishinaabeg cultural tradition and general history. (Interestingly the text does not explicitly mandate that those judges be fluent in Anishinaabeg.) But if the bar is high for these most crucial professional readers of the newly codified fundamental law of the Anishinaabeg, this may reflect the equally high degree of faith and hope in the power of readers and reading to effect practical change we see in Vizenor's literary work. Indeed the central theme and performative function of all of his writing—both legal and literary—is the demonstration of the fact that the most profound transformations of consciousness occur in the process of encountering and making meaning from texts. The CWEN, it seems to me, also wants us to take seriously the notion that texts (whether the US Constitution, the UN Declaration of Human Rights, or a tribal governance document) cannot deliver on their promises of liberty without active readers and a vigorous democratic process.⁴⁹

VIZENOR'S "CONSTITUTIONAL CRITICISM"

If at this stage readers will concede the point that the CWEN can be productively read in the context of Vizenor's career-long "postindian" project, and vice versa, I am left with the need to offer some final response to Craig Womack's pragmatic and nationalist critique of Vizenor. Womack's fundamental charge against Vizenor is irrelevance; his great (and understandable) worry is that trickster discourse offers no protection, in the end, against those "redneck politicians" and all they represent.⁵⁰ Admittedly, it is difficult to predict with certainty the effects that the CWEN, if adopted, will have on Anishinaabeg sovereignty, broadly defined, so I can offer any defense only in a spirit of humility. I would certainly acknowledge that substantive arguments about the strengths and flaws of the text have been made by members of the tribal community (even the drafting convention only adopted the text on a 16–8 vote). I would also acknowledge that some tribal lawmakers might legitimately worry about the potential uncertainty created by introducing *mino-*

bimaadiziwin as a “standard” that judges might use to strike down tribal statutes.⁵¹ And, finally, there is no guarantee that the text will be read and interpreted in good faith, as I have used that concept in this essay, either by readers within the White Earth Community or by outside (non-Indian) authorities who might have occasion to make meaning from the document.

Nevertheless, I would conclude with one brief assertion regarding what this constitutional text reveals about the potential of postindian thinking and writing to make a meaningful, practical contribution to decolonization in the present moment. This contribution involves its sophisticated challenge to the common-law thinking that has frequently not served indigenous people in the United States well. Since the founding of the United States Indian peoples endeavoring either to resist colonialism or to achieve true decolonization have been forced to reckon with the common-law roots of America's legal and political systems—systems that combine in the potent discourse of Indian law. The tremendous power of American judges to either make or overturn law through the power of judicial review, combined with the canons of interpretation that guide that process (most notably *stare decisis*, or precedent), has often made it particularly difficult for tribal peoples living within the United States to effectively and consistently assert their sovereignty.⁵² I do not revisit the voluminous literature in the field of Native American studies that explores the legal history of settler colonialism in the United States and the constantly shifting relationship between tribal peoples, the tribal court system, and US courts. I simply note that the “external” struggle for tribal sovereignty (the direct contest between tribal communities and federal or state courts and governments) has been frequently waged in the shadow of the rigid precedents of canonical legal fictions (e.g., “domestic dependent nations”) or against interpretations of Indian law based upon disadvantageous, new readings of precedent.⁵³ I also note that “internally” (within tribal communities) the struggle over sovereignty has often involved an ambiguous legacy of both strategic and unreflective borrowing from Anglo-American legal constructs on the part of tribal courts and governments.⁵⁴ This partly

explains why some writers, like Taiaiake Alfred, argue for a total disengagement from Western forms and legal discourse as a condition for true “sovereignty.”⁵⁵

It is here, however, that the postindian discourse of the CWEN reveals some of its potential to be of service in the process of decolonization. The canons of judicial interpretation that buttress common-law thinking (which is central to US Indian law and regularly infuses tribal law) are grounded in the practices of formal logic.⁵⁶ Rigidly fixed precedents are not dialectical concepts, and slavish obedience to *stare decisis* is not natural reasoning. To the extent that the CWEN—in its interpellation of a different form of ideal reader, in its relational exploration of key terms, in its explicit address of alternative interpretive practices—represents a kind of text that resists inflexible common-law interpretive reasoning, it can also represent a substantive contribution to the struggle for sovereignty in both the external and internal senses. The text urges its readers (judges, legislators, and citizens, both inside and outside of the White Earth) to read, think, and reason in new ways—to decolonize themselves, in this respect. Thus, even granting the legitimate point that there is no guarantee that the CWEN will work as a legal performative (that those who engage with it will allow themselves to be interpellated as postindian readers in the way the text seems to intend), the constitution’s functional opposition to the hermeneutics of the common-law tradition surely represents a form of political praxis. And pragmatically minded critics should also notice that the CWEN does not totally reject Western forms and discourses in its embodiment of postindian practice. As we have seen, it seeks instead to integrate aspects of Western law (certain forms of rights consciousness, for example) into the realm of *mino-bimaadiziwin*, to redefine Anishinaabeg legal and political identity, dialectically, in a way that speaks to the realities and contingencies of the present moment.

What Womack (who is making his own important contribution to the current political situation, albeit through a very different kind of praxis) seems to have missed, then, is the complex convergence of aesthetics and politics in Vizenor’s work. The legal implications of

trickster hermeneutics have been gradually unfolding in what might fairly be called Vizenor's "constitutional criticism" for decades, even if the praxis of Vizenorian aesthetics has only become blatantly clear in the present moment. Whatever its ultimate fate, then, in highlighting an important performative conjunction between legal and literary language, the appearance of the CWEN marks an important step forward. It diversifies and complicates both the current conversation about sovereignty taking place within Indian Country and our understanding of the work and career of Gerald Vizenor. As for its efficacy against those "redneck politicians," the fate of the CWEN will lie in the hands of its readers.

NOTES

1. Womack notes that term "trickster" is a product of ethnographic discourse, not Indian storytelling; in keeping with his "nationalist" critical principles, he then registers particular unease with the way Vizenor's work has seemed to authorize critics to eagerly attach themselves to a non-indigenous term as a critical tool. (Of course, Womack himself is willing to employ non-indigenous terminology—such as "sovereignty"—as part of his own project.) Another Native critic, Sean Teuton, has suggested that though the trickster is indeed a part of indigenous oral culture, Vizenor's interpretation of the figure problematically evacuates it of its normative power. Teuton worries that Vizenor's tricksters fail to invoke a "moral theory" that would allow them to function as guides in determining the "right road for humans to walk" (115–16).

2. Womack's general comments on literary sovereignty appear in the introduction to *Red on Red*; see especially 14.

3. A brief list of critics appreciative of Vizenor's work would include Kimberly Blaeser, Elaine Jahner, Karl Kroeber, Robert Lee, Deborah Madsen, Louis Owens, LaVonne Rouff, Elvira Pulitano, and John Purdy. For a good general overview of "positive" Vizenor criticism, see Lee.

4. In making this point, I should note that I am not totally aligning myself with the pragmatist camp. (Defending Vizenor from criticism regarding the "utility" of his work is not the same as accepting the premise that "utility" should be the dominant consideration in critical judgment of literary works.) Indeed, as a critic I find myself closer to Robert Warrior's views on the limitations of making overtly "practical" scholar-

ship the sole centerpiece of Native American studies. Warrior makes this point eloquently in his essay “Native Critics in the World: Edward Said and Nationalism.”

5. Womack acknowledges this achievement, offering most of his praise of Vizenor in this area.

6. For a discussion of legal themes in Vizenor’s work that complements my discussion here, see Rodríguez. Vizenor’s concern with legal issues has more recently manifested itself in his interest in genocide. We might note, in light of the treatment of the relationship between the creative and performative power of words and law in this essay, the following comment by Vizenor in his essay “Genocide Tribunals”: “Raphael Lemkin created the word genocide, a specific name that connotes the singular slaughter of human beings and the destruction of cultures. Seventeen years later the genocide convention [the United Nations document] was ratified, but the new international law has not saved many lives in the past fifty years” (*Native Liberty* 135).

7. I might note here that my own reading of Vizenor draws conceptually from both poststructuralism and Marxism (“interpellation,” “dialectics,” and “praxis” have a predominantly Marxist genealogy, while terms such as “trace” are Derridean in origin). As I hope my discussion demonstrates, Vizenor can be productively situated at the nexus of these different discourses. He is better viewed as a synthesizer, in other words, than a haphazard thinker.

8. Many critics make this point about the intertextual nature of Vizenor’s work. Patricia Haseltine suggests that intertextuality is a means to bridge the gap between writing and the mythic. Elizabeth Blair, in her reading of *Bearheart*, views Vizenor’s tendency to employ references to “send us away from the text or texts at hand to another Vizenor text” as a way of creating a “dialogic” narrative (in Bakhtin’s sense) that implicitly challenges the “monologism” of social scientific theories about Indian people (78). Benjamin Burgess reads this phenomenon in the context of a *Midewewin* process of “elaboration.”

9. Some of my readers might note connections between my argument and Warrior’s discussion of reading as a transformative experience in *The People and the Word*. “Reading,” Warrior notes, “moves beyond mining information from a text or merely extrapolating pertinent facts from the biography of an author. It is, in contrast, a process that highlights the production of meaning through the critical interaction that occurs between a text as a writer has written it and a text as readers read it” (xiv). My empha-

sis here, however, falls a bit more on the text side in the text/reader relationship than Warrior's.

10. In a published conversation with John Purdy and Blake Hausman, Vizenor confirms that often his inventive process involves working one word at a time and stressing the extensive signifying possibilities of those words. "I don't take words as representations," he observes, "but they do have history. And they deserve a greater meaning, many words" (Purdy and Hausman 222–23). The implications of this way of thinking about words is also readily apparent in Vizenor's poetry—especially his work in haiku. Blaeser has illuminated the way that haiku has informed Vizenor's prose writing as well, showing that a typical Vizenorian sentence often includes hidden haiku lines. See Blaeser, 133–35, on Vizenor's "haibun" (prose written in the spirit of haiku).

11. Later in his conversation with Purdy and Hausman, while conceding that he often does invent new words, Vizenor suggests that the term "survivance" is not, strictly speaking, a neologism, but rather a word borrowed from French that Vizenor gives "a different meaning" (Purdy and Hausman 223). A lover of verbal jousting and the innate comic potential of language such as Vizenor probably would not object if I point out that "neologism" can refer simply to the innovative usage of an existing word, as well as to a "meaningless word coined by a psychotic." Indeed, Vizenor continues to indulge in play with the term, defining "survivance" at various points in his recent collection, *Native Liberty*, by referencing the *Robert and Collins French/English Dictionary* and the *New Oxford Shorter English Dictionary*, while still noting that dictionary definitions "do not provide the natural reason or sense of the word in literature" (98).

12. Interestingly, and perhaps influenced by his recent constitutional work, Vizenor uses a "legal" base definition of "survivance" more systematically than is typical of him in *Native Liberty*. Even there, though, he continues to stress that definition varies based on language, usage, and context. The essay "Aesthetics of Survivance" in that collection employs the "legal" usage, while the essay "Survivance Narratives" offers a different gloss—"the sensibilities of diplomatic, strategic resistance, and the aesthetics of literary irony" (58).

13. The *OED* suggests that Vizenor's legal usage of "survivance" passed out of currency by the 1800s.

14. Such an interpretation echoes Jace Weaver's gloss of "survivance" as "survival + endurance," which suggests further continuities between survivance and his own critical concept of "communitism." See Weaver, 89.

15. On the relationship between the Lewis and Clark expedition, US law, and colonialism, see Miller.

16. Vizenor regularly employs an “iterative” strategy in his own prose, reproducing identical passages in a sequence of essays or narratives in such a way that this repetition subtly alters the meaning of the original. See the essays “Aesthetics of Survivance” and “Genocide Tribunals” in *Native Liberty* for an example of this.

17. This notion of the “trace” is essentially that which Jacques Derrida develops in *Of Grammatology* and, later, in his landmark essay “Différance” in *Margins of Philosophy*.

18. See note 16 above.

19. Vizenor’s take on deconstruction, in this respect, is somewhat analogous to legal scholar Drucilla Cornell’s assessment of what she calls “the philosophy of the limit” as a fundamentally ethical practice, rather than a form or radical skepticism. It is a mistake to lump Vizenor in with the Yale deconstructionist camp, which seemed interested in nothing beyond an infinite regress of meaning and signification. (In legal circles, this tendency is represented by some members of the “Conference of Critical Legal Studies,” or the CRITS.)

20. While I realize that some readers may object to my use of the term “dialectic” here (as it does carry strong Marxist connotations), it nevertheless seems to me that the philosophical concept is a useful one for understanding Vizenor’s project. For a useful introduction to dialectical thinking and its Hegelian roots, see Ollman’s *Dance of the Dialectic*. As Ollman notes, dialectics is an attempt to develop a method to study complex organisms or systems whose parts interrelate and change over time. The subject of “dialectics” is not “things” (conceived of as independent entities defined at the beginning of an analysis), but “relations” (a term that denotes the idea that the various terms of any analysis make each other meaningful in evolving ways). It is my contention that Vizenor’s use of terms such as “Indian,” “postindian,” or even “survivance” represent his own version of dialectical reasoning, which he sees as an extension of indigenous or tribal philosophical traditions.

21. This critique mirrors Derrida’s challenge to what he refers to as the “logocentrism” of Western philosophical discourse.

22. Vizenor’s understanding of the role that “text” plays in producing an appropriately responsive reader comes across in his discussion of the process of reimagining oral, communal play in literature: “When you get to the written page, though, you don’t have community, you have an indi-

vidual reader. So comic holotrope is the questions—it's communal, and it's 'all' figuration, the entire figuration—you have to recreate it, which is the entire figuration of the community. You have to create a play of readers and listeners in the story itself. That's the comic holotrope" (Purdy and Hausman 217). The dialectical reader "created" in Vizenor's prose, in this respect, approximates the listener in an oral, communal setting.

23. To situate this again in the terminology of poststructuralist criticism, we might say that Vizenor is highlighting what Derrida calls "iteration," the way in which the repetition of signifiers, in different contexts, creates meaning in an accretive manner.

24. James H. Cox's discussion of Vizenor in *Muting White Noise* draws particular attention to Vizenor's awareness of colonial history and its literary modes or genres. See Cox 101–44.

25. See Baudrillard's famous essay "Simulacra and Simulations" in *Selected Writings*, 166–84.

26. This is precisely the point that Ollman makes in his introduction to *Dance of the Dialectic* in explaining the difficulties of reading Marx accurately: "When I sought to construct my own definitions from the way Marx used his key concepts in his writing, I was shocked to discover that their apparent meanings varied with the context, often considerably" (4).

27. Notably Vizenor concludes the essay with a series of brief discussions of writers and activists (some Indian, some not), culminating with the phrase "this portrait is not an Indian" (44). For a brief discussion of this element in the text, see Mackay 258.

28. At this point, one can easily discern affinities between the "postindian" and the "trickster" figure. And one can also begin to see why Womack's worry about Vizenor's use of "trickster" misses the point of Vizenor's own project.

29. See note 26 above.

30. The literature on the IRA (Indian Reorganization Act) and its relationship to tribal constitutions is voluminous. For a brief introduction, see David E. Wilkins's introduction to his recently edited volume of Felix Cohen's *On the Drafting of Tribal Constitutions*. For a good overview of contemporary views on constitution drafting, see Kalt.

31. I have examined the "performative" aspects of legal texts elsewhere. See Carlson, esp. 4 and 36–37.

32. See Kalt 82–83.

33. In his discussion of the potential contents of constitutional preambles, Felix Cohen foregrounds the value of statements regarding economic

development, which he notes reflect the priorities of the commissioner of Indian affairs. Significantly, Cohen also avoids taking any position on the various “model” preambles he includes in his memorandum to tribes and BIA employees, even when those preambles aggressively repudiate earlier, “tribal” models of government. This tension within the IRA-sponsored constitution-drafting project reflects the ambiguities surrounding even the “progressive” agenda of the “Indian New Deal.”

34. On this point, see Wilkins’s introduction to Cohen, *On the Drafting of Tribal Constitutions*, esp. xvi–xviii. It is worth noting, however, that these early tribal constitutions have a truly complicated legacy. On the one hand, in the wake of the disaster that was the Allotment policy, tribal communities desperately needed some mechanisms for self-government at this time, even if those mechanisms were initially more “municipal” than “national.” It is possible, in this regard, to view Cohen’s work in this area as legitimately progressive. At the same time, it is easy to discern real tensions between colonial, economic interests and legitimate assertions of sovereignty in the creation of these constitutional documents. For a related discussion of these historical tensions, specifically focused on the Osage, see Warrior, *People*, 49–93.

35. I use the term “irony” in its broad, rhetorical sense here to designate the idea that the meaning of the new text emerges, in part, from awareness of a larger context, which includes its predecessor document.

36. See Doerfler on the absence of “racial” definitions of identity in traditional Anishinaabeg modes of self-understanding.

37. See Kalt, 82–83. Vizenor uses the term in a similar sense in *Native Liberty*, where he locates the Civil War as a historical marker that might be seen as having “forever abated an original native sense or presence, cultural sovereignty, and continental liberty” (57).

38. See Adkins.

39. Vizenor’s frequent comments on his own crane clan roots legitimize such a reading, as does the definition of the term in *Anishinaabeg Today*. He develops the importance of clan most clearly in *Interior Landscapes*, but one can see the emphasis throughout his recent *Native Liberty*. Vizenor’s invocation of his ancestors’ editing of the tribal newspaper, the *Progress*, on the White Earth Reservation in the 1880s, interwoven with his reflections on his own newspaper career, is further contextualized by his declaration (authorized by Anishinaabeg historian William Warren) that Native crane leaders traditionally acted as “interpreters” for the tribe (90). One suspects that Vizenor views his contribution to the present-day constitution-drafting process as part of the same continuum.

40. See Vizenor's essay "Anishinaabe Pictomyths" in *Native Liberty*, 180.

41. Such a point is very much in line with Lisa Brooks's examination of the indigeneity of constitutionalism in her contribution to this volume.

42. The latter term, "reciprocal altruism," most commonly appears in the field of evolutionary biology, though Lisa Brooks's essay in this issue also offers insight into the significance of reciprocity as an indigenous feature of the text.

43. This is a classic example of dialectics as an expository method. See Ollman 127–34.

44. It is worth noting, in passing, that the CWENs innovative move to guarantee representation for "urban" and other off-reservation White Earth Anishinaabeg (in Chapter 6, Article 7) represents another way that the text speaks to the complexities of contemporary Indian life. Indeed, in this respect the text of the constitution resonates with much of Vizenor's earlier, journalistic writing, which registers such complexity in powerful ways. Much of the material in *Wordarrows*, as well as Vizenor's writing on the Thomas White Hawk case, strikes me as exemplary in this light.

45. Kirby Brown's essay in this volume demonstrates that this interaction between legal and literary texts is by no means unique to the Anishinaabeg.

46. There are other striking assertions of sovereignty contained in the text as well, though an exploration of these goes beyond the boundaries of the present argument. To take just one example, the president is authorized to "establish embassies of the White Earth Nation to serve the national and international concerns of native survivance and moral equity."

47. It is worth noting, in passing, that the civil rights framework that dominates Chapter 3 enumerates a number of limitations on Anishinaabeg governmental power vis-à-vis its citizens, both collectively and individually. Such a move to foreground limitations on tribal governmental power is somewhat unusual in a contemporary tribal constitution. The Saint Regis Mohawk Constitution, which focuses more on assertions of positive rights and power—what people and government can do—is perhaps a more typical expression of tribal sovereignty. The emphasis on "negative liberty" and the limitation of even tribal governmental powers is, however, very much in line with Vizenor's career-long struggle against discursive power.

48. Vizenor has treated this theme of liberality and interpretive flexibility in pursuit of justice regularly in his literary work, where we find numerous depictions of courtroom scenes in a variety of contexts. Some representative fictional examples would include *Landfill Meditation* (in the stories "Feral Lasers" and "The Psychotaxidermist") and *The Trickster of Liberty* (in

the “Ginseng Browne” chapter). In his nonfiction Vizenor has frequently “iterated” the true story of an Anishinaabeg man testifying in a case about the regulation of the rice harvest on the Rice Lake National Wildlife Refuge in Minnesota. In that story Charles Aubid persuades US district court judge Miles Lord to admit the testimony of a dead man through the oral tradition. Aubid successfully contests the judge’s initial refusal to admit the story/memory of John Squirrel by comparatively challenging the judge’s reliance on the dead letters of the legal books sitting on his bench. Vizenor explains the judge’s reversal in this way: “Judge Lord was deferential, amused by the analogy of native stories to court testimony, judicial decisions, precedent, and hearsay. ‘You’ve got me there,’ he said, and then considered the testimony of the other anishinaabe witnesses” (*Native Liberty* 87). Judge Lord, according to Vizenor’s account, reveals a willingness to engage in dialectical thinking about key legal concepts in this anecdote, and that allows him to reimagine common-law precedents regarding evidentiary rules.

49. In *Native Liberty* Vizenor echoes the long-standing perception that the risk of democracy is that majoritarianism does not guarantee the respect of individual or “minority” rights. Nevertheless, the fact that the democratic process requires public debate, public justification of policies, and, indeed, public interpretation of law should not be overlooked.

50. This critique is echoed, in different ways, by legal theorists who question the ability of poststructuralist legal theory to deliver on its emancipatory promises after having dispensed with the philosophical foundations of the liberal political tradition. For a very even-handed assessment of a range of poststructuralist theory and its legal implications, see Litowitz.

51. This tension is playing out on the Diné Reservation at the present time, where the Navajo Nation Council passed a bill in January 2010 limiting the application of Diné Fundamental Law to peacemaker court proceedings. That bill is currently being challenged in the Diné court system and in the political arena (see Zah).

52. For a good overview of some of the key “constitutional” terms frequently in play in Indian policy and of the shifting terms of Indian policy, see both Deloria and Wilkins; see also Carlson 15–38.

53. A particularly striking and damaging recent example of the latter is the US Supreme Court’s reintroduction of the concept of “laches” [a defense against a legal claim drawn from equity jurisprudence that essentially asserts that too much time has passed during which the claimant has “slept on his rights”] to decide against the Oneida in the 2005 tax case of *City of Sherrill v. Oneida Indian Nation*. As Kathryn E. Fort of the Indig-

enous Law and Policy Center at Michigan State University has argued, the disadvantageous application of precedent in *City of Sherrill* has opened up a new move to quash tribal land claims throughout the United States.

54. On this issue of the “borrowing” from state, local, and federal law by tribal courts and legislative bodies, see Fletcher.

55. See Alfred 33–35.

56. See Golding 97–111.

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The Constitution of the White Earth Nation

A New Innovation in a Longstanding
Indigenous Literary Tradition

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Imagination is a state of being, a measure of personal courage; the invention of cultures is a material achievement through objective methodologies. To imagine the world is to be in the world; to invent the world with academic predications is to separate human experiences from the world, a secular transcendence and denial of chance and mortalities.

Gerald Vizenor, *The People Named the Chippewa*

Following James Mackay's thought-provoking theorization of constitutional criticism and David Carlson's important and insightful analysis of the Constitution of the White Earth Nation (CWEN) within the context of principal author Gerald Vizenor's critical, literary, and political oeuvre and debates about the political and practical implications of his work, this essay seeks to locate the CWEN within the broad ground of a long "continental" literary tradition of constitutional literature and, in doing so, perhaps provide a foundation for the practice of constitutional criticism that Kirby Brown performs in the essay that follows, a skillful reading of John Milton Oskison's novel *Black Jack Davy* through the critical lens of Cherokee constitutionalism.¹ A respectful interloper in Vizenorian territory, I had the fortune of teaching the White Earth Constitution this semester in a class on Native American literary traditions, which was held in a renovated one-room chapel. We read it halfway through the semester, and the living text emerged as a touchstone to which

we constantly returned, inviting new questions about the classical indigenous texts we read before it, and generating conversations about the role of irony and political critique in texts as diverse as colonial-era petitions, nineteenth-century political prose, and “hot off the press” twenty-first-century fiction. In this essay I dwell on some of those earlier literary traditions, with which we began the course, and then shift to the question of irony, which dominated and sparked the later conversations, to consider how Gerald Vizenor and the other collective authors of the White Earth Constitution might engage new innovations on longstanding indigenous literary traditions.

The course began with imagination, place, and the word. We read classic essays by N. Scott Momaday and Leslie Marmon Silko,² and then we launched right into an intertextual reading of one of the first works of indigenous constitutional literature recorded in the Roman alphabet, the Quiché Maya *Popol Vuh*. We paired two translations with a “reading” of Mayan imagistic and glyphic writing, visiting an exhibit called “Storyed Walls” at Harvard’s Peabody Museum that included representations of murals from San Bartolo, Guatemala, and Bonampak, Mexico, with an interpretive tour hosted by Marc Zender, a specialist in the glyphs.³ This allowed us to pair image with word, imagistic evocation with artistic representation, a “mythic” text with a historical people and place. Figures from the *Popol Vuh* came to life before our eyes, while the people who read and participated in the text became real historical persons, who slept in particular places, celebrated significant days, and formed stories about each other.

To some extent, this pairing represented an attempt to restore some of the original context for the *Popol Vuh*, which was likely based on a hieroglyphic and image-based codex that was wedded to an oral narrative. As translator Dennis Tedlock relates, the *Popol Vuh* was “an *ilb’al*, a ‘seeing instrument’ which ‘the lords of Quiché consulted . . . when they sat in council.’ It governed their political affairs, grounded them in their collective history, and guided their deliberations and decisions. It was a vehicle through which they could “envision” the “thoughts and actions of the . . . sacred ances-

tors” and a map, “a complex navigation system for those who wished to see and move beyond the present” (Christensen 21; Tedlock 29). The Quiché name for this instrument, according to Tedlock, translates to “Council Book” (21).

The opening words of the Council Book invite deliberation. In Tedlock’s poetic translation: “This is the beginning of the Ancient Word, here in this place called Quiché. Here we shall inscribe, we shall implant the Ancient Word, the potential and source for everything done in the citadel of Quiché, in the nation of Quiché people” (63). Alan Christensen translates this first line literally as “its root ancient word,” indicating that this is the “beginning of the ancient history of the Quiché people.” The Council Book is seen as “growing like a plant from this root” (Christensen 24, 59).

The Quiché refer to themselves literally and figuratively as people made from corn, who emerged along with the revolutionary corn plant “here in this place called Quiché.” The agricultural metaphor that governs the narrative begins here, and moves and grows, developing within the pages of the book. The *Popol Vuh* represents a literature that is “implanted” in “this place,” like the corn plant itself, its roots growing from within this ground (or from within this “house,” as in the stories of the twin brothers in the underworld, which parallels the simultaneous narrative of the growth of twin corn stalks in their grandmother’s house), with stalks and leaves that extend throughout the continent, traveling vast indigenous networks along with Mother corn.

Here, the word is also “inscribed,” narratives literally written upon the land and upon the leaves of this book, in glyphic figures, then in the Roman alphabet. Literature, from its origins, is embedded in place, even as it is capable of traveling and transforming. The *Popol Vuh* shares many themes and tropes with other literary traditions on the continent, particularly with those nations that were involved in the cultural and political revolution that emerged along the travel routes of corn. These shared narratives include the stories of the Corn mother and her twin sons/grandsons, one or both of whom outwits a destructive force through clever trickery, the latter a theme that appears prominently in Anishinaabe literature and in

the work of Vizenor in particular. However, these common figures and tropes are always adapted to their particular indigenous places, just as the plant had to be adapted to the climate, soil, waters, and topography of the geographies through which it traveled. The characters and stories acquire distinct attributes and narrative strands that root them in particular communities. Like the corn seed, a narrative must always be planted in the ground, marked by the soil specific to place, adapting to the territories through which it travels even as it contains within its hull the code of its origins.

Just as this text is the root of Quiché history and literature in particular, we might also view the *Popol Vuh* as a root of Native American and American literature, noting that “constitutional literature” indeed has a deep and extensive genealogy on this continent. This kinship between texts reminds us of Craig Womack’s insistence that “tribal literatures are not some branch waiting to be grafted onto the main trunk. Tribal literatures are the *tree*, the oldest literatures in the Americas, the most American of American literatures. We *are* the canon” (*Red* 7). As Womack has noted, the imagination of nations and of literature in Native America are deeply intertwined, and Native nations have suffered intellectually and politically from the destruction and suppression of indigenous American literary traditions. This suppression is itself rooted in the quest of Spanish priests to erase any signs of indigenous “idolatry,” “illiteracy campaigns,” in the words of Womack, which targeted the Mayan codices and their authors (Christenson 20; Womack, *Red* 13). Indeed, according to Christenson, Mayan scribes “were singled out for persecution to such an extent that within one hundred years, the art of hieroglyphic writing had virtually disappeared from among the Mayan people” (15).

These campaigns make it all the more significant that Quiché scribes were able to preserve the “living text” of the “council book,” keeping it hidden within the Mayan town of Chichicastenango (in Guatemala) for “centuries” (Christenson 22; Tedlock 27). The written version of the *Popol Vuh* represents an important innovation that led to its preservation. According to Tedlock, three Quiché scribes recorded the text in their mother language in the late

sixteenth century, using the newly adopted Roman alphabet to preserve it (25, 56). The language of the text, particularly in its evocative imagery and active use of ceremonial present tense, retains much of the original character of the glyphs and of the oral recitation (59). It is also important that the *Popol Vuh* was written down for the use and care of the community, not for “publication” or to demonstrate the Mayan world to outsiders, continuing to function even under colonization as a council book. The book came into a more public view only when a Spanish priest persuaded the elders from that town to allow him to make a transcription in the early eighteenth century, which was later translated into Spanish and then English (Tedlock 27; Christenson 22).

Like the Quiché Maya, the Anishinaabeg have also maintained their own council books, despite the opposition of priests and the greed of collectors, in the form of birchbark scrolls belonging to the Midé society. Vizenor himself has interpreted the scrolls in his critical and imaginative work, and both he and Louise Erdrich have noted that the word “Ojibwe” is related to the art or activity of writing and the original birchbark scrolls (Vizenor, *People* 18; Erdrich, *Books* 11). Like the *Popol Vuh*, the Midé scrolls represent a “complex navigation system for those who” wish to understand the past as well as “to see and move beyond the present” (Tedlock 29). These scrolls map the “movement” of Anishinaabe emergence and migration, from the eastern waters of Wabanaki to their current places among the central Great Lakes and, in the words of Gordon Brotherston, “to the grand continental watershed that . . . divides the Mississippi from the Arctic Ocean,” a migratory narrative that “coincides” with the “path of the Midé teaching itself” (Sinclair, “Sovereignty” 147; Brotherston 189). Indeed as Niigaanwewidam James Sinclair relates in his essay “A Sovereignty of Transmotion,” “the migration path” of the scrolls “teaches Anishinaabeg that motion is the way geographical, social and spiritual relationships have been forged, maintained, grown and fortified” (147). Through a deeply engaged and insightful reading of Vizenor’s critical and fictional work, including his interpretation of the “path of life” scroll, Sinclair reveals the multilayered meaning of Vizenor’s statement “Motion is the originary” and

its relationship to Anishinaabe literary traditions and to Vizenor's important concept of "transmotion." He writes:

The idea that Anishinaabeg peoples have always been on the move, on their own imaginative and narrative terms, is a sovereign concept. It is a principle inherent in Anishaa-beg notions of lands, maps, histories. It is the way material existence is perceived and the way bodies travel, live, and die in this life. It is also the way change is provoked and tribal selves and communities are maintained, as well as how both are brought forth into reality. As Vizenor reminds us, Native transmotion is not only lines on a map, it is a tribally sovereign worldview, a way of life. (148)

Like the *Popol Vuh*, the Anishaabe scrolls were maintained specifically for the use of a specialized segment of the community, although despite of and because of their sacred character they have in the past been pilfered by antiquarians and anthropologists. As Gordon Brotherston notes, there are strong textual and historical relationships between the narratives mapped in the birchbark scrolls and multiple oral and glyphic narratives from Haudenosaunee country to the Plains, with shared tropes and trade routes that reach as far south as Quiché, representing constantly moving networks of exchange and transformation. In both its rootedness in this tribally specific form and its branching extensions to other indigenous narrative traditions, the White Earth Constitution can be viewed as a new innovation on a "canonical" form, which is both tribally specific and shared within a transnational, transmotional network in the Americas.

Another key example of constitutional literature comes from within this transmotional trade network, from a confederation with which the Anishinaabe have political and historical ties: the Haudenosaunee (Iroquois) Great Law, a touchstone text in our course. The Haudenosaunee "Constitution," like the *Popol Vuh*, originated in and was used in the council house or longhouse of the Six Nations Confederacy. During the nineteenth and twentieth centuries, authors from the Confederacy sought to codify and publish the

Great Law that had been recited by faithkeepers in the longhouse with the use of mnemonic wampum belts, a tradition that also continues today. Wampum belts function like the Mayan glyphs and birchbark scrolls, as imagistic evokers of oral recitation. The first Haudenosaunee-authored history to be published in full was Tuscarora physician David Cusick's *Sketches of Ancient History of the Six Nations* (1825) while Seneca scholar Arthur Parker's "Constitution of the Five Nations" (1916) became for some scholars a definitive version of the Great Law. David's great-nephew Albert Cusick (Onondaga), who served as Tadodaho, or central firekeeper, of the Confederacy, assisted Parker in interpreting, translating, and revising the Constitution, working from a version that had been meticulously recorded by Seth Newhouse, the Onondaga "scribe" from the Six Nations reserve of Grand River. While Parker sought to publish the Constitution to the world of scholars, Newhouse viewed the Great Law as a living tradition that contained the keys to solving contemporary problems. He made it his life's work to compose a collective recording of this foundational narrative, speaking with many elders to form the best possible version, which he urged the Six Nations leadership at Grand River to adopt in council, even sending them written petitions to communicate his appeals. Drawing on Newhouse's manuscript, along with other oral and textual sources, Parker put to press the "Constitution of the Five Nations," "a compilation of native manuscripts of which Parker is in reality the editor," according to William Fenton, and a "culmination" of the effort "by native annalists" "to codify" the Great Law of the Confederacy (Fenton, *Parker* 38–41; Fenton, "Structure" 15).⁴

As many of *SAIL*'s readers are well aware, Newhouse and Parker were not anomalies. Many Native authors during the eighteenth, nineteenth and early twentieth centuries utilized their writing skills to record communal councils and historical narratives for the use of their nations.⁵ For example, Samson Occom's papers in the Connecticut Historical Society contain the "Records of the Mohegan tribe," in which the Mohegan author, leader, and minister documents in written English the process through which leading families renewed a "unanimous" decision-making practice, overturning a

corrupt system through which the Colony of Connecticut attempted to control political affairs by manipulating a single hereditary chief.⁶

Mohawk/Cherokee author John Norton's papers at the Newberry Library similarly contain his own council book of Haudenosaunee Confederacy meetings at Grand River and Buffalo Creek, including speeches that addressed the problem of "divisions" and the goal of "unity" that had been set by "the Ancient Chiefs." In the Mohican nation, "rememberers" such as Hendrick Aupaumut and John Quinney played a similar role to Quiché scribes in recording in alphabetic writing the narrative of their emergence and migration, which had formerly been recited ceremonially within the council house.⁷ During the Removal Crisis, intellectuals in the Cherokee nation, including John Ross, played a critical role in conceiving of and drafting a written constitution (1827) that, as Kirby Brown notes in the essay that follows, "demarcate[d] the sovereign jurisdiction of the Nation" and clearly delineated "the sovereign borders of their own lands."⁸ Utilizing a written legal format that those who threatened and contested those rights were forced to recognize, the Cherokee Constitution codified in law Cherokee "national lands as common property" and identified "the geopolitical limits of colonial authority." The convention that led to the constitution provided a critical forum for Cherokee people to reconceptualize their sense of nationhood in relation to the newly formed United States and its manipulation of their decentralized town structure,⁹ and in deliberative response to the tremendous changes that had occurred in their social and physical environment in the wake of increasing colonial encroachment. When the Osages "united" to "become one body politic" in 1881, they looked to the Cherokees, their new neighbors in what was labeled by the United States as Indian Territory (later Oklahoma), for a "template" for their own constitution. As Robert Warrior argues convincingly in *The People and the Word*, the text that resulted from the deliberations of the Osage leadership is "not only a record of history, but an expression of the modern intellectual aspirations of a people confronting the need to transform themselves on their own terms" (49–51).

Constitutional literature often emerges during a period of

transition, during which “the people” are undergoing a significant transformation, when there is a pressing need for consolidation and unification and a strong desire for the articulation and formation of principles that can chart the course of the emerging or changing nation.¹⁰ During such times, there is a quickening of transmotion in place. The *Popol Vuh* represents the development of a complex agricultural society, mapping the history of the emergence of the Quiché as the people of corn and the development of a political system through which they can govern themselves and their growing polity. The Great Law narrates the development of a complex political system in response to overwhelming fratricidal warfare; however, historian Barbara Mann maintains that the Great Law, like the *Popol Vuh*, also emerged during the transition to a fully developed agricultural society. This “constitution,” she argues, solidified and formalized a balance of powers between women planters and male hunters and created a governance system that valued the striving for peace through conflict resolution and deliberation over the rash action of war.¹¹

This desire for political balance and conflict amelioration is directly related to the core twin brothers story, shared by the Haudenosaunee, Quiché, Anishinaabeg, and other Native peoples in the Americas who underwent the “corn revolution,” a story that emphasizes the value of deliberation and consideration for how our actions can impact the whole, over impulsive words or actions. As I’ve noted in previous work,¹² the Onondaga linguist Kevin Connelly tells us that the twins represent “two kinds of minds,” two ways of being human in this world (which all of us enact at different times). “In Onondaga,” Connelly relates, participatory “being,” including careful, collective thought, is “treasured,” while the “doer” impulse, including individualistic and rash action, is “reigned in tightly” (75). We can see this concept at work not only in the Haudenosaunee narratives but also in the *Popol Vuh*. For example, even in the very beginning, the Prologue of the Council Book, the “Makers” imagine, they “worry,” deliberate together, create in their minds. They “talked, then they thought, then they worried. They agreed with each other, they joined their words, their thoughts. Then it was clear, then they

reached accord in the light . . .” (Tedlock 65). Once they have participated in this process and come to consensus, they merely say the word, and the world comes about, the different aspects, the creatures: “And then the earth arose because of them, it was simply their word that brought it forth” (65). It may be important, as well, that even as they engage in this deliberative process, they also make mistakes and have to remake the people several times before they hit upon the people of corn:

Again there comes an experiment with the human work, the human design by the Maker, Modeler, Bearer, Begetter: “It must simply be tried again. The time for the planting and dawning is nearing. For this we must make a provider and nurturer. How else can we be invoked and remembered on the face of the earth?” (Tedlock 68)

A key responsibility of human beings in these epics is to emulate the thought processes of their creators, imagining the narratives that will tell the stories of their own emergence, honoring their makers through their evocative invocation and ritualized remembrance. Poetically, even as they are relating this story, they are enacting that responsibility, “nurturing” the narrative through their skillful recounting.

This deliberative process of creation and narration puts us in mind of the famous words of N. Scott Momaday, highlighted by Vizenor as the epigraph of his book *The People Called the Chippewa*: “We are what we imagine. Our very existence consists in our imagination of ourselves. . . . The greatest tragedy that can befall is to go unimagined” (Momaday 39; Vizenor 3). Momaday’s essay has been influential on Vizenor,¹³ and Vizenor’s own use of this quote in an earlier tribally specific work signals its importance to his later role in “imagining” how the “People” called “the White Earth Nation” would solidify and take shape in the wake of changing needs in the twenty-first century. While David Carlson has analyzed the division between Vizenor and Womack in the previous essay, I am interested in building some bridges. To me, it seems highly ironic, nearly comic, that as readers were absorbing Craig Womack’s critique of

Vizenor in *Reasoning Together* (referenced by Carlson), Vizenor was in the process of creating a pragmatic, visionary, and most politically relevant text of indigenous and tribally specific nationhood. Indeed, there is a striking parallel between Vizenor's act of creation and the application of Momaday's political imaginary that Craig Womack calls for in *Red on Red*. Womack writes, "To exist as a nation, the community needs a perception of nationhood, that is, stories . . . that help them imagine who they are as a people, how they came to be" (26). In the White Earth Constitution, Vizenor insists that stories are at the basis of the imagination of nationhood, in longstanding line with his previous critical and creative work.¹⁴ As Carlson notes in the previous essay, the constitution inscribes "its delineation of the Anishinaabeg primarily in terms of what the Constitution calls on them to *do*—create stories," stories, according to the Preamble, "of natural reason, of courage, loyalty, humor, spiritual inspiration, survivance, reciprocal altruism, and native cultural sovereignty." Furthermore, as Sinclair argues, through his fiction, Vizenor has long participated in a process of imagining community survivance, experimenting creatively with possibilities long before he was given the challenge of creating a constitution. For example, as Sinclair reveals, Vizenor's culminating vision of the contemporary (and comic) "tribal utopia" Point Assinka in *Heirs of Columbus* represents a "post-Indian" space of "indigenous survivance in action," which, Sinclair astutely discerns, has much in common with "the kinds of nations envisioned by. . . Native literary nationalist critics" (134). Despite Vizenor's own "skepticism of nationalist movements," Point Assinka represents "an intriguing vision of Indigenous nationhood" that is rooted in Anishnaabeg literary tropes (Sinclair, "Sovereignty" 135). Vizenor has spent decades composing his own comic, playfully experimental epics, imagining the narratives that will tell the stories of the peoples' survivance, envisioning their emergence from a colonized landscape. The Constitution of the White Earth Nation may indeed represent an ultimate outcome of this experimentation, the "word" that could set his creative deliberation into motion. However, it is also important to consider that Vizenor does not perform this work alone.

As Womack intimates in *Red on Red*, some of the earliest and most complex forms of indigenous literature on this continent, including works like the *Popol Vuh* and the Great Law, involve the collective imagination of nationhood. Before any political structure can be formed, it must be creatively and collectively pictured. Furthermore, every time the “Council Book” is recited or enacted, this same collective, creative, imaginative process must take place. The forms that this narration took—including imagistic mnemonic graphic representation and poetic oral imagery—serve that purpose of nurturing the retelling, the re-creation. In many of the written forms that the members of these nations recorded, the same images and imaginations come to life for us as readers. As readers, we witness anew the creation of nations through imagination. It is a triumph of aesthetics, a tripling of artistic imagery combining the techniques of graphic image making, oral recitation, and written poetic description, that the words are recalled and remembered, that the images stay with us, inhabit the “cavities” of our minds and “go to work on us like arrows” (Kalifornsky 454–55; Basso 38). This same process is at work in the Constitution of the White Earth Nation. As Carlson argues in this issue, the text actually embeds its readers and legal interpreters in the imaginative creation of nationhood; it creates a practice of transmotion.

The collective process of thought and re-creation is also exemplified in the aforementioned Records of the Mohegan Tribe. In that council book, we can see the course through which Samson Occom and the Mohegan counselors re-navigated their nation in the wake of violence, cultural suppression, and dispossession. Comprehending the degree to which colonization had divided their community, creating oppositional factions and a corrupt tribal government, they worked together across a deep internal divide to reconstruct a council house that recognized the Mohegan nation as “one family” that would strive for participatory thinking and consensus. As Occom wrote in the council records and letters, they strove to think “as one mind” and to act as one body in their deliberations and their decisions. Occom and some of his peers, like their ancestors, were influenced by the exchange of ideas within indigenous networks.

In the council documents, we can see hints of influence from the Haudenosaunee Great Law, the councils that Occom and other Mohegan teachers had witnessed during their time as missionaries and schoolmasters in Six Nations territory.¹⁵ The Great Law, like the *Popol Vuh*, emphasizes the importance of participatory deliberation, encapsulated in the following article, directed at the Confederacy Chiefs:

Neither anger nor fury shall find lodgement in your mind and all your words and actions shall be marked with calm deliberation. In all of your deliberations in the Confederate Council, in your efforts at law making, in all your official acts, self interest shall be cast into oblivion. . . . Look and listen for the welfare of the whole people and have always in view not only the present but also the coming generations, even those whose faces are yet beneath the surface of the ground—the unborn of the future Nation. (Fenton, *Parker* 38–39)

It is in this dynamic process of deliberation, out of which the Constitution of the White Earth Nation emerged and which it encodes in law, that the twenty-first-century Anishinaabeg text most closely parallels the *Popol Vuh* and the Great Law. In that constitution, we can see the creative imagination of nationhood based on deliberative process, an attempt to think with one mind, with regard for the whole, including those kin yet unborn.

As the principal writer, Gerald Vizenor brings decades of thinking about Anishinaabeg history and epistemology as well as broad inquiry into tribal sovereignty and the complexities of identity to bear on the pragmatic yet highly influential process of creating a governing document meant to last long beyond the life of its creators. The journey that he has taken to writing the constitution mirrors the processes of “education” that earlier writers like Samson Occom, John Norton, Seth Newhouse, and John Ross experienced before undertaking the project of compiling and composing a communal text. It is important to bear in mind that such an education naturally includes multiple influences, from myriad sources and places. For example, in the White Earth Constitution, we can see the

influences of the Magna Carta and the US Constitution, the Japanese Constitution, as well as Anishinaabeg political and cultural traditions and contemporary indigenous political and literary theory. It is equally important to bear in mind, especially since much of this special issue has focused on the significant role of Vizenor, that he, like Ocom and Newhouse before him, has participated in the creation of this text as part of a dynamic working group. It is a communal document, created by a team of deeply committed citizens, leaders, and scholars, which then had to be deliberated among delegates to the Constitutional Convention and still awaits ratification by the citizens of the nation as a whole.¹⁶

For me, as for many others, one of the most significant aspects of the constitution is its radical inclusiveness, and the clear consideration its collective authors had for those kin “yet unborn,” highlighted by the Haudenosaunee Great Law. In the constitution I see elements of what Cherokee sociologist Eva Garroutte has called “radical indigenism,” including an emphasis on kinship-based identity, where citizenship is rooted in “relationship to ancestry” (“being” kin) and “responsibility to reciprocity” (“doing” kinship) (118–34).¹⁷ The Preamble of the constitution states that “The Anishinaabeg of the White Earth Nation are the successors of a great tradition of continental liberty, a native constitution of families, totemic associations.” Clearly, Vizenor and his coauthors were here thinking about the meaning of the word “constitution,” not only as a governing document but also as a practice in which its ancestors and its citizens are engaged. As David Carlson says beautifully in his essay in this issue, “the term. . . is provocative and pregnant with multiplying possibilities of meaning.” If we look to its roots in the English language, the word “constitution” implies in one of its possible meanings the activity of creation. For example, an early translation of the Bible in the English language refers to “the constitution of the world.”¹⁸ At the same time, the word also implies the solidification of power within a particular body. Early English political theorists, such as Hobbes, refer to “the Constitution of Sovereign power” as the formation of a structured, legal government under a monarch and the system of laws that regulated and enforced ownership,

rights, and political delineations, as well as the relationship of the “sovereign” to its subjects (*OED*). Herein, the body that is involved in the activity of constitution and the solidification of its power is a network of families who are connected to each other through their shared relationship to ancestry/ancestors, as well as their “totemic associations.” This phrase embeds national identity and sovereignty in a communal definition, based in a historical form of governance by family bands, and in Anishinaabe creation stories, through which each family is tied to and related to a particular (other-than-human) being in their environment.¹⁹ The phrase is evocative of Vizenor’s descriptive definition of “transmotion” in *Fugitive Poses* (highlighted by Sinclair). He writes: “Native transmotion is an original natural union in the stories of emergence and migration that relate humans to an environment and to the spiritual and political significance of animals and other creations” (Vizenor, *Fugitive* 183; Sinclair, “Sovereignty” 149). The emphasis here is on a nation that is imagined as a network of related families in place actively engaging each other, in “transmotion,” constituting the nation. Identity is rooted in family, clan, and the characteristics originating in that family’s history and their relationship to (“original union” with) a particular animal or “other creation” and its storied and long-observed character.²⁰

Intriguingly, the White Earth Constitution allows for the possibility of kinship not based exclusively on biology. Its imagination of this network of nationhood calls to mind the image of Louise Erdrich’s kinship chart, which maps her fictional Anishinaabeg community, and which guides her readers through the intricate space of *Love Medicine* and the novels that have followed it. Clearly the Constitution of the White Earth Nation could accommodate the complex relationships that she delineates. Ironically, her fictional charts are probably more accurate in their depictions of complicated and uncontained kinship relations than any Bureau of Indian Affairs (BIA) mapping of an Indian community. Chapter 2, Article 1 of the constitution states that “Citizens of the White Earth Nation shall be descendants of Anishinaabeg families.” Thus, in its imagining, citizenship is not rooted in the individual subject, nor is it based

on a nuclear family model, with each individual descended from a succession of legal marriages between one male and one female ancestor. Rather, citizenship is based on kinship affiliation with a large extended family, which has particular characteristics and particular responsibilities to the group, rooted both in actual historical experience and in narratives of emergence. Thus, “constitution,” as the word is used here, is both an activity of constant creation, regeneration, and reconstruction within a network of related families and an instrument, a narrative or document that will support the continuance of that network. The nation and its constitution are transformative and growing, like the Quiché Maya plant, while deeply rooted in the “native” soil of Anishinaabe literary and political traditions. The nation practices, in the words of Vizenor, survival and transmotion in place.

It is equally significant that the Preamble emphasizes that this “constitution of families” is “native” and that their sovereignty in this place is “inherent and essential,” a power that the constitution must “secure.” Like the Great Law, the Constitution of the White Earth Nation confirms its power in place on this “continent.” Its citizens “constitute, ordain and establish” their collective political instrument, recognizing sovereignty as a force that is rooted here and is enacted within the network of kin. Sovereignty is “constituted” in these networks of regeneration.

In this sense the White Earth Constitution also reflects Garrouette’s other key principle, “responsibility to reciprocity” or “doing” kinship (130). That is, in my reading, the constitution recognizes that citizenship is not merely a condition of “being” but also involves a responsibility to one’s own and others’ extended families within the body of the nation. A key question that arose in my own reading of the constitution, given the principles it lays out, is how does the White Earth Constitution enact this principle? What does the constitution require of its citizens? How does it embed not only rights of the citizenry but also responsibilities? How does it ask its citizens to enact sovereignty *within* the nation? Carlson argues in his essay that the constitution creates a space for the process of decolonization, not only in the implementation of its directives but also in

the interpretation of its principles and laws. As he suggests, one of the most significant *practices* that the constitution enshrines is creating formal spaces for participatory deliberation and interpretation among its citizens, including a Council of Elders, a Youth Council, and “geographically based” Community Councils.

“The Council of Elders,” according to the constitution, will consist of citizens (fifty-five years or older) “nominated by citizens and designated by the Legislative Council” who “shall provide ideas and thoughts on totemic associations, traditional knowledge, cultural and spiritual practices, native survivance, and considerations of resource management, and advise the Legislative Council” (Chapter 8). This also reflects a key principle related by many of Garroutte’s interviewees, who suggested that community elders should be prominently involved in determining questions of identity and in being “teachers” to leadership. (117) Here, they are directly consulted on the “totemic associations” that are enshrined in the Preamble of the constitution and they serve as key advisers to the leadership and citizenry regarding how to enact “survivance.” While in this phrasing we see the clear literary hand of Vizenor, survivance is interpreted and emphasized by the collective authors as an activity that must be deliberated upon and engaged by an active citizenry.

In line with Vizenor’s concept of survivance, innovation and adaptation must balance tradition and longstanding experience. And although elders are without question capable of creating innovation and young people can be resolute advocates for tradition, youth have often been storied as the ones who are able to see the world anew, with fresh eyes, and who have a strong grasp of contemporary technologies and artistic expressions that can be adapted to longstanding community practices and values. “The Youth Council,” according to the constitution, will consist of resident citizens (between the ages of twelve and eighteen) “nominated by citizens and designated by the Legislative Council” who “shall provide information about matters that effect young people and advise the President and Legislative Council” (Chapter 9). Such councils, when they have been implemented in other tribal communities, offer young people the opportunity to learn and enact the skills of commu-

nal deliberation and collective decision making early on, preparing them for leadership. They allow youth to take up an empowered role in their communities. If their governors take their own responsibility to reciprocity seriously and make a commitment to listen to youth, young people have the chance to see that their words and actions can bring change to fruition, and that they also can be participants in renewing tradition, creating innovations, and enacting “survivance.” In cases where the youth are not heard, where they are disempowered, the constitution still ensures that they have their own sanctioned space, from which they can speak with authority, consult with elders and community members from other councils, and enable a re-balancing of powers.

Finally, the constitution establishes representative “Community Councils” that, rather than being appointed by an executive or legislative branch, “shall be initiated . . . by citizens of the White Earth Nation” who live in geographically based communities (Chapter 7). The constitution gives White Earth citizens, who live in geographically distinct areas (both within the reservation and off-reserve, as with urban enclaves in Minneapolis) the right and the responsibility to create deliberative bodies within their self-defined communities. The Community Councils are empowered by the constitution to “provide communal information, guidance, and recommendations to both the Legislative Council and the President on matters of concern to the citizens.” More specifically, Community Councils are charged to “promote, advance and strengthen the philosophy of *mino-bimaadiziwin*, to live a good life, and in good health, through the creation and formation of associations, events and activities that demonstrate, teach and encourage respect, love, bravery, humility, wisdom, honesty and truth for citizens.” Citizens are encouraged and required by the constitution to take up particular leadership roles, not merely to “be” Anishinaabe by relationship to ancestry but to “do” Anishinaabe by participating in the activity of survivance. It is significant here, I think, that in many Algonquian languages, there are more words that are associated with “doing” goodness than “being” good. I’ve always found it interesting that in the English language and American culture in general we often

speak and hear the language of essentialized “goodness”—“she’s a good person,” “he’s not a bad guy.” In my limited experience, I’ve found that it’s harder to do that in the Abenaki language, although there are a whole lot of ways to describe the way a person practices and “promotes” “good” (or “bad”) ways of thinking and acting within the network of kin. We might think of this as goodness in transmotion. With that framework in mind, it seems significant that “responsibility to reciprocity” is not encoded in the constitution as a condition of being, but as a collective activity that must be deliberated on, “worried” on by a group of self-organized leaders, and planned out and brought to fruition within their own place-based kinship groups. Here, the kinship group could consist of an extended family on the reservation who have lived in the same place for countless generations and whose ancestral relationships are deeply intertwined. Or it could consist of a group of White Earth folks who live in Minneapolis, who originate from multiple families, and who share an urban association that is only, in some cases, years or decades old. Whether retaining ancient associations or forming new ones, councils in both places would have the opportunity to be involved in “doing kinship” and performing the “survival” of the nation through their participation in collective meetings and family programs that promote the activity of *mino-bimaadiziwin*.

While they created circles of responsibility for citizens, it seems evident that the composers of the constitution struggled somewhat, as have many other nations, with forming the structure of their governance, in following the US model of “balancing powers” with an executive, legislative, and judicial branch, a format that stretches to accommodate these councils.²¹ Here we see the vestiges of the IRA system, which has dominated the structure of tribal governments in the United States for much of the twentieth century, competing with new innovations on older, more inclusive traditions and longstanding experience. The councils are included as part of the executive branch, although they have a closer relationship to the legislative branch, with two of the councils being “designated” by the legislature (from nominations by the citizenry) and all three advising that branch (Chapters 7–10). Their power is located in the same space

with that of the president, but they are responsible to the legislature. While it remains to be seen how this structure will work itself out in practice, the textual tensions embedded in the document evoke questions about how best to wed competing political systems that are each designed to enforce and encourage an equitable balancing of powers. Arguably, the White Earth Constitution actually awards more representative and participatory power to its citizens who do not hold elected office than does the US Constitution, in that it formally establishes permanent citizen forums for deliberation and direct representation to the elected bodies of government.

One of the most important, and perhaps provocative, elements of the inclusive kinship-based model, for our own changing times, is that the White Earth Constitution does not allow for the banishment or “disenrollment” of kin, in the words of Lumbee legal scholar David Wilkins, who served as a special consultant to the Constitutional Convention and the Proposal Team. Chapter 2, Article 3 states that “The people shall not be denied the fundamental human rights of citizenship in the White Earth Nation.” Article 16 states more forcefully and explicitly that “Citizens shall never be banished from the White Earth Nation.” This exclusion of banishment as an option directly addresses the problem, increasingly present in Indian country, that Wilkins has called “exiling one’s kin.” He has written:

Within the last 20 years . . . coinciding with both the emergence of high-stakes gaming operations and increased criminal activity, a number of tribal governments throughout North America have, in helter-skelter fashion and at unprecedented levels, been dramatically redefining the boundaries and meaning of what it means to be a Native citizen. Many have initiated formal banishment and legal disenrollment proceedings against ever-increasing numbers of their own relatives. (“Self-determination”)

Wilkins’s research and writing on this issue has been grounded in a long process of deliberation, a base of knowledge that was then added to the mix of voices and perspectives that made up the Proposed Constitution Team and the delegates of the Constitutional

Convention. As a result of these deliberations, the White Earth authors evidently came to a consensus: they would address the lateral violence of disenrollment by prohibiting it entirely within the political and geographic bounds of their nation. They thereby removed the possibility that the threat of disenfranchisement could be utilized as a political tool to prevent or punish dissent. The White Earth Constitution requires its citizens to be responsible to all of their kin, in spite of the divisive conflicts that might emerge among them.²² Honoring the accommodation of difference and recognizing that disagreement will always be a part of the collective; it encodes within its charter a prohibition on tribal leaders disenrolling the kin who oppose them and creates space for dissent and critique. If citizens “shall never be banished,” then the citizen or tribal leader who attempts to banish someone would theoretically be revoking his or her own citizenship in the nation.

At first glance, this directive might seem to privilege “relationship to ancestry” over “responsibility to reciprocity.” For example, theoretically, even citizens who commit unspeakable violence against other citizens could not be banished. Those individuals’ *state of ancestry and citizenship* would seem to outweigh their own responsibility to other relatives and citizens and, as the family of victims of violent crime might argue, the responsibilities of their political leaders to provide justice to them and security to all citizens. The issue of banishment is an especially thorny one in communities that have utilized the traditional punishment, embedded within band statutes as exclusion, as a last-ditch solution to extreme and recurrent crime in their territory, most commonly associated with gang violence, drug dealing, and random or domestic violence against tribal members.²³ Therefore the elimination of banishment as a legal option is a decision that has its risks. Nevertheless we might also consider the exclusion of banishment as an example of the *reinforcement of the* “responsibility to reciprocity.” This article within the constitution compels the tribal leadership and the citizenry to acknowledge all citizens as relations notwithstanding the heated disagreements and conflicts that will inevitably arise and in spite of historic factionalism, but also in cases where citizens actually pose a severe threat to

other citizens and even to the body of the nation as a whole. This resolution recalls the moment in the Haudenosaunee narrative of the Great Law, when the Peacemaker and his collaborators realize that they must include in the political structure their greatest opposition, Tadodaho, the man with snakes in his hair, the fierce Onondaga leader of the “war cult,” a man with an unending appetite for violence. It takes great effort and time, but they are able to comb the snakes from his hair, and when he is transformed, they make him an offer to buy into their vision—they make his place and his position the center of the new government. To this day, the central fire remains at Onondaga, and the Tadodaho is the firekeeper of the longhouse.

The White Earth Constitution not only creates space for dissent but also enshrines within its bill of rights one of the most useful forms of critique and conflict resolution in a kinship-based political body. Chapter 3, Article 5 states:

The freedom of thought and conscience, academic, artistic irony, and literary expression, shall not be denied, violated or controverted by the government.

In my class our reading of the White Earth Constitution made clear that among strategies of dissent, irony may be among the most important tool that a community has at its disposal. After putting early protest petitions in dialogue with the writings of William Apess, Vine Deloria, and Sherman Alexie, I asked the class how these other uses of irony by Native authors might illuminate the reason why Vizenor and the Constitution Proposal Team included “irony” as a basic right. Why would irony be a protected entitlement of the citizenry? What would its usefulness be as a political tool, particularly in relationship to “the government,” whether tribal or colonial?

Collectively, the students realized through their own deliberations that in a community composed of kin, irony, like the resolution involving banishment, creates a safe space for critique. Humor allows for critique that does not have to be defended against, that can be delivered without inspiring anger or retaliation. It can diffuse tension and encourage expression of dissent, even disgust, in a way

that allows for release and redirection. If you want to critique someone else's actions, policies, or decisions without alienating them, my students concluded, creative ironic humor is a good way to go. At the same time, it is also a vital right for critiquing the power of the nation-state. Writers such as Apress, Deloria, and Alexie have used irony to make their nonkin readers laugh at themselves, to instigate change in ridiculous but dangerous policies, and to challenge readers to turn "the looking glass" on their own faulty assumptions. Through their humor, they create and maintain a shared space of inclusion in which critique is sharp but not alienating, and in which both the author and reader can more clearly view the dissonance and distortion in the world around them. At the same time, we can read irony as an assertion of sovereignty, the citizens' right to interpret the world, particularly when someone else is trying to impose a view upon that world that is contrary to their experience.

The *Popol Vuh* contains an episode where the hero twins, Hunahpu and Xbalanque, take on the imposing lords of Xibalba, the underworld, who are "pretenders to lordly power over the affairs of the earth" (Tedlock 34). In a long, hilarious cycle, involving among other things a suggestive sexual device that moves like a crab and seduces Zipacna, one of the elder lords, the twin brothers defeat the lords of Xibalba through trickery and ultimately overturn their power. The story relates a necessary balancing act that benefits the whole world and makes the way clear for the emergence of the people of corn. Vizenor's novel *Heirs of Columbus* concludes with a similar scene, based on Anishinaabe oral literature, in which the protagonist, Stone Columbus, an Anishinaabe "crossblood" and heir of Christopher Columbus, ultimately outwits the hungry, powerful *wiindigoo* through humorously turning the moccasin game, a gambling contest, back on his seemingly more powerful opponent. In doing so he makes way for the peoples' survivance.

Whether it is used to challenge a colonial or tribal government, to engage readers in self-reflection, or to outwit a "destroyer," irony is a tool that can be used effectively to challenge those who appear to have greater power and to reclaim sovereignty over our own worlds. This represents one more way in which the Constitution of

the White Earth Nation represents a new innovation on a long literary tradition. While irony has often been invoked in Native stories, petitions, and essays, and humor has long been a powerful force in tribal communities for diffusing conflict and enabling everyday survival, the Constitution of the White Earth Nation is likely the first governing document to honor its citizen's right to irony, making it wholly unique within the genre.

In solidifying the place of irony in their political system, the citizens of the White Earth Nation would be encoding an important place not only for dissent but also for the reflection and deliberation that ironic reversals and critique invite among the citizenry as a body and the potential targets of the critique, who might be moved to thought through the power of satire. This brings us back full circle to the notion of deliberation and the imagination of nations. The process of careful, humorous, and heated deliberation in which the principal author, the Constitution Proposal Team, and the delegates to the Constitutional Convention engaged reminds us of those first creators, those worriers in the *Popol Vuh* who ushered in a new world; those aggrieved visionaries who worked to conceive a Great Peace based on a balance of powers entrenched in a network of kin; and Samson Occom and his Mohegan "family" laboring to envision a political solution to the divisions fostered by colonization from a fusion of deliberative traditions. To my mind, in their composition of the White Earth Constitution, Gerald Vizenor and the White Earth team are revitalizing a longstanding indigenous tradition, which was a great *innovation* in all of its times, while creating a model that may become tradition among Native nations and organizations in the twenty-first century. Whether and how it will come to fruition is now entirely in the hands of its citizens. The rest of us watch and wait, imagining what might emerge.

NOTES

I'd like to give thanks to James Mackay for proposing this special issue and inviting me to contribute, my fellow contributors for generating debate and dialogue, and to the thinkers who participated in the discussion on the

White Earth Constitution during our panel, Constitutional Criticism and White Earth, at the 2010 Native American and Indigenous Studies Association Conference in Tucson, Arizona, and who influenced my thinking in this essay. I am grateful especially to Jill Doerfler, Julie Doerfler, Joseph Bauerkemper, and Niigaanwewidam James Sinclair, whose theorization of “transmotion” was central to my re-envisioning of this essay. I would also like to thank Jean O’Brien for first introducing me to the constitution and for encouraging this project. Finally, my thanks go out to Winona LaDuke for graciously taking the time to review the essay following an invigorating discussion at Harvard. *Wliwni, Migwetch*.

1. “Proposed Constitution of the White Earth Nation.” Please note that although I refer in this essay to the Constitution of the White Earth Nation, “proposed” is always implied. The constitution, as of the date of this writing, has not been ratified by the citizenry.

2. These essays were N. Scott Momaday, “The Man Made of Words” (1979), and Leslie Marmon Silko, “Interior and Exterior Landscapes” (1996) in *Yellow Woman and a Beauty of the Spirit*.

3. This exhibit was curated by Jeffrey Quilter, Barbara Fash, William Saturno, Steven LeBlanc, and Mary Miller. See Quilter et al., “Storied Walls: Murals of the Americas.”

4. See also Cusick, *Sketches of Ancient History*; Elm and Antone, *Oneida Creation Story*, 42, 66–67; L. Brooks, *Common Pot* 243–45; Mann and Fields, “Sign in the Sky, 112–13.

5. For more on this literary history, please see L. Brooks, *Common Pot*.

6. See L. Brooks, *Common Pot*, ch. 2, and J. Brooks, *Collected Writings of Samson Occom*.

7. See L. Brooks, *Common Pot*, 241–45.

8. For the Cherokee Constitution and related documents, see Perdue and Green, *Cherokee Removal*. On Cherokee literary history, including the role of John Ross, see Justice, *Our Fire Survives the Storm*.

9. See Kirby Brown in this issue.

10. A perfect example is the emergence of “Cherokee constitutionalism,” with which Kirby Brown opens the essay that follows.

11. See Mann and Fields, esp. 119–39.

12. See L. Brooks, *Common Pot*, 109–10. See also L. Brooks, “Digging at the Roots,” 238–41.

13. Sinclair, “Sovereignty of Transmotion,” 155.

14. For example, in his response to our papers on this topic at the 2010 NAISA conference, Niigaanwewidam James Sinclair reminded us that “Vizenor has famously remarked, ‘There isn’t any center to the world but a story.’”

15. See L. Brooks, *Common Pot*, 90–100.

16. “The Constitutional Proposal Team included Erma Vizenor, President of the White Earth Nation, Jill May Doerfler, Assistant Professor, Department of Indian Studies, University of Minnesota, Duluth, Jo Anne E. Stately, Vice President of Development for the Indian Land Tenure Foundation, and Anita Fineday, Chief Tribal Court Judge, White Earth Nation.” Lumbee legal scholar David Wilkins, professor of American Indian studies and of political science and law at the University of Minnesota, also played an instrumental role as special consultant to the Constitutional Convention and the Proposal Team. Finally, Anishinaabe (Leech Lake) linguist and language specialist Anton Treuer, professor of languages and ethnic studies at Bemidji State University, was the translator of the Preamble to the constitution. “Proposed Constitution of the White Earth Nation.”

17. Garrouette’s framework seems to have direct parallels to the story of the twin brothers, and especially to Connelly’s linguistic interpretation. It is worth noting that the Cherokee have a Creation story that is similar to that of the Haudenosaunee and Anishinaabeg and that the Cherokee speak an Iroquoian language.

18. Under “Constitution” the *Oxford English Dictionary* gives the example of “1582 N. T. (Rhém.) *Eph.* i. 4 Before the constitution of the world.”

19. See Garrouette, *Real Indians*, 114, 117, on “original instructions” and “historic practice.”

20. Garrouette notes the importance of a framework that recognizes that such a “kinship network . . . includes not only other humans but also animals, plants, mineral, geographic features, the earth itself. . . .” Relationships of reciprocity, as Garrouette notes, are also extended to these kin. See *Real Indians*, 132. Vizenor’s own acknowledgment of his roots and role as a member of the crane clan, traditional interpreters, as David Carlson observes in his essay in this issue, is certainly significant for our own interpretation of the phrase “totemic associations” in the constitution, both in its acknowledgment of the centrality of clans in the Anishinaabe world and its responsibility to the nonhuman ancestors and living relations in Anishinaabe space.

21. See, for example, Daniel Heath Justice on the Cherokee constitutional crisis of 1997 involving “a constitutional struggle between the executive, judicial, and legislative branches of the Cherokee government” (*Our Fire* 21). See also Lemont, “Overcoming the Politics of Reform,” and Champagne, “Remaking Tribal Constitutions.”

22. Wilkins notes: “Tribal nations have existed in the Americas for untold millennia. And as long as they have been here, each of these original nations

has sought to maintain political stability, economic vitality, and cultural integrity. The expulsion of offenders was never in widespread use as a tool for dealing with disharmony, since longstanding traditions and customary practices helped resolve disputes before they became intolerable." See "Exiling One's Kin," 261.

23. For examples of cases where Anishinaabeg bands have applied banishment, see the following articles: Vivian Clark, "Members Banished"; Larry Oakes, "Leech Lake Band Split on Revival of Banishment"; "Tribe Banishes Four." Interestingly, the last case cited includes an instance of banishment of three nontribal members, "two members of other tribes, and . . . a non-Native man," from tribal lands of the Saginaw Chippewa Indian Tribe. The White Earth Constitution presumably allows for the banishment of noncitizens.

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Citizenship, Land, and Law

Constitutional Criticism and
John Milton Oskison's *Black Jack Davy*

KIRBY BROWN

We, the Representatives of the people of the Cherokee Nation, in Convention assembled, in order to establish justice, ensure tranquility, promote our common welfare, and secure to ourselves and our posterity the blessings of liberty; acknowledging with humility and gratitude the goodness of the sovereign Ruler of the Universe, in offering us an opportunity so favorable to the design, and imploring His aid and direction in its accomplishment, do ordain and establish this Constitution for the Government of the Cherokee Nation.

Preamble, Constitution of the Cherokee Nation, passed in 1827¹

As the Preamble above attests, for over one hundred and eighty years Cherokees have exercised rhetorical sovereignty and represented themselves publicly as a people through the legal discourses of nationhood and constitutional citizenship, a “living tradition” as Lisa Brooks powerfully demonstrates in her essay in this issue, with a “deep and extensive genealogy on this continent.”² Indeed, to suggest that Cherokee nationhood sprang into being in 1827 ignores not only this constitutional tradition of continental liberty and survival but also, as Rennard Strickland has shown, the systematic, adaptive efforts Cherokees made toward nationhood in the previous three decades as a means both of maintaining tribal control of their homelands and of holding the nascent national community together in the face of radical social, political, and economic changes.³ Cher-

okee constitutionalism emerged within the context of colonial conflict and three removal crises; survived two internal civil wars, the War between the States, and innumerable nineteenth-century assaults on Cherokee autonomy by railroad interests, land speculators, and territorial advocates; and persisted despite allotment, Oklahoma statehood, and the termination policies of the twentieth century.⁴ Though the Cherokee Nation was officially dissolved in the years between statehood in 1907 and reorganization in the mid-1970s—a period referred to by some as the “dark ages” of Cherokee history—Cherokee nationhood and the experiences of being born citizens into a sovereign Indian nation remained paradigmatic for many, a fact not least evident in the writings of Cherokee educators and public intellectuals such as John Milton Oskison, Rachel Caroline Eaton, Mabel Washbourne Anderson, Emmett Starr, Lynn Riggs, and Ruth Muskrat Bronson, among others.⁵ Through the persistence of the idea of themselves as a nation-people, Cherokees weathered the post-allotment trauma of the twentieth century, and with an official shift in federal Indian policy from termination to self-determination in the early 1970s, the Cherokee Nation reorganized in 1976 under a new constitution based upon the one written one hundred and forty-nine years earlier.⁶ In 1999 Cherokees amended that constitution to reflect an increasing emphasis on sovereignty and self-determination, exchanging the language of tribes and membership for that of nations and citizenship.⁷ Recent referenda to address the ever-contentious issue of citizenship evidence a continued—if troubled—commitment to constitutional self-determination. Though at times fraught with violence, bitter factionalism, and intense debate, the development of Cherokee constitutionalism—from the first written law in 1808 through the 2003 referendum—stands firmly as a significant component of Cherokee national identity and political belonging.⁸

Building upon David Carlson’s interrogation of the extent to which Gerald Vizenor’s intellectual ideas cohere in political practice, and Lisa Brooks’s location of the Constitution of the White Earth Nation within a much older genealogy of indigenous constitutional traditions in the Americas, I examine in this essay the potential of

using tribally specific constitutional traditions as a lens through which to read tribal-national literatures. Specifically, I foreground the concepts of territory, law, and citizenship as they emerged in a Cherokee constitutional tradition as markers of Cherokee sovereignty in Oskison's western romance, *Black Jack Davy*, and examine how such a frame might complicate our understandings of texts composed during an era most commonly seen in decidedly nonnational terms, as either overly accommodationist or outright assimilationist.⁹ Such frames, I believe, have thus far prevented scholars from seriously engaging the political implications of texts that don't fit neatly into contemporary critical practices or conform ideally to contemporary political preferences.¹⁰

Published by D. Appleton & Co. in 1926 amid a radical reordering of Indian affairs, the novel superficially chronicles the romantic trials of two Anglo teens whose families have legally settled in the eastern portion of the Cherokee Nation in the latter half of the nineteenth century. On the surface, the novel follows closely the conventions of a typical western romance, replete with the successful union of the romantic protagonists and the restoration of order to the frontier community in the denouement. Perhaps this adherence to typical plotlines explains to some extent why many critics have often dismissed the novel either as melodramatic, popular drivel or as entirely unconcerned with Indian affairs.¹¹ In what remains the most influential and representative treatment of Oskison, Charles Larson draws upon Oskison's mixed racial heritage, the "assimilationist era" in which he wrote, and a perceived absence of identifiably Indian protagonists to argue that Oskison's work demonstrates "limited concern with the social issues confronting Native Americans at the time" (36) and functions more as "propaganda" for statehood than a legitimate critique (51). Aside from providing Oskison with background fodder for his regionalist style, Larson ultimately concludes that Oskison's territorial settings and "Indian heritage," which he "clearly ignores" throughout his work, "played little importance in his upbringing," and that he actively sought to hide his racial identity for practical and political reasons throughout his life (63). In his conflation of the textual and the real, the

novel and the man, Larson reads Oskison as a typical (and tragic) assimilated Indian.

Larson's reading has largely survived to the present, variously amended but never fundamentally challenged until recently.¹² By reading Oskison in such terms, however, critics have thus far missed almost entirely a consistent—and insistent—engagement with Cherokee nationhood. Such readings, for instance, downplay, if not ignore, the narrative of conflict over Cherokee lands and political authority that runs parallel to, eventually eclipses, and in significant ways revises the cultural work performed by the romantic plot. Turning powerfully on issues of land tenure, citizenship, and Cherokee legal authority, this narrative troubles any easy reading of the text as a conventional western with a little Cherokee color thrown in as regional flair. Indeed, *Black Jack Davy* is “conventional” only in form.

Set in Indian Territory in a historical moment when the region was still a site of political contestation and US hegemony was anything but a foregone conclusion, the text not only writes Cherokees into US national narratives and inscribes matters of dispossession and violence attending US expansion into larger national dialogues over American identity and ideals. It also situates Cherokee sovereignty, territory, and citizenship as the legal and political contexts in which both plot lines ultimately play out. Rather than Native political and cultural spaces giving way to civilization's “settlement” and “frontier family,” as they do in conventional westerns, the imaginative, quasi-Utopian spaces in which Oskison attempts to resolve conflicts are identifiably and unquestionably sovereign Cherokee territories. Where conventional westerns go to great lengths to appropriate Indians into, or write them out of, a US national romance—the ur-texts of which are the Declaration of Independence and the US Constitution—Oskison's narrative inscribes a fully functioning, multicultural, politically autonomous, and sovereign Cherokee state firmly rooted in its own constitutional and legal traditions.

The novel's appearance coincident (though not coincidental!) with the Pueblo defeat of the Bursum bill (1923), the passage of

the Indian Citizenship Act (1924), the investigations of the Miriam Commission (1926), and momentum for what would become the Indian Reorganization Act and Oklahoma Indian Welfare Act a decade later begs for thoughtful reconsideration of the text within Cherokee constitutional and US federal policy contexts. After all, it was in this highly charged environment of Indian policy reform, when American lawmakers were beginning to seriously reconsider the prospect of Indian nationhood, that Oskison reopened a history many considered long closed and entered the romantic discourse of American nationalism. Though the Cherokee Nation of his boyhood had long since been officially dissolved, I suggest below that it remained paradigmatic both for how he interpreted events taking place around him and for how he navigated such issues from within the very genre largely responsible for the cultural consolidation of US nationalism: the iconic frontier western. In what follows, I argue that Oskison's attention to Cherokee territory, land tenure laws, and citizenship in a narrative set explicitly in sovereign Cherokee territory—written at the very moment that such issues were suddenly brought back to the table—indigenizes the form from colonial alibi justifying a settler-colonial state to a “dark age” declaration of Cherokee independence and a popular case for Indian sovereignty.¹³

ROMANCING THE NATION

In order to fully grasp the enormity of such a project, it is first necessary to sketch out the relationship between US nationalism and the discursive work of the American western in legitimizing US claims to representative truth and naturalizing the assumption of US state political legitimacy. In Homi K. Bhabha's edited collection *Nation and Narration*, Timothy Brennan and Ernst Renan both point out the narrative construction of “the nation” as a self-conscious act of creative imagination and historical forgetting. Brennan writes: “Nations, then, are imaginary constructs that depend for their existence on an apparatus of cultural fictions in which imaginative literature plays a decisive role” (49). Brennan's comment points to the cultural work that narratives perform to constitute and consolidate

subjects within the ideal of a unified national identity.¹⁴ This project of narrative consolidation is no easy task, however, since, according to Renan, national unity “is always effected by means of brutality” (11). In order to elide the violence through which nations often emerge, Renan argues that collective forgetting is a necessary component of national unity: “The essence of a nation is that all individuals have many things in common, and also that they have forgotten many things. . . . It is good for everyone to know how to forget” (11). The cultural work of national narratives is not so much the revelation of commonality, but the erasure of difference effected through an insistent “forgetting” of initial “constitutional” moments of violence and trauma. Brennan’s “apparatus of cultural fictions” can be seen, then, to effect this collective historical amnesia by constructing memories, histories, and cultural narratives that affirm settler states, while at the same time containing, repressing, or silencing alternative narratives and claims to representative truth.

Perhaps no other genre has been taken up and put to work by so many and for such disparate purposes as the historical romance.¹⁵ Governed by a dialectical binary that orders the world according to easily discernible moral polarities, the historical romance, broadly considered, attempts to resolve or flatten social contradictions through quasi-epic battles between representative forces of good and evil, and does so generally within an identifiable and familiar setting that itself takes on mythic significance. Most often deployed during moments of profound civil unrest or social transformation, the historical romance functions to articulate and institutionalize a given set of values and beliefs, to naturalize hegemonic social relations, and to legitimate a specific idea of national identity attendant on the present but refracted through the lens of an imagined historical past. If, as Harry Henderson suggests, “History” functions as the “imaginative ordering of materials in an attempt at the recreation of experience,” then historical fiction—especially the romance—serves to mythify (and mystify) that reordering to shape history in such a way “that create[s] a usable past” for its authors and their readers (9). In such a co-dependent relationship, historiographic frames define and delimit the narrative possibilities in a given his-

torical period whose narratives, in turn, reproduce, reinforce, and naturalize those frames as “givens.” The effect of this process is the effective displacement of historical contingency and political contestation into the ideological realms of mythic inevitability and “common sense.”¹⁶ Whether enthusiastically valorizing an emerging social order, nostalgically lamenting the passing of an old one, or vacillating ambiguously and skeptically between the two, historical romances can thus be read, as Steven Frye suggests, as deliberate, socially symbolic acts of “mythogenesis” that seek to consolidate national identities via the (re)construction of “usable” imagined historical pasts (8).

One of the ways historical romances effect this reimagining or mythification of history is through the transformation of historically situated, geopolitical locations into ideologically invested national spaces. No space has been used so widely and been so influential on the progressivist narrative of US history and national identity as the American West. As others have chronicled this development in detail, I don’t wish to duplicate their work.¹⁷ What is important to note, however, is the rapidity with which the unambiguously non-national “frontier” was refigured in the late eighteenth and throughout the nineteenth centuries from a threatening, corrupting, foreign “wilderness” into the American West—a mythic, iconic site where American heroic identity and ideals were to be fully realized.¹⁸ As Mary Lawlor notes, romantic literature thus contributed to and solidified images of the West “as a border zone that harbored mystery and danger, but that ultimately opened onto a plentiful, inviting space where the desires of common citizens, if they were diligent and brave, might be richly fulfilled” (2). What was, in the journals and sermons of Puritan fathers, a demonic “howling wilderness” to be avoided at all costs, became, in the Cooperian tradition of American romance, that which was fundamentally necessary to enter, subdue, tame, and civilize. By the early 1830s and into the late 1840s, the geopolitical-spatial antithesis of civilization and progress—the wilderness-turned-West—became *the* mythic symbol of what would later be seen as America’s manifest destiny.¹⁹

Together with early policy decisions, Supreme Court rulings,

and an inflated and increasingly nationalistic rhetoric of expansion, progressivist-oriented popular westerns went a long way in naturalizing claims of American exceptionalism through the creation of “a set of spatial and representational conventions that normalized the United States’ expansionist project,” often with violent repercussions for those deemed “foreign” to the national narrative in a given moment (LeMenager 4).²⁰ Maureen Konkle has deftly argued that for American Indians this meant a political and popular denial of even the possibility of Indian nationhood. Operating within what she terms an “epistemology of ignorance” that confines Natives to the past by denying their place as political actors in history, the very idea of a modern Indian nation became a contradiction in terms (6). Despite persistent challenges to such discourses by Native peoples on battlefields, in treaty commissions, in the US Supreme Court, and in print, Indian nations were rendered epistemologically invisible precisely because Indian Country was not a located space inhabited by peoples, but rather an ideological locality where Indian savages reveled in their savagery.²¹ As Helen Hughes rightly points out, in displacing the political components of social history into the realm of fantasy wish fulfillment, romances effectively “sanitize” their imagined pasts, rendering them “‘safe’ for the reader because they are ‘closed off,’ ‘finished’” (6). James Cox argues that such practices—what he terms an “annihilation imperative” in narratives of Native absence—perpetuate “the colonial effort by obscuring violence committed against Native people, disguising the motives for that violence, [and] relieving their readers of responsibility for that violence and domination” (*Muting* 208, 249). Without question, from the late eighteenth and into the early twentieth centuries, a great deal of intellectual labor went into rendering as “natural” and “inevitable” what in reality were complex and often violent political and ideological contestations over land, law, and territory.

However, dismissing romance outright as a bourgeois vehicle thoroughly complicit with hegemonic power ignores its potential to challenge, subvert, and disrupt hegemonic narratives. Despite their normalizing functions, romances “also allow the expression of protest to some extent” and in staging those debates “offer in some

sense an alternative view of historical events in question . . . that informs the act of literary creation” (Lawlor 131; S. Frye 8). Taking such observations as jumping-off points, I suggest that despite efforts by romantic nationalists to appropriate and refigure Indian Territory as a distinctly American space, Oskison’s romance evidences the failure of that totalizing project. By situating the narrative in a region of historical contestation, *Black Jack Davy* offers up what Stephanie LeMenager terms “a species of counter-site . . . that challenge[s] hegemonic spatial representations and praxes like Manifest Destiny and, in so doing, inspire[s] revisionist historiography” (4).²² In his re-appropriation of those spaces as Cherokee geopolitical territories governed by Cherokee constitutional law, Oskison radically refigures the cultural work that the genre performs as a narrative instrument of Cherokee nationhood.

INSCRIBING THE NATION

As mentioned earlier, *Black Jack Davy* recounts on one level a familiar romantic tale between Anglo youths who have settled in the Indian Territory as farmers with the permission of the Cherokee Nation. It goes something like this: Davy Dawes, an orphan taken in by Jim and Mirabelle Dawes in Missouri before moving to Indian Territory where they lease a farm from Cherokee citizen Ned Warrior, soon develops a romantic interest in his adopted cousin, Mary (May) Keene, whose family also leases land from Warrior. The romantic plot rests upon the relationship between the two youths and the complications brought about by Davy’s exotic (and forbidden) attraction to Warrior’s Cherokee wife, Rose, and the violent circumstances of Indian Territory settlement late in the nineteenth century. Rose, who develops a reciprocal fascination with Davy, is eventually forced into a sexual liaison with Davy’s mixed-race antagonist Cale Boyd in order to save the Warrior homestead while Ned recuperates from Boyd’s unsuccessful attempt to have him killed at the hands of the law. Urged on by Boyd, Warrior suspects Davy’s attraction to his wife and plots his murder, but he is persuaded otherwise when he finds out that it is not Davy, but Boyd, who is the

source of his troubles. Warrior recedes from the story only to appear in the end to assist the Daweses and Keenes put down the violent takeover of their—and his—lands at the hands of Boyd's father's outfit, aided by the notorious Indian Territory outlaw Jack Kitchin. During the firefight, Mary escapes on horseback to seek reinforcements and returns just in time to witness Warrior enact his revenge. Though Davy's foster father is fatally wounded in the fight, the narrative ends in an apotheosis to his pioneer spirit, the reunification of Ned and Rose, the marriage of Davy and Mary, and law and order restored to the "frontier" community.

As the summary above attests, Oskison's romantic narrative is thoroughly conventional, and the heroic portrayal of the pioneer ethos is exactly what one would expect in a novel chronicling the settlement of the American West. *Black Jack Davy* is not, of course, a novel about the American West. Rather, it is a novel about *Indian Territory*, the sovereign territory of the Cherokee Nation in particular, and Oskison is at great pains to locate the text in such terms. Aside from explicit references to the Daweses' destination as Indian Territory, the narrator goes to great lengths to identify numerous geographic markers recognizable to anyone familiar with the topography of northeast Oklahoma. The Keene farm, we are told, lies just west of the town of Grove and east of Horsepen Creek on the Six Bulls, or Neosho, River. Grove, we are told, is a new settlement east of the larger town of Vinita in the Delaware District of the Cherokee Nation. Aside from these landmarks, Oskison mentions the Verdigris and Arkansas Rivers, which run on either side of the Cherokee capital of Tahlequah before linking up outside of Muskogee. If conventional westerns operate largely to empty political locations of their historical content and refigure them ideologically as ahistorical, romantic locales, Oskison reclaims those spaces as identifiably Cherokee locations. For those familiar with northeast Oklahoma, such references would undoubtedly hold resonance. Perhaps more importantly for those not educated in the region's geography, however, this attention to detail frustrates any attempt to too easily incorporate Oskison's explicitly Cherokee settings into conventional, ahistorical western geographies evacuated of their historical or political content.

While this attention to detail might otherwise be explained away in terms of realist verisimilitude or regional color, reading it within the legal and constitutional history of the Cherokee Nation opens up different interpretive possibilities. In fact, the history of Cherokee territorial autonomy that Oskison inscribes is at least partially embedded in the narrative of Cherokee constitutionalism as a strategic adaptation to hold onto tribal lands.²³ From the earliest treaties with colonial officials in the mid to late eighteenth century, Cherokees gave great attention to territorial boundaries, both to clearly demarcate the sovereign borders of their own lands and to identify the geopolitical limits of colonial authority. As pressure for their lands increased, and as US officials played one town against another in order to secure cessions, Cherokees began the slow process of centralizing political authority in the National Council, making individual cessions of land an illegal offence punishable by death at the Council of Ustanali in 1810. The subsequent constitutions of 1827 and 1839, which refer to the boundaries identified in treaties with the US government as a basis to determine the extent of their national domain and to define the use of national common lands, essentially codified this earlier statute.²⁴ Article I of the 1827 document asserts:

Sec. 1.—The boundaries of this Nation, embracing the lands solemnly guaranteed and reserved forever to the Cherokee Nation the treaties concluded with the United States, are as follows, and shall forever hereafter remain unalterably the same, to wit . . . [extended, detailed descriptions of national boundaries].

Sec. 2.—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. (Sec. 1 and 2, 118–19)

The detailed descriptions of the specific rivers, mountains, valleys, meadows, town sites, and other recognizable landmarks between these two sections—whether specifically documented in the Con-

stitution of 1827 or referred to in other treaties in the 1839 and 1866 Constitutions—serve to concretely demarcate the sovereign jurisdiction of the nation and to legally codify national lands as common property. Oskison was writing twenty years after the territorial integrity of his own nation had been dissolved, in a climate when Indian nationhood and common property were being reconsidered as integral to Indian policy reform, and his attention to geographic specificity in the Cherokee Nation can be read as part of a Cherokee constitutional tradition linking nationhood and territory within a matrix of constitutional legal sovereignty. From within the ahistorical geopolitical frame of the western, Oskison's detailed descriptions of explicitly Cherokee places lay claim to those spaces within sovereign Cherokee territory.

Territorial boundaries not only delimit concretely the sovereign jurisdiction of the Cherokee Nation. They also establish citizenship requirements and a citizen ethic of responsibility to the land and the people. In addition to defining national lands as common property, Section 2 of both the 1827 and 1839 Constitutions defines common land use rights, limits the sale of improvements to noncitizens, and restricts citizenship to a function of residence within territorial boundaries. Though the Cherokee Nation claims collective title to all land,

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 rightly be in possession of them; provided that the citizens of the Nation possessing exclusive and indefeasible right to their respective improvements, as expressed in this article, shall possess no right nor power to dispose of their improvements in any manner whatever to the United States, individual states, nor to individual Citizens thereof; and that whenever any such citizen or citizens shall remove with their effects out of the limits of this Nation and become citizens of any other Government, all their rights and privileges as citizens of this Nation cease . . . (LCN 1827, 119)²⁵

This conflation of national citizenship, common territory, and residence signaled a fundamental shift in Cherokee understandings of cultural and political identity. As William McLoughlin notes, where Cherokee belonging had previously been dependent upon matrilineal clan relations, shared language, or regional town affiliation, it became in the constitution subject to legal residence within the boundaries of the nation and accession to national law:

The Cherokee Nation was not simply a people; it was a place. To leave that place “without the consent of the nation,” knowing that the federal government might unilaterally use that action to expropriate land from the nation, was traitorous, a betrayal of one’s duties as a citizen and patriot and an act that merited deprivation of citizenship. (*Cherokee* 163)

Just as the maintenance of Cherokee territory became inextricably intertwined with Cherokee national sovereignty, so the constitutions cemented the relationship between sovereignty, territory, and national identity as citizenship. Whether fighting against removal in the 1830s or attempting to reunite the Cherokee Nation after the Civil War; whether battling railroad interests, land speculators, and territorial advocates through the late nineteenth century or resisting allotment and statehood at the turn of the twentieth century, Cherokees would time and again emphasize their self-determined, constitutional rights to self-governance as citizens within a territorially sovereign Cherokee Nation.²⁶

As a result of this shift, “[f]ailure to observe the emerging tribal laws came to be considered as treason in the context of the fight for tribal lands” (R. Strickland 52). Significantly, it is the subplot of land struggle between law-abiding Anglo and Cherokee farmers, ranchers, and merchants, and a consortium of Anglo commercial interests and annexation advocates bent upon amassing vast tracts of land as a means of encouraging US settlement and economic development that takes over the narrative less than halfway through the text. Oskison highlights this conflict from the beginning by explaining the relationship between Cherokee national lands and Anglo residence in the nation on the one hand and the machinations by

commercial interests and territorial advocates to undermine that relationship on the other. We learn, for instance, that Anglos are encouraged under certain legal circumstances to enter the Cherokee Nation and improve its land, provided they find a Cherokee lessor and work out the legal terms of the lease with them. Since all land was constitutionally held as the collective property of the Cherokee Nation, Anglo settlers were never officially acknowledged as holding title to the land. They were nonetheless entitled to all improvements, equipment, and livestock produced during their tenure.

This representation is consistent with Cherokee immigration and labor policies in the mid to late nineteenth century, during which the Cherokee Nation aggressively courted settlers from neighboring states in order to fill a labor shortage as a means of rebuilding infrastructure and wealth following the Civil War, and as a strategy to cultivate political relationships in order to stave off US pressure to absorb Indian Territory into the US territorial structure. Exactly what conditions would be mutually beneficial to all parties involved was a matter of great debate in the Cherokee Nation throughout the nineteenth century, however. Between 1819 and 1892, the National Council addressed these and other issues at least nine times. Incorporating permit and fee requirements from earlier resolutions, the legal code of 1867 restricts permits to mechanics and laborers and requires Cherokee employers to vouch for the character of their employee (*LCN* 1868, 148–49). The code of 1881 includes “artisans” as an acceptable labor category, requires US citizens to take oaths of their good standing and their intent to leave within ten days of permit expiration (generally one year), prevents permit employees from hiring other noncitizen employees, and makes provisions for rescinding permits in cases of abandonment (*LCN* 1881, Chap. XII, Art. XIV, 272–74). By 1892 the law mandated that employment be “useful” and continuous, rescinded the oath requirement, collapsed labor and artisan into “agriculture,” and explicitly forbid the employment of noncitizens in the cattle industry (*LCN* 1892, Chap. XII, Art. XV, 326–29). As the details of Cherokee labor law suggest, regulating labor in a way that addressed Cherokee needs while also protecting Cherokee political and economic interests was a compli-

cated and often contentious affair, made infinitely more so by the arrival of the railroads in the 1870s and the intensification of the ranching industry in the next two decades. The Keenes' and Daweses' peaceful tenure on Warrior's lands and their respect for Cherokee immigration, labor, and property law are thus tremendously significant as an endorsement of the Cherokee Nation's territorial authority and sovereignty and their voluntary and willful submission to its laws and jurisdiction.²⁷

The text juxtaposes this mutually beneficial relationship outlined between Warrior and his Anglo lessees with the self-interested machinations and utter disregard for Cherokee property law expressed by Cale Boyd's father, Jerry. We are first introduced to Boyd as he approaches the Daweses' wagon, still on its way to their Six Bulls lease. Though at first cordial, welcoming, and helpful, Boyd quickly begins slandering a Cherokee landowner whom we later come to know as the politically astute and strategic Ned Warrior. After arriving at their lease, the Daweses receive a very different story of Boyd from those familiar with the era and its politics. Warrior himself identifies Boyd as "a big fat snake" who, married to "a good woman, she part Eenyanyan," has become a naturalized non-land-owning citizen of the Cherokee Nation (14).²⁸ From James Keene, Davy's uncle and eventual martyr of Cherokee territorial integrity, we find out that Boyd showed up in Grove twenty years earlier as a stranded medicine show proprietor. After marrying the daughter of Soggy Roberts, "a second chief," Boyd was given a stake and some land, which he quickly populated with a large cattle herd under suspicious circumstances (24–25). What Keene only implies, his daughter Mary confirms, stating bluntly that "Mr. Boyd wants to get hold of all this land between the river and Horsepen creek—more than three thousand acres. He got mad when Ned came in and he and papa made their bargain" (19). Later, after Davy, by now established as the moral barometer of the narrative, has had more than one contentious encounter with the elder Boyd, the narrator comments: "Boyd was a type new to Davy—the deliberately scheming, merciless and powerful enemy who fought with weapons you could not meet with your hands" (98). Through free indirect discourse, the

text confirms such suspicions, as Boyd thinks through “the moves he meant to make” to force the Warriors, Keenes, and Daweses from the land, a plan that provided for Warrior’s death and thus the termination of his rental agreements with his lessees (61): “Once I get hold of that Indian’s own place, I’ll have them fellows out of there in short order!” (62).

Oskison makes plain that Boyd, hardly an anomaly, is representative of a self-interested “type” infiltrating Indian nations from the United States. He communicates the seriousness of the threat to Cherokee sovereignty by placing one of the stronger critiques of men like Boyd in the words of an official charged with upholding both US and Cherokee constitutional law: the aptly named Judge Pease (modeled on the real-life “hanging judge,” Isaac C. Parker). When speaking to the Daweses at their farm following Boyd’s first abortive attempt to burn them out, Pease comments, “It seems that bad men from the whole United States are flocking into the Indian country . . . we must stand up straight for law and order. Men like you—and this youngster— . . . who will be militant missionaries of peace, and security of life and property” (17, 18). Embedded in this statement is an implicit though strong indictment of the categorical failure of the United States to live up to its treaty responsibilities to regulate white incursions into Cherokee lands and remove squatters when notified of their presence. Whether it is due to a self-conscious abrogation of treaty provisions or the result of a fundamental inability to discipline its own citizens, Judge Pease’s comments point to a failure of US sovereignty often leveled at Indian nations: an absence of coercive authority to secure its borders with neighboring states and to regulate the actions of its citizens. Though Pease’s naive confidence in the rule of law is later rendered absurd in light of Boyd’s easy manipulation of the jurisdictional issues endemic to late nineteenth-century Indian Territory, he nonetheless expresses an anxiety that many Cherokee citizens, legal residents, and US officials felt at the time—that they were losing legal and political control of the territory to unscrupulous characters like Boyd.

The questions of authority that Boyd’s character presents in the narrative is writ large in the history of the Cherokee Nation from the

early nineteenth century onward. Similar to their efforts to arrive at pragmatic immigration and labor policies, Cherokees also had to decide whether to admit as citizens white men marrying Cherokee women, whether to set restrictions on marriage, how to determine the citizenship status of mixed-race offspring, and how to codify the rights of spouses and children in cases of death, abandonment, or remarriage.²⁹ The earliest such law from 1819 required all white men intending to marry a Cherokee woman to announce their intent and to secure a license from the National Council, mandated the consent of Cherokee women to alienate their property, and rescinded citizenship immediately upon divorce, abandonment, or in cases of polygamy (*LCN* 1852, 10–11). Six years later, in an attempt to reconcile conventional notions of Cherokee belonging rooted in matrilineal clan descent with an increasing number of unions between Cherokee men and white women, a law was passed extending full rights and privileges of citizenship to children of such marriages, effectively reducing the legal influence of the clans with respect to political identity (*LCN* 1852, 10–11).³⁰ After 1843 Cherokees required all intermarried whites to take an oath of allegiance in which they repudiated citizenship in and protection from all other nations and pledged to “honor, defend, and submit to the constitution and laws of the Cherokee Nation.” Though later laws allowed white widows and widowers to retain citizenship provided they remain in the nation and remarry Cherokee citizens, citizenship was stripped from any intermarried white who brought a suit against any Cherokee under the Trade and Intercourse Act of 1834 (*LCN* 1881, 276–77).³¹

Though intermarriage in Cherokee history is often read as a significant cultural disruption, details of laws passed over a period of seventy years such as those highlighted above emphasize the very real potential for political and legal disruption intermarriage posed. When combined with the self-interest of unscrupulous whites and Cherokees alike, this potential was quickly translated into a reality. “In many cases white traders and businesspeople were an asset to the nation,” McLoughlin writes, “since they provided capital, services, and jobs, but most of the whites who sought their fortunes in Indian nations were motivated by the thought that they would

have easy pickings among people they considered ignorant” (*After* 67). In addition to whiskey peddling, many whites married Cherokee women strictly to gain access to common lands, became silent business partners reaping significant profits, squatted on Cherokee lands, or simply stole Cherokee natural resources such as timber, salt, or coal. Though Cherokees had the legal right to expel intruders (or to demand their expulsion by US agents), this was difficult to effect in practice in such open and often unpopulated spaces with unpoliced borders between the Cherokee Nation and other US territories and states. Measures such as those mentioned above clearly point to the jurisdictional complications that emerged after removal and continued to intensify throughout the rest of the century. As Davy notes, by the early 1890s, Indian Territory “was a chaos of disputed authority—Indian tribal courts, the courts of neighboring states and the Federal courts in many cases each claiming jurisdiction—and outlawry flourished” (167). As a result of easily manipulatable jurisdictional quandaries, the system was beset by corruption and abuse by both Cherokees and whites alike. Despite Cherokee legal measures designed to prevent the consolidation of wealth and contiguous lands in the hands of the few, many wealthy Cherokees used the system to lay claim to thousands of acres of Cherokee lands for agricultural production, ranching enterprises, and resource extraction.³² As a result they profited greatly, laying the foundations for a growing class consciousness within the nation between smaller farming “traditionalists” and large-operation “progressives” (McLouglin, *After* 294).

That Boyd openly flouts his presumed oath of allegiance to the Cherokee Nation, by engaging in or encouraging many of the subversive acts mentioned above, clearly situates him as the romantic villain, the moral “type” responsible for the subversion of the social order, and the primary threat to the safety and security of the community. Within the generic conventions of the western, such struggles over land and the ensuing conflicts between the established order and external threats are standard tropes. Indeed, Henry Nash Smith argues that most frontier romances explicitly turn on the conflicts and tensions between “the old forest freedom versus the new needs of a community that must establish the power of

law over the individual” (61–62). These conflicts often play out as a struggle between “the primitive free access to the bounty of nature” and “individual appropriation and the whole notion of inviolable property rights,” as well as the debate over the presumed equality of man in the state of nature versus social stratification and class status organizing civilized relationships (62). Though elements of Smith’s analysis obtain in Oskison’s text, the cultural work *Black Jack Davy* performs is radically inverted. The community under assault represents neither the “old forest freedom” of the frontier nor the “primitive savagery” through which Indian communities are conventionally represented in the genre. Rather, Boyd’s machinations threaten the safety of a fully-functioning, “civilized” (by the genre’s own standards), Cherokee political community, the security of which rests not in a commitment to individual land rights but in the delicate constitutional balance between common lands and individual property. Though the conflict in Oskison’s text at least partially revolves around the tension between common property and private property, the narrative reverses the arc of that struggle: resolution takes place not with the institution of allotment in severalty, but with the restoration of Cherokee common property law. Boyd’s “moral” failure, then, has nothing to do with terminal creeds of “blood” or “race” deployed in the service of US nationalism common to the genre; rather, his failure is one of rational self-interest, a willful manipulation of Cherokee citizenship and a conscious subversion of Cherokee property law. What I am arguing for as the central conflict in *Black Jack Davy*, unlike in most western romances, is not a *moral* conflict at all, but an inter- and intranational *political* conflict over Cherokee citizenship, land, and law.³³ In doing so, the text makes visible the originary lie of the genre: that ostensibly “universal” moral conflicts played out in popular culture have always been intensely self-interested conflicts of politics and power.

RECOVERING THE NATION

Reading the text as I have from within the frame of Cherokee constitutionalism and Cherokee law forces us to consider what happens

to generic form and the cultural work it performs when the threatened community is no longer what Lawlor identifies as “the most powerful icon of the civilization of the wilderness: the settlement family,” but a Cherokee political community (24).³⁴ Since the resolution of contradictions in the denouement is where romantic narratives put forward their most powerful statements about the moral and political world order, I’d like to close by briefly examining how Oskison resolves his Indian Territory western and to consider how a contextualized, constitutional reading opens the interpretive possibilities of the text. As mentioned earlier, the conflict comes to a head as Boyd’s consortium of hoodlums and grafters sneak up on the Dawes homestead in the cover of night and engage them in a firefight designed to eliminate them as a threat. Most of the tension in the final scene is created by the failure of some of their allies to show up in time due to misinformation and by Mary’s daring Paul Revere-like ride through the violent night to secure aid. Alone and outnumbered, only the Keene and Dawes families are ready for battle, as J. A., Jim, and Davy are the only men present. In good western fashion, the women take up arms, and a gunfight ensues that would make even Butch Cassidy and the Sundance Kid envious. As the fire draws to a close, Mary returns with the “cavalry,” and punctuated by the martyrdom of Jim Dawes, everything ends as we might expect.

While such events create a certain degree of suspense, they are all ultimately irrelevant to the way in which Oskison actually draws the conflict to a close in favor of the Daweses and Keenes, for we find out as the battle reaches a fevered pitch that Ned Warrior, Cherokee lesor to both Anglo families and revenge-seeking husband of Rose, has previously infiltrated the battlefield and set up an elaborate series of explosions disguised in hay bales to short-circuit Boyd’s planned siege. In fact, it is Warrior’s strategic mind and patriotic heroism, rather than that of his Anglo settlers or their allies—including, significantly, the romantic protagonist, Davy—which effectively brings the conflict to an end, wounding Boyd, killing his son, and disabling their accomplices until the authorities arrive. Almost comically, the “cavalry” sought so valiantly by Mary very nearly misses the entire exchange, arriving just in time to get a few shots in, to apprehend

what's left of Boyd's gang, and to commemorate the tragic, but necessary and heroic, loss of Jim Dawes. In Oskison's western, then, it is not the heroic frontiersman, the rough mountain man, or even the handsome cowboy—much less the cavalry—who comes to the rescue, but the only Cherokee principle character in the text on whose common lands the struggle takes place and who, as a consequence, has the most to lose and gain by the outcome.³⁵

Such a plot contrivance in the hands of Cooper, Child, or Sedgewick generally suggests Native complicity, if not endorsement, of white settlement and its survival on the frontier. Indeed, the accession and assistance of Native characters to their white counterparts is one of the fundamental legitimizing conventions of narratives of Native absence and central to the western's project of depoliticizing, closing off, and sanitizing the violent "extratextual consequences" of the real history of its actual settlement (Cox, *Muting* 206, 7).³⁶ In Oskison's Cherokee western centered around the struggle over national lands and the territorial authority of the Cherokee Nation, however, Warrior's quiet disappearance at the end of the narrative signals neither a concession to disappearance nor the inevitable dispossession of Cherokee lands. Rather, in protecting his lessees, Warrior guarantees not only continued revenue from their arrangement but also his constitutional claim to those lands *as a Cherokee citizen*. That Warrior's efforts lead ultimately to Boyd's imprisonment, the forfeiture of his vast farmlands, and the sale of his improvements—the profits of which would legally revert to his Cherokee wife, Rose—restores political stability to that region of the Cherokee Nation. Read as a national allegory, Warrior's *individual* defense of Cherokee lands, the Anglo residents living on them, and the community constituted by such relationships stands as a profoundly symbolic assertion—and, within the narrative arc of the text, restoration—of the *collective* sovereignty of the Cherokee Nation.

Further, there is some suggestion in the text of the promise that Warrior might also be a figure of diplomacy and compromise within the Cherokee Nation. We learn, for instance, that just as external threats from men like Boyd threaten the nation from without, internal factionalism breaking along lines of race, class, and culture

threaten to pull the nation apart from within. Indeed, many of the political conflicts in the nation contemporary with the events in the text are evident in Cherokee law. Measures to restrict white employment, to levy heavy taxes on non-Cherokee industrial interests, and to limit white, black, and non-Cherokee Indians' access to per capita payments from land sales point to the intensity of disagreement between progressives and traditionalists, capitalists and populists, and defenders of common lands and advocates of allotment. Though Warrior attempts to work for reform within the Cherokee legal framework, even exercising his right to civil disobedience in protest of what he views as an overreaching of tribal authority, he is also sympathetic with other Cherokee "traditionalists" who have opted out of contemporary politics in protest of what they view as a crisis of immigration and acculturation (272).³⁷ Recognizing the closure of national borders and the removal of all whites as impossible on one hand, and opening them up freely to white settlement and allotment as undesirable on the other, Warrior adopts a pragmatic political approach of alliance with sympathetic white residents committed to the Cherokee Nation's authority, safety, and security. Rejecting neither traditionalists nor progressives, capitalists nor populists, Indians nor non-Indians, the "full-blood" Warrior attempts to walk the fine line of accommodation between all groups.³⁸ As the only principle character with ties to all communities, Warrior thus stands as a kind of diplomatic intermediary with the potential to keep lines of communication and deliberation open between political factions, if not broker political compromise. In this sense, the idea of citizenship that emerges in the text becomes a question not of *being* but of *doing*, not a question of who or what one *is* but what and for whom one *does*, and thus is not strictly an issue of *rights* but also of *responsibilities*.³⁹ As with the CWEN, in *Black Jack Davy* whatever future exists for the Cherokee Nation after the narrative ends is firmly, and significantly, in the hands of Cherokee citizens and legal residents committed to the security and sovereignty of the Cherokee Nation.⁴⁰

While the forces that win out in the end very well may be "progress" and "civilization," the victory doesn't depend upon the dis-

placement of Cherokee peoples from their lands or the political dissolution of the Cherokee government. In contrast to the “epistemology of ignorance” identified by Konkle in which a constitutionally defined, territorially autonomous, “civilized” Indian nation is a contradiction at every level, in *Black Jack Davy* they co-exist in the narrative as mutually beneficial, mutually reinforcing, co-constitutive elements of Cherokee sovereignty. Such an argument for cultural and political co-existence emerged in the nineteenth century as a central component of Cherokee understandings of their relationship with the United States and what it meant (and means) to be a sovereign nation:

Sovereignty for Ross and most Cherokees meant the right to govern themselves in their own way under their own leaders and to expect the federal government to honor their treaties as it would honor treaty stipulations with any foreign nation. . . . The Cherokee constitution, though modeled on that of the United States, *was its own supreme law*. Total sovereignty was limited only by treaty negotiations *mutually beneficial and voluntarily signed*, and treaties were permanently binding on both the Cherokee Nation and the United States. (McLoughlin, *After* 59; emphasis added)

Read in this light, the text’s depiction of Jim Dawes’s death as a tragic though necessary and heroic martyrdom for “the cause of law and order,” and its immediate apotheosis of his sacrifice as providing for “the safe structure of civilization for which the best men of the Territory worked, and the women prayed,” takes on a different significance, especially when considered in parallel with another Dawes familiar to students of American Indian history (312).⁴¹ Where the gentleman from Massachusetts entered Indian Territory in the late nineteenth century on the assumption that Indian nations were inimical to progress and that Indian peoples, therefore, must either assimilate or disappear from the earth, Oskison’s Daweses enter the Cherokee Nation assuming its survival and are optimistic about a prosperous future as legal residents, if not at some point as naturalized citizens. Where Senator Henry Dawes believed that Indian

survivals necessitated the breaking up of the tribal mass, Jim Dawes and his family take up arms to defend the Cherokee Nation's common properties. And where men like Henry Dawes looked at Indian nations and saw violence, lawlessness, and savagery, James Dawes sees a hopeful vision for his family of prosperity, safety, and security, one for which he pays the ultimate price.

By depicting the frontier community as a distinctly Cherokee political entity, and defining the threat not as savage Indians or overcivilized eastern socialites, but as self-interested Anglo capitalists willfully disregarding Cherokee constitutional authority—and thus internationally recognized norms of sovereignty—*Black Jack Davy* effectively disarticulates civilization with the West, and thus with whiteness, and claims both the genre and the debates over progress as distinctly Cherokee nationalist endeavors. The symbolic irony of a man named Dawes entering the Cherokee Nation not for the purposes of dispossession but to “submit to the constitution and laws of the Cherokee Nation” for which he ultimately gives his life not only gives lie to the Dawes Act's central presumptions of Indian absorption and disappearance. It also recasts the events that led up to and eventually culminated in allotment and the dissolution of tribal governments from the inevitable climax of a grand moral drama of racial progress to a result of self-interested human action amenable to revision by better people in a better time.⁴²

It is perhaps in this act that the text performs its most important cultural work, for at the time Oskison was writing, the policies of allotment and assimilation responsible for evacuating the Cherokee estate and dissolving the Cherokee Nation were being seriously reconsidered. For the first time in a generation, Indian nationhood, collective ownership of tribal lands, and the foundations for what would become a reinvigorated principle of tribal sovereignty were back on the table, and like Warrior, Indians were asserting their place in the process. As Oskison would have known well from his own experiences in federal Indian policy activism, any positive reform of Indian law would emerge as the result of cooperative alliances between Indian activists and Anglo lawmakers alike. Perhaps the text's ironic treatment of the Dawes family is an invitation, how-

ever utopian, to a new generation of federal lawmakers to forge a different path than their predecessors chose, one that would work with Indian people rather than against them and would value their ideas of governance rather than dismiss them. Together with its insistence on Cherokee territorial authority, law, and citizenship, the novel's portrait of the Cherokee Nation as a functioning (however tenuous), sovereign, and multicultural state presents a powerful argument for the reinvestment of land and sovereignty in whatever form of Indian nationhood might potentially emerge out of those reform efforts.

Though the promise of Indian policy reform was never fully realized, and though it would take the Cherokee Nation another fifty years to officially reorganize as a sovereign nation-people, *Black Jack Davy*, in looking back, imagines the possibility and promise of what a renewed Cherokee Nation might look like. Make no mistake, it is not a perfect vision. Its restrictive positioning of women as either idealized subjects of Christian virtue or racially coded objects of male sexual desire and its almost total erasure of significant African descendant characters and communities present significant problems for any contemporary reading of the novel. Though the text ostensibly imagines a Cherokee Nation open to anyone committed to the political autonomy and legal integrity of the state regardless of ethnic or cultural descent, it clearly conceives of its ideal citizen in strictly racialized and gendered terms.⁴³ There are no Nanye'his on the Neosho, no models from which a future Wilma Mankiller might emerge to lead the nation. Similarly, there appears to be no place for citizens of African descent outside of service and entertainment industries, much less on national councils or judicial benches. In the "national" narrative of land, law, and citizenship for which I argue here, both blacks and women are troublingly relegated to the national narrative margins.

As unappealing as such elements may be to contemporary critical and political tastes, they nonetheless capture and make visible the complexities of Cherokee constitutionalism and its effects for how some Cherokees understood, experienced, and imagined nationhood and citizenship. While I have not been able to give full atten-

tion to these issues in my analysis here, they beckon further scholarly attention not just to the *content* of national concepts evident in the text, but also to the historical, social, legal, and political *processes* through which such concepts, ideas, and practices emerge. If we buy into Renan's and Brennan's observations that nations are constituted in moments of violence that must then perpetually be erased, denied, or naturalized through an "apparatus of cultural fictions," then the place of constitutions and legal codes as part and parcel of that consolidating apparatus must be critically considered. Doing so allows us not only to reveal the "rule of law" as a legal construct continually in the process of articulation and codification (and thus continually up for review, revision, and change); it also focuses critical attention on the complicated ways in which Indian-authored texts can at once speak back powerfully to hegemonic discourses *from the colonial margins* even as they silence those similarly marginalized *within their own national borders*.⁴⁴ If the Cherokee Nation Oskison recalled and the national imaginary he drew upon *as he knew it* was at least partially the product of the constitutional history I attempt to recount here, the text's marginalization of women and blacks might fruitfully be interrogated as a narrative translation of their similar exclusion from full-participant citizenship in a racialized, gendered Cherokee legal tradition. To the extent that a constitutional framework can contribute significantly to studies of Native literatures, it will probably rest on engaging internal issues such as these as a means of informing and historicizing contemporary discussions of nationhood and citizenship within and among Indian nations.

Despite its many imperfections, *Black Jack Davy* is a significant text of American Indian letters, not only for its intervention into American romantic nationalist discourses, but also for its imaginative and hopeful engagement with Indian nationhood. In fact, its insistence on Cherokee nationhood suggests that while the past is undoubtedly the prelude to the present, it need not overdetermine how we imagine the future. It is a story not of the tragic and inevitable demise of the Cherokee Nation but of its restoration and its right to exist on its own terms; a narrative not about the utopian

resolution of all conflicts, but about Cherokees and allies alike wrestling openly with those issues on the way toward a more hopeful future for Cherokee communities and the Cherokee Nation. That hope, that fire that Cherokees believe holds us together as a people, continues to burn in the Cherokee Nation today, not least evident in the preamble to the revised 1999 Constitution and Laws:

We, the people of the Cherokee Nation, in order to preserve our sovereignty, enrich our culture, achieve and maintain a desirable measure of prosperity and the blessings of freedom, acknowledging with humility and gratitude the goodness, aid and guidance of the Sovereign Ruler of the Universe in permitting us to do so, do ordain and establish this Constitution for the Government of the Cherokee Nation.

Read within the long and continuous tradition of Cherokee constitutionalism and Cherokee law, *Black Jack Davy* is much more than popular, assimilationist drivel. Rather, to borrow from Lisa Brooks, it is one Cherokee's creative, imaginative deliberation of nationhood, an attempt "to think with one mind, with regard for the whole, including those kin yet unborn" (see Brooks's essay in this issue). The fact that Oskison didn't get it entirely right should in no way diminish the significance of the attempt. After all, nations are always engaged in a continual process of self-definition that depends at once on trying to hold onto what is right and just while accounting and making up for mistakes and missteps incurred along the way. Though an imperfect narrative, it is the "story of quiet happiness" that Warrior vows to write, a distinctly *Cherokee* story of land, law, citizenship, and, yes, sovereignty—a complicated, contentious, yet *hopeful* story that is still being written today.

NOTES

1. Cherokee Nation, *Constitution and Laws of the Cherokee Nation* (1852), 119; hereafter cited as *LCN*. All subsequent references to Cherokee constitutions and Cherokee laws are from this series. There were technically four constitutions: the pre-removal 1827 document, the post-removal 1839 docu-

ment, the reorganizational 1975 document, and the revised 1999 document. The 1852 date cited here is the publication date of the Cherokee legal code I consulted.

2. Scott Lyons defines rhetorical sovereignty as “the inherent right and ability of peoples to determine their own communicative needs and desires . . . to decide for themselves the goals, modes, styles and languages of public discourse” (“Rhetorical” 450).

3. Rennard Strickland writes that “the Cherokee legal system did not spring forth as a mature instrument. The historical development of Cherokee law ways illustrates the process of gradual evolution building upon existing social institutions. That the Cherokees pursued slow and systematic adaptation is . . . a tribute to the wisdom of tribal leadership. For, in this way, the early and less sophisticated procedures of the tribal regulators and light-horsemen built a firm foundation for the more complex written constitution and tribal courts” (72).

4. In her essay in this issue, Lisa Brooks notes that “[c]onstitutional literature often emerges during a period of transition, during which ‘the people’ are undergoing a significant transformation, when there is a pressing need for consolidation and unification, and a strong desire for the articulation and formation of principles that can chart the course of the emerging or changing nation” (55). For more on such contexts in Cherokee history generally, see R. Strickland, McLoughlin (*After, Cherokee*), Sturm, and Denson. For nineteenth-century assaults on Indian sovereignty in Indian Territory, see Debo and Carter.

5. My dissertation research examines how these authors variously remembered, imagined, narrated, questioned, and performed Cherokee nationhood throughout this “dark age” period. This list, of course, doesn’t begin to account for all Cherokees writing during this period, the voluminous contributions by Cherokees in local periodicals and newspapers, or the vast, largely untapped oral archive.

6. While the Cherokee Nation did not reorganize under the Oklahoma Indian Welfare Act (OIWA) of 1936, the United Keetoowah Band did in 1950. The Eastern Band of the Cherokee Nation continues to operate under its 1889 North Carolina state charter and never officially reorganized under the Indian Reorganization Act (IRA) of 1934.

7. Other important revisions in the constitution include replacing the federal subjection clause with an affirmation of sovereignty and mutually beneficial relations with the United States (Art. I), reinstating jurisdictional boundaries (Art. II), clearly identifying citizenship criteria (Art.

IV), and refiguring the Judicial Appeals Tribunal as the Cherokee Supreme Court (Art. VIII). For the most recent version of the constitution, see http://www.cherokee.org/Docs/TribalGovernment/Executive/CCC/2003_CN_CONSTITUTION.pdf.

8. I do not mean here to suggest that the nation is the horizon of experience and identity for all Cherokee people. In fact, for some, filiation to a family or clan and affiliation with specific civil and spiritual communities constitute primary sources of community and individual identity. For an in-depth examination into the complex matrix of race, blood, culture, and nation in the Cherokee Nation, see Sturm 108–200.

9. For the early twentieth century as a distinctly nonnational period of Indian political reform, see Hertzberg 30–134 and Cornell 115–18. For a characterization of the period as assimilationist, see Larson 10–11, 37, 169; and Warrior 5–14. For readings that problematically conflate period politics with intellectual production, see the treatment of Oskison in Warrior 21 and Weaver 11–12.

10. As Chadwick Allen, Tom Holm, and Lucy Maddox have shown, such approaches to Native politics and intellectual production of the period not only elide the diversity and complexity of Native political positions. They also prevent rigorous analyses that consider such rhetorics as strategic responses by Native peoples within the context of hugely inequitable power relations. See Allen 25–42, 73–106; Holm 50–84; and Maddox 7, 14–16.

11. For a critique of the aesthetic merit of Oskison's work and various treatments of the politics of "Indianness" in his novels, see A. Strickland 126; Larson 46–55; Oaks 63–64; Widget 66–74; P. Allen 76–77; Peyer xvi; Ruoff, "American" 71 and "Native" 151–53; Whitson, "Wild" 250; and Weaver xi–xii.

12. In this article I build upon and push the limits of recent work by Gretchen Ronnow, Daniel Heath Justice (Cherokee Nation), and Timothy B. Powell and Melinda Smith Mullikin, which has productively complicated reductive readings of Oskison's life and writing. Gretchen Ronnow's dissertation, "John Milton Oskison: Native American Modernist" (1993) analyzes the disruption of conventional western narratives evident in his short stories, particularly his consistent use of embedded textuality and modernist narrative personae. Justice's *Our Fire Survives the Storm* (2005) was the first text to locate Oskison within an explicitly Cherokee literary tradition, though he reads Oskison in more ambivalent terms than I do here. In their critical introduction to *The Singing Bird*, Smith and Mullikin identify a subversive undercurrent in Oskison's later work.

13. I borrow here Fredric Jameson's notion of "negative hermeneutic" as

a radically historicist critical frame that seeks “to sharpen our sense of historical difference, and to stimulate an increasingly vivid apprehension of what happens when plot falls into history” (130).

14. To this point, Benedict Anderson has argued persuasively that print culture—primarily through newspapers and popular novels—was largely responsible for the formation of national identity by allowing previously disconnected individuals and social groups to see one another as “imagined communities” within a larger national state order.

15. The foundational statement on the historical novel remains George Lukacs’s monograph of the same name, while Northrup Frye’s *The Anatomy of Criticism* (1957) and *The Secular Script: A Study of the Structure of Romance* (1976) are the beginning points of any critical conversation about the romance more broadly. A selective list of studies focusing on the historical romance generally and the American historical romance specifically include Bell, Henderson, Dekker, Hughes, and S. Frye.

16. I draw here on the work of Edward Said and Stuart Hall. Said characterizes the relationship between colonial intellectual production and representation as one that institutionalizes and normalizes racialized epistemological categories in order to consolidate and reproduce inequitable power relations through the construction of “an interreferential mass of textual authority” about colonial Others (20). For Hall, this “selective construction of social knowledge” produces an ideological field that effectively frames hegemonic truth claims “within [a dominant] horizon of thought” such that contestation and contingency are elided (333, 334).

17. See, for example, Smith, Pearce, Berkhofer, Drinnon, and Huhndorf.

18. In his foundational study on the topic, Henry Nash Smith illustrates how in the early literature of the colonies the American West was depicted as a morally and materially threatening “Devil’s Den” of sin and depravity (4). Partially due to stadialist anxieties over “savage” environments and their effects on cultural regression, and partially due to the practical realities of British colonial interest, the settlement of the interior, and thus its imaginative construction as a desirable location, was virtually ignored. With American independence, however, the wilderness is gradually transformed into the West, an idealized, imagined space of freedom, liberty, and plenty—what Smith refers to as the myth of the Garden—where opportunity abounds and social hierarchies are abolished (at least for whites) for those enterprising pioneers willing to take up the Puritan-cum-bootstrap ethic.

19. The West, and the Boonean-Cooperian western hero, were thus born, conceived contradictorily as at once arbiters of and pathbreakers for prog-

ress and civilization while also serving as its most profound critics and resistant elements, “a symbol of anarchic freedom, an enemy of law and order” (Smith 60). Noting that to light out for the territory is essentially a rejection of civilization’s progressive, westward-directed settlement, Smith argues that the idealization of the West suggests an anxiety and suspicion of “progress” and “civilization” (52). In what he terms “the cult of Manifest Destiny,” such romantic nostalgia for a presumably lost era is nothing more “than a self-indulgent affectation” meant to support the self-congratulating rhetoric of progress and civilization’s triumph over savagery and barbarism (52). “The West,” Smith writes, “is, grandly and abstractly, a place where afflicted humanity raises her drooping head; where conscience ceases to be a slave, and laws are no more than the security of happiness” (130).

20. The popular apotheosis of the West as the privileged site of American imperial designs, and the official “kidnapping” of the American romance by patriotic nationalism, is perhaps best articulated in the mid-nineteenth-century essays of John L. O’Sullivan published in the *United States Magazine and Democratic Review*. His 1839 article, “The Great Nation of Futurity,” signals the emergence of that strand of American romanticism that turns to the past not as an imaginative space to contemplate (and complicate) the present, but as a launching pad from the past into a progressivist future utopia. Written in the same year as the Cherokees completed their forced march to Indian Territory at US Army gunpoint, O’Sullivan’s text amazingly elides not only the contradictions of America’s historical *past* but also central and widely publicized debates over Indian removal that dominated his historical *present*. In “Annexation,” published in the same journal six years later during the debates over the Mexican-American war, O’Sullivan looks further west to Texas, Oregon, and California as the next logical steps in the fulfillment of what he would infamously characterize as US “manifest destiny” (5).

21. I draw here on Michel-Rolph Trouillot’s examination of the relationship between spatial conceptualization and narrative possibility where location refers to “a place that has been situated, localized if not always located” in reference to other peoples and places; “locale” marks “a venue, a place defined primarily by what happens there”; and “locality” references “a site defined by its human content, most likely a discreet population” (122, 123). Where location is dependent upon establishing social and historical relationships to other locations and peoples, in their essentially aestheticizing moves, both locale and locality obfuscate those relationships. In doing so, they fail to consider the multiple ways in which narrative locales and locali-

ties function in reality, not as ahistorical aesthetic categories, but as “contested sites” of social interaction and material conflict (123).

22. Drawing on Richard White’s idea of the “middle ground” in colonial America, LeMenager argues that by remembering, returning to, and reinscribing middle-ground spatialities, writers make visible the remaining “inconsistencies, reversals and doubts” embedded in the seemingly inevitable, inexorable, progressivist vision of American (imperial) expansion (4, 5). In refusing “to naturalize the westward course of empire,” such texts “reveal the fissures in that symbolism” and “[reopen] the nineteenth century to counter-narratives that are now more readily associated with colonial and early national contexts” (5–6).

23. See R. Strickland 51. McLoughlin draws similar conclusions, noting that “nationalism among the Cherokees, as well as the demand for sovereignty (self-government under their own laws and chiefs and with communal ownership of land guaranteed by the federal government), was in part an effort to use the European concept of nationhood to defend their freedom and their land base” (*After* 6).

24. The 1827 Constitution refers to previous treaties with the United States defining the boundaries of the Cherokee Nation in the east, including cessions by western emigrants concluded in 1817 and 1819. As a post-Removal document, the 1839 Constitution refers to the Treaty of 1833 with the Western Cherokees, which clearly defines the land holdings of the nation in northeast Indian Territory, the Cherokee Strip, the Cherokee Outlet, and “neutral lands” in Kansas in exchange for Cherokee lands in Arkansas. (The strip and neutral lands were subsequently ceded in the Treaty of 1866, and the boundaries of the nation outlined in the 1839 Constitution were amended accordingly.) Interestingly, the 1839 Constitution omits the language of sovereignty and jurisdiction, perhaps because intrusion by whites was at this time less intensive than it was in Georgia or than it would become in subsequent decades.

25. This section of the Constitution of 1839 is virtually identical to the 1827 document.

26. For an insightful and in-depth study of such arguments and strategies throughout the nineteenth century, see Denson 28–51.

27. While permit workers employed legally in the Cherokee Nation in no way enjoyed political rights as citizens, they were afforded civil protections under the Cherokee Constitution and Laws as evidenced by numerous court cases in which permit employees stood as both defendants and plaintiffs.

28. Though adopted citizens by marriage were accorded political and civil rights, they never received per capita payments from land sales and were denied claims to the national lands during allotment. As an adopted citizen by marriage, Oskison's own father fell into this category, though his two sons by Rachel Buzzard enjoyed such privileges. During allotment, this issue became intensely contentious, and the Cherokee courts ultimately ruled that intermarried whites, Cherokee freedmen, and adopted Delawares and Shawnees were ineligible for per capita payments and allotments (*LCN* 1892, 370–73). For the implications of Cherokee constitutionalism for slaves and free blacks in the Nation from the national period through statehood, see Perdue, *Slavery* 50–118; Sturm 52–81; Miles 100–203; and Naylor 25–50, 155–78.

29. Consistent with its articulation throughout the Cherokee legal code, the use of “white” in this discussion should be read as a signifier of both race and national affiliation. Early provisions codifying intermarriage between “white men and Cherokee women” and “white women and Cherokee men” (*LCN* 1852, 10, 57) are later amended explicitly to address intermarriage with nonwhite, noncitizen “Foreigners” as well as noncitizen Indians (*LCN* 1892, 329, 334). It should also be noted that four resolutions passed between 1820 and 1824 legally excluded black slaves and free blacks from citizenship and legal protections, defining free blacks as intruders, condemning intermarriage between slaves and Cherokees or whites, and forbidding blacks from owning or inheriting property (*LCN* 1852, 24–25, 37–39). Such provisions, incorporated into the constitutions of 1827 and 1839 (Art. III, Sec. 5) and strengthened in subsequent acts relating to citizenship, intermarriage, and education, were excised in Article 9 of the Treaty of 1866 (Naylor 225), the provisions of which were incorporated as amendments to the constitution later that year (*LCN* 1892, 33–34, 35).

30. For the sociopolitical impacts of nationhood and the constitution on Cherokee women, see McLoughlin, *Cherokee* 326–49; Perdue, *Slavery* 50–52; and Perdue, *Cherokee* 115–58. While my present focus doesn't adequately attend to race and gender analyses of the text, it is ripe for such work, especially within a constitutional critical frame. Just as blacks and women were marginalized politically in Cherokee constitutional law, so are they treated in similar terms in Oskison's texts.

31. Among other provisions, in its assignation of federal rights of removal for US intruders from Indian Country, the Trade and Intercourse Act of 1834 represented a significant incursion into Indian political autonomy. For the full text of the act, see <http://rs6.loc.gov/cgi-bin/ampage?collId=llsl&fileName=004/llsloo4.db&recNum=776>.

32. A resolution from September 24, 1839, for instance, restricts the erection of improvements by a citizen within a half mile of another citizen's improvements subject to their consent (*LCN* 1852, 29).

33. Wado to Bryan Russell for helping me think through this observation.

34. Indeed, Andrew Denson identifies the ironic redirection of dominant Anglo discourses as a central Cherokee rhetorical strategy throughout the nineteenth century (28–51).

35. Such generic manipulations through the use of humor, irony, and absurdity align with the kind of postindian survivance outlined by David Carlson earlier in this issue, as well as a tradition of diffusing tension embedded in deliberative critique discussed in the essay by Lisa Brooks. Though perhaps not as radical or revolutionary as Vizenor's critical and literary writings (in light of Carlson's essay, is this distinction even viable?) or as the cultural work performed by the *CWEN*, it does constitute a significant intervention in US nationalist political and literary discourses.

36. Cox writes that this absencing convention "is the storytelling equivalent of conquest . . . a basic colonial desire for a landscape emptied of its Indigenous population . . . either there has been a conquest, there will be conquest, or the conquest is always-already completed because it has been foreordained by the Christian God" (*Muting* 13).

37. Though they are not explicitly named, Oskison undoubtedly drew upon his knowledge of the Keetoowah Society led by figures such as Redbird Smith, Smith Christie, and others in his descriptions of this group.

38. In an unpublished essay examining the parallels between Indian Territory and indigenous Mexico in the work of Oskison and Will Rogers, Cox notes that reading *Wild Harvest* and *Black Jack Davy* as "companion novels" complicates any easy reading of Oskison as assimilationist or resistant. Rather, he states, "As these two novels demonstrate, the context defines whether the appropriate strategy is retreat or direct confrontation" ("Other," n.p.). My attention to the Cherokee geographies in Oskison's texts is greatly indebted to our conversations about these and other texts of the period.

39. In addition to Brooks in this issue, for various models of national and political belonging in Indian Country see Lyons, *X-Marks* 170–89; Justice, "Go Away" 150–55; and Holm, Pearson, and Chavis.

40. Justice makes a similar argument in a reading of Oskison's *Singing Bird*: "His Indian Territory isn't just about Indians—by the time of his birth, the growing White population was already alarming Indian leaders, and that growing population threat brought with it many challenges for

the People. Yet it's still *Indian Territory*; it's still the land under the political jurisdiction and authority of the Real People; and it's still the place where they exercise their rights of self-determination and sovereignty, where they fight to determine their own way in the world without interference from the United States and its citizens" (118). I am pushing Justice's nation-centered analysis further by attending to constitutional elements present in the text.

41. Larson early identified Oskison's ironic use of the signifier "Dawes" described here (49). However, the generational typology into which he positions Oskison as an abject "assimilationist" prevents him from reading it as anything more than narrative play, rather than exploring the potentially radical narrative and political implications of this choice.

42. Wado to Katherine Evans and Lydia Wilmeth-French for helping me think through the significance of this plot element.

43. Drawing on theorists of nation, nationalism, and national belonging ranging from Ernest Gellner, Eric Hobsbawm, and Anthony D. Smith to Taiiike Alfred, Elizabeth Cook-Lynn, Tom Holm, and others, Anishinaabe critic Scott Lyons locates the nation as a distinctly modern form of political identification centered less on ties to an ethnic community than on a political commitment to the sovereignty and autonomy of the Cherokee nation-state. Though Cherokee citizenship moved in this direction throughout the nineteenth century, evidenced in numerous resolutions to extend citizenship to non-Cherokees *outside of the convention of marriage*, kinship and familial descent still remained deeply embedded as a major bedrock of Cherokee political belonging. An argument might forcefully be made that contemporary citizenship requirements based upon lineal descent from early twentieth-century government rolls retains at least the traces of that commitment to kinship, though tying political legitimacy to a single document affords much less flexibility than more "modern" naturalization procedures, contemporary theories of peoplehood, or earlier clan systems did. For a concise and provocative discussion of nationhood and citizenship as it pertains to Indian Country, see chapters 3 and 4 in Lyons, *X-Marks*.

44. Homi Bhabha has argued that such ambiguity and ambivalence are definitive of all narratives of the nation-space (2). Indeed, it is precisely in the refusal of the margins to be easily incorporated (or appropriated) into totalizing national narratives that the nation as an image and idea is revealed as an ongoing process of narrative, "where meanings may be partial because they are *in medias res*; and history may be half-made because it is in the process of being made; and the image of cultural authority may be ambivalent because it is caught, uncertainly, in the act of composing its

powerful image. . . . The Other is never outside or beyond us; it emerges forcefully within cultural discourse, when we *think* we speak most intimately and indigenously “between ourselves” (Bhabha, “Introduction” 3, 4).

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Book Reviews

Gerald Vizenor. *Father Meme*. Albuquerque: U of New Mexico P, 2008. ISBN 978-0-8263-4515-8. 120 pp.

———. *Shrouds of White Earth*. Albany: State U of New York P, 2010. ISBN: 978-1438434476. 112 pp.

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“Storier.” “Visionary creatures for ever in magical flight over the White Earth Nation.” Both these phrases, from *Father Meme* and *Shrouds of White Earth*, respectively, have yet to win the currency of such signature Vizenor locutions as “postindian,” “survivance,” “shadow distance,” or even his always lowercase and often enough italicized *indians*. But if they supply yet latest route markers into the inventive high swerve of his authorship, they also, quite precisely, help position these two latest fictions, both novellas, both seeming if not actual colloquies, and both razor sharp in their demolition of different kinds of institutional bad faith. Moreover they both carry any number of Vizenor’s best shots, a Native humanity seen (and celebrated) against odds of history for its unvictimized creativity, an own ongoing trickster-postmodern imaginative play of ideas and contrariety.

Father Meme, nothing if not compassionate revenge story, tackles priestly abuse of altar boys on the reservation. That might have edged into mere sanctimony, agreed outrage. In fact, in the story of Meme—one Father Conan Whitty—and his co-conspiratorial monk lover, Swayback, in reality Brother Roger Placid Chrisp, their

sexual predations upon the boys—Pants, Bush, and the narrator—and their sumptuously baroque comeuppance, Vizenor weaves a tale true to the ironic flourish of *Bearheart*, *Griever*, *The Heirs of Columbus*, *The Trickster of Liberty*, or *Hotline Healers*. This invites being thought his version of *Crime and Punishment*, even *Witness for the Prosecution*, set in the 1950s of Lake Leech and then Namakan and Wiindigoo Lakes, a cautionary tale of meanest clerical pedophilia and its due but also exquisite retribution.

Told in the voice of a Native ex-journalist to a visiting French female lawyer over Anishinaabe haute cuisine, with matching quality French wine, at the Mayagi Ashandiwin Restaurant of the Good Cheer Casino, it pitches benign consumption against the memory of its malign counterpart. For Meme and Swayback also act as nothing if not consumers, but of flesh, boy innocence, and on each occasion, be it in vestry or even by church altar, as if to summon the larger historic ravage of the Native body through colonial disease, rape, and the would-be dispossession of both tribal and existential sovereignty. As each of the narrator's "ma chère Madame" and exquisite good-host manners accompany the story, so they highlight the cannibal unmanners of the priestly Jekyll and Hyde pair. Together with dips into other Anishinaabe history such as the tragic suicide story of Dane White or shies at American Indian Movement (AIM) luminaries such as Dennis Banks and Clyde Bellecourt, the text steers subtly between case history and beautifully paced and controlled imaginative narrative.

Each of the key filaments builds into the gathering rhythm and dénouement. Meme's warning nosebleeds presage his own ecstatic death by beating. His July 4th sexual groping at Walker by Lake Leech anticipates a whole series of acts against the boys' bodily independence. The frequent and every-opportunity onanism is unsparring, flesh over spirit, cleric as neither father nor brother. The trip to the St. Johns Benedictine Abbey, with its high requiems and light-filled architecture and windows, plays against the Lake Namakan trip, which Meme and Swayback intend as cover for their all-too-earthbound lust—albeit the boys trick their tormentors into literally naked and fly-bitten abandonment.

In their altar boy war, however, the trio develop a counterstrategy worthy of the wildest insurgent. Their Fourteen Torments of Meme, long-range rifle shots not only at him but also at the Vatican and diocesan authorities who have protected him, transpose the Stations of the Cross into a brilliant iconography of judicial revenge. As the boys finally lure the naked Meme into his winter fish-house death, he sure to be aroused by the beatings they administer, and with only his red hair and death's-head teeth grotesquely visible when his pulped body sinks beneath the ice, so the story itself buries and cleanses the human stain he has so embodied. This is sacrifice, retribution, as liberation, little short of Vizenor's own survivance retelling of the New Testament.

Shrouds of White Earth turns upon Native representation in art. The narrating voice belongs to Douglas Roy Beaulieu, Dogroy, banished from the reservation for his wholly unliteral and extravagantly bold-colored images of sacrificed animals (a series he entitles "Totemic Shrouds") and satiric portraits of Casino and other politicians. That is, against the relevant articles of the White Earth Constitution (of which Vizenor was lately the lead writer), he is sent packing by those the text denominates Tradition Fascists. Summoned as counterfigures is a dazzling gallery of visual artists, painter-magicians, be it the Russian-Jewish Marc Chagall or the Anishinaabe George Morrison and David Bradley, together with Otto Dix, Fernando Botero, and the great Japanese woodblock virtuosi of *shunga* (or erotic art) and *ukiyo-e* (art of the floating world). Vizenor is as much given to waylay narrow reservation-mandated literalism as he is to end kitsch romance-Indian representation.

Dogroy's dedication to what in a latest neologism is called "abstract cosmoprimitive art" or "imagic liberty," and his artist's pledge to counter "crimes against creatures and native imagination," take the form of another fictive monologue posing as a colloquy. The co-conspirator this time, however, is none other than a White Earth novelist, a fellow traveler in the realms of creative storying who looks back to a shared upbringing in early mean-streets and cheap-food Minneapolis. You could say that sounds almost familiar, Vizenor's not untypical reflexive reflexivity. The returns are

many, a contemporary fable as to all top-down “political” or dogmatic prescriptions of what art, and especially Native art—canvas or word—should or should not be, a fable lavishly well informed as to the need for “magical flight.” The latter aesthetic is taken from the Chagall of “lumière-liberté.” Art, whatever its genre or provenance, for Dogroy as for his literary fellow bibber and coworker in “visionary creations,” so earns its keep only by its qualities of creative light, the belief as he says that “My portrayals are sensations not representations.” Is this not just fighting talk but adroitly inlaid near-manifesto?

Told in four sequences, *Shrouds of White Earth* affords a full Vizenor menu, be it species genocide (Dogroy creates “burial houses for sacrificed and crucified birds and animals”), masturbation (“an act of erotic imagination”), the status of casinos (“the utmost secular situation”), and the vexed issues of authenticity and plagiarism in all Native and indeed other representation. Dogroy deliberately, extravagantly, repaints canonical paintings, such as Rubens and the Italian classics, suffers the murder of his cat Moses in retribution for his art memorials to the dead animals, lives with a woman-cat troupe, apostrophizes “creature citizens,” and pursues a trajectory that connects White Earth to Paris’s Musée du Quai Branley and the true geographical Lake Itasca to the fabular Gallery of Irony Dogs. In this latest story-fashioning, bad faith, corruption of spirit, and narrowed-down rules of the road for art are simply not to be allowed countenance, whether on the reservation or in the wider world. It takes Vizenor’s special virtuosity, genial, fierce, and seamed as always in his own colors of invention, to bring home the point with quite so brimming a dispatch.

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Gerald Vizenor, ed. *Survivance: Narratives of Native Presence*. Lincoln: U of Nebraska P, 2008. ISBN: 978-0-8032-1083-7. 385 pp.

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Ten years ago a book like this would have invigorated American Indian literary studies, overtly challenging its typical practices by demonstrating the generative possibilities of a focus not on loss, victimry, or mere survival, but rather on survivance, Gerald Vizenor's (then) iconoclastic concept of active native presence, of survival as resistance. Back then Vizenor was still more outlaw than insider, a self-declared postmodernist working across multiple genres—poetry, fiction, the essay, and, importantly, critical theory—within a still largely undertheorized field. His adapted use of the recovered word “survivance” was still considered idiosyncratic and odd, even a little threatening in its disregard for convention. There were still heated debates about the precise meanings of survivance, and of the many other terms from the developing lexicon of Vizenor's neologisms and adaptations, and whether they would have any lasting importance. Vizenor and his lexicon have earned ardent admirers over the past ten or fifteen years, and these fans will readily embrace *Survivance*. The collection will have a more limited impact, however, than a similar collection might have had in the past. It will less likely provoke ideas or practices that are radically new.

Of particular interest to fans—and readers of *SAIL*—will be Vizenor's own contribution to the eighteen essays collected here, “Aesthetics of Survivance: Literary Theory and Practice,” which opens the volume. In the early and late paragraphs, Vizenor lays out surprisingly accessible definitions for the collection's key critical term, a stark contrast to the discursive tactics more typical of his previous works. As readers of *SAIL* will be aware, Vizenor first dem-

onstrated—rather than clearly defined—the potential meanings of survivance in a series of provocations about American Indian representation, published in 1994 as *Manifest Manners: Postindian Warriors of Survivance*; he continued this demonstration—with somewhat more clear definitions—in *Fugitive Poses: Native American Indian Scenes of Absence and Presence*, his similarly suggestive provocations published in 1998. Both *Manifest Manners* and *Fugitive Poses* have been highly influential. Over time, as Vizenor's difficult prose style and fast-paced riffs on poststructuralist and postmodernist theories have become more familiar to readers in the field, survivance has become a common element of our scholarship, pushing beyond the ubiquity of Vizenor's earlier emphasis on "trickster discourse," a concept demonstrated in venues such as *Narrative Chance: Postmodern Discourse on Native American Indian Literatures*, his edited collection first published in 1989. Indeed, survivance is increasingly deployed in performed and published scholarship, across the interdisciplinary fields of Native American and Indigenous studies, without clear attribution, critical genealogy, or extensive explanation.

Vizenor's new willingness to define survivance in relatively straightforward terms may reflect, in part, the degree to which this postmodern adaptation of a recovered word no longer feels especially radical or complex within the increasingly sophisticated and increasingly professionalized fields of Native American and Indigenous studies. It has become part of how we "do" our work, especially within American Indian literary studies. Survivance may be close to achieving the status of the phrase "Native American Renaissance," the title of Kenneth Lincoln's early celebration of contemporary American Indian literature, much read and often cited following its publication in 1983, but mostly ignored in the current conversation. Lincoln's title has outlived the actual content of his poetic meditations, so that his phrasing is routinely deployed as shorthand for the complexities of the post-1968 era but without attribution, genealogy, or justification. Survivance appears similarly on its way to becoming a shorthand for the complexities of "active native presence" and "survival as resistance." The publication of this edited volume may be a first major sign of the term's rapid detach-

ment from Vizenor's postmodernist specificity, irony, and radical potential.

More in line with Vizenor's previous analytical work, the majority of "Aesthetics of Survivance" is devoted to provocative meditations on American Indian representation through new and repeated stories of particular instances of active native presence and to ironic if somewhat incomplete engagements with recent debates in American Indian literary studies. Vizenor engages in direct responses to Anishinaabe novelist David Treuer's controversial *Native American Fiction: A User's Manual*, published in 2006, and to the rise of so-called American Indian literary nationalism. Not unpredictably, Vizenor judges Treuer's promotion of "silky ideas about literature, style, and identity" as "dubious" and the nationalists' "rarefied nostalgia for the sentiments and structures of tradition and the inventions of culture" as "a reductive reading of creative literature" (17).

Although Vizenor's work is increasingly celebrated in presentations at academic conferences and in scholarly articles and monographs—and in that sense increasingly tamed or contained by scholars' deployments of his lexicon for their own ends, sometimes, it seems, simply to enhance their own status as analysts who "do" theory—it is not without its detractors, whose criticisms have become more pointed in proportion to Vizenor's prominence within the mainstream of American Indian literary scholarship. These critics are less enamored of Vizenor's elliptical writing style, and they judge his work to be unduly difficult, especially within the context of anticolonial politics, charging that Vizenor's prose often obfuscates rather than illuminates, that the logic of his meditative analyses can become circular, that the structure of his narrative arguments can become repetitive.

In assessing the value of *Survivance*, a collection of eighteen essays devoted to multiple applications of one of the key terms in Vizenor's lexicon, these more critical readers may wish that a scholar other than Vizenor had served as editor. A different editorial perspective might have invited—or perhaps required—the seventeen contributors who are not Vizenor not only to articulate what are by now understood as the merits of survivance as critical lens and ana-

lytic tool, which they do well, but also to examine the possible limitations of the term and its typical deployments, which they do not. Is survivance universally applicable as a heuristic for scholarship on American Indian literatures? Are some applications more productive than others? Should the recognition of survivance within a particular work or set of works serve always as the conclusion to analysis, or should the recognition of active native presence and survival as resistance now serve as beginning points for the construction of more focused questions about how literary texts produce meaning and effects within multiple contexts and for multiple audiences? Moreover, can evidence of survivance produce meanings that are the same across histories, individuals, and communities, or must we always situate evidence of presence and resistance within relevant spheres of influence? These are questions only hinted at within the pages of *Survivance*.

This is not to suggest that there are no strong essays among the seventeen contributions that follow Vizenor's own. To the contrary, *Survivance* features careful, thought-provoking scholarship by a diverse group of US and international critics with both well-established and rising reputations in American Indian literary studies, including Karl Kroeber, Helmbrecht Breinig, Deborah Madsen, Arnold Krupat, Susan Bernardin, Alan Velie, Linda Helstern, Takayuki Tatsumi, James Mackay, James Ruppert, Jace Weaver, and A. Robert Lee; it also includes a provocative reflection by Diane Glancy, who engages survivance as a lens through which to assess her own work across genres. The standout essays for this reader (who is admittedly more fan than detractor of Vizenor's work) are those that move away from exclusive engagement with—and away from extensive hagiography of—Vizenor to offer readings of a diverse array of American Indian writers from the past and present whose own works intersect with Vizenor's central concerns about the representation of American Indian individuals, communities, nations, and cultures as vibrant and alive, as fully and actively present in their historical and political moments, from within and against dominant discourses of their vanishing, absence, or inconsequence.

Many of these essays, including Vizenor's, are highly accom-

plished in their own right. Taken as a whole, however, *Survivance* has the feeling of a missed opportunity. What if rather than a Festschrift, meant to celebrate the accomplishments and lasting impact of a key figure, this collection had been posed as a truly critical symposium? What if instead of organizing its choir to sing from a single songbook, it had staged a concert of discordant voices? What if it had worked to challenge American Indian literary studies, an increasingly established field of scholarship, to resist the temptations of complacency with an increasingly orthodox critical vocabulary and an increasingly taken-for-granted heuristic? And what if contributors had been encouraged to honor Vizenor by actually following the lead of his own groundbreaking work—to gamble, to take narrative chances, to risk irony, and to risk falling outside the comforts of institutional advantage? What if they had consciously worked to continue his important legacy of edging the field forward, often against the consensus of its better judgment, by rigorously interrogating its best ideas and accepted truths, even if many of these have become Vizenor's own?

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Deborah L. Madsen. *Understanding Gerald Vizenor*.

Understanding Contemporary American Literature series. Ser. ed.

Matthew J. Bruccoli. Columbia: U of South Carolina P, 2009.

ISBN: 978-1-57003-856-3. 193 pp.

James Mackay, *European University Cyprus*

Going by titular ambition alone, *Understanding Gerald Vizenor* might be placed on the bookshelf somewhere between *An Authoritative Guide to Superstring Theory* and *Shakespeare: The Definitive Biography*. After all, a quick review of the critical literature on Vizenor will show, again and again, critics confessing, in Barry O'Connell's words, to finding that words "spin, escape ready sense, play around, and yet seem to have meanings about which at least their author is clear," necessitating an attitude of "patient puzzlement." Anyone who has taken Vizenor's theoretical work into the classroom will have a stock of rather more full-flavored epithets.

Yet careful explication is certainly required. If, for instance, as excellent a critic as Sean Teuton can misunderstand Vizenor's intent in the erasure of the one-size-fits-all misnomer "Indian" (*Red Land, Red Power* 172–73)—which is decidedly *not* the same as attacking the historically grounded names and moral traditions of individual Native nations—then clearly someone needs to set out plainly the insights that can be consistently found in Vizenor's forty-year body of work. And few people would be better suited to the task than Deborah Madsen, who works with Vizenor as series editor and is in the process of editing three separate collections of essays on his work. She also previously served as the author of *Understanding Contemporary Chicana Literature*, so she has a good understanding of the series requirements.

The problems that Madsen faces are threefold. Firstly, she has to deal with the sprawling mass of Vizenor's oeuvre, close to fifty books across genres all the way from straight reportage to haiku; secondly, she needs to explicate the numerous neologisms that face the first-time Vizenor reader; third, she has to tackle works that have been deliberately constructed to be "ironic, oppositional, or deconstructive" (2). And then, of course, there is that requirement to write

for “students as well as good nonacademic readers” (“Series Editor’s Preface,” n.p.), people who may have quite limited understanding of Native American circumstance, or may not previously have encountered the individually dizzying intellectual currents—Anishinaabe, Asian, European, American—that mesh in Vizenor’s approach to writing.

Madsen begins by placing Vizenor in a series of “contexts.” These begin, as they should, with the biography—grandmotherly care, motherly neglect, series of stepfathers, the self-reliance (refusal of victimry) developed from these circumstances, the military placement in Japan and subsequent university study, and the decision to take up what Madsen calls “a lifelong engagement in community service and activism” (7). Though she pays careful attention to Vizenor’s self-problematizing autobiographical maneuvers, these basic details of his life are essential to help the reader understand the vectors of Vizenor’s work, its drive to escape paralyzing definitions and yet continue to serve Anishinaabeg and wider interests. The discussion is followed with a potted history of wider currents in Native American writing, concentrating on relationships with oral traditions, and a brief overview of postmodernism that rightly questions the applicability of this term to, in particular, Vizenor’s creative writings. Madsen finishes this first chapter with a discussion of Vizenor’s vocabulary, drawing on each of the contexts already discussed to explain key terms such as “terminal creeds,” “survivance,” “postindian,” “socioacupuncture,” “manifest manners,” “chance,” and “crossblood.” This section is notably successful not only in giving clear explanations of these concepts but also in explaining how one might go about tackling an unfamiliar term in a Vizenorian text: it will be an essential classroom handout.

The other four chapters have been structured in an unexpected way, one that I think works well to bring out aspects of Vizenor’s writing that have not been properly taken into account in the bulk of criticism on his work. While the critical literature has broadly concentrated on Vizenor as a novelist and as free-floating cosmopolitan theorist, Madsen begins her detailed examination with his work as a tribal historian and chronicler of Anishinaabe current affairs,

only gradually building up to a consideration of the complexities of *Manifest Manners* and *Fugitive Poses*. Through such a consideration of context, she directs the reader to look at the grounded nature of Vizenor's critique, rather than making it out to be a matter of free-floating or Eurocentric philosophy. Vizenor has, after all, been primarily read in relation to European theory by critics as divergent as Arnold Krupat and Craig Womack, and it is only relatively recent articles by scholars such as Benjamin Burgess and Niigaanwewidam James Sinclair that have begun the more important task of setting the work in relation to Anishinaabeg philosophy and experience. Madsen takes an honorable place in this reorientation.

From this tribal-centric base, Madsen moves first to haiku and the longer poetry, thence to the experiments with scripting plays and screenplays, and finally to the novels. At each stage her explication includes quotations both from previously published interviews and also from two formal discussions with Vizenor she recorded herself. This material is interwoven with quotations from numerous previously published essays on Vizenor's work in a way that should guide the interested reader into further research. A vast amount of material is covered, and the synthesis of sometimes quite different critics' analyses is seriously impressive.

It is inevitable that a companion such as this will contain some gaps. I would have liked to see a wider examination of Japanese culture included as one of the primary contexts (Vizenor after all devoted almost a decade of education to Asian studies), and of course the format of this series prevents detailed dissection of the more negative critiques of what is a highly controversial body of work. But these minor niggles in no way detract from Madsen's achievement, more than living up to that challenging title.

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Simone Pellerin, ed. *Gerald Vizenor*. Profils américaines 20. Montpellier: Presses Universitaires de la Méditerranée, 2007. ISBN: 978-1-4051-0318-3. 241 pp.

Deborah L. Madsen, *University of Geneva*

The papers collected in this volume were originally presented at the 2006 conference devoted to the work of Gerald Vizenor, hosted by the Université Paul-Valéry in Montpellier, France. In her editorial introduction, Simone Pellerin explains her desire to capture something of the atmosphere of the meeting by resisting the temptation to transform the presentations into the genre of the scholarly book. Thus, the introduction reproduces, unedited, her welcoming speech to the participants. That she does not entirely succeed in the effort to resist crystallizing the conference into book form is no bad thing. For this is certainly a scholarly volume and one of considerable importance. Surprisingly, for a writer of Vizenor's stature and one so frequently written about in journal articles, book chapters, and other publications devoted to the broader field of Native American literature, few book-length studies devoted exclusively to his work have appeared. While Vizenor's prominence and importance in the field of Native American writing is universally acknowledged, his challenges to received thinking may have repositioned the interpretation of Native life and art in such a fundamental way that scholars in the field have forgotten where these shaping influences originated. Edited volumes drawing our attention to the foundational significance of Vizenor's work are limited to A. Robert Lee's land-

mark volume *Loosening the Seams: Interpretations of Gerald Vizenor*, two special issues of *Studies in American Indian Literature*, one special issue of *American Indian Quarterly*, and *Gerald Vizenor: Texts and Contexts*, coedited by Deborah L. Madsen and A. Robert Lee. Single-author monographs devoted to Vizenor are even fewer, comprising Kimberly Blaeser's *Gerald Vizenor: Writing in the Oral Tradition* and my own *Understanding Gerald Vizenor*. It is in the context of this rather scandalous paucity of books about Vizenor's work that Simone Pellerin's volume must be welcomed, and it is from this context that the book derives much of its importance.

This is not to suggest that the essays published here are not valuable in their own right. Indeed, this collection brings together an admirable range of approaches to Vizenor's work by both established and younger scholars from both sides of the Atlantic. Some of the essays focus upon a specific text: Helmbrecht Breinig on genre transdifference in *The Heirs of Columbus*, Bernadette Rigal-Cellard on the doubling of history in *Hiroshima Bugi*, John Purdy on the ecological vision of *Bearheart*. Both Lionel Larré and Elvira Pulitano write on *Interior Landscapes* but from quite different perspectives: Larré focuses on the twin issues of power and resistance while Pulitano offers an account of the self-reflexive style of Vizenor's "theoretical autobiography." Others address the generic aspect of his writing: A. Robert Lee writes about Vizenor as poet, James Mackay situates him as a campus novelist, Wolfgang Hochbruck addresses Vizenor as dramatist, and Kimberly Blaeser engages the underdiscussed early journalism. Thus, the volume offers a valuable range of engagement with Vizenor's very considerable oeuvre. Perhaps most interesting, however, are the essays that range widely across Vizenor's literary achievement, often highlighting unexpected and illuminating connections: Linda Lizut Helstern on the concept of disability in Vizenor's fiction, Chris LaLonde on the trope of the telephone, and Lee Schweninger on Vizenor's "environmental ethos."

The collection as a whole offers a wealth of interconnections and mutually illuminating cross-references among the essays. For example, in the essays on *Interior Landscapes* Pulitano links the autobiography to Augustine's *Confessions* in terms of their common

“autocritical” quality and concludes with a discussion of photography in Vizenor’s life writing, though it is an unfortunate historical circumstance that her essay was written before the publication of the second edition of *Interior Landscapes* with its expanded sets of photographs, while Lionel Larré uses Foucault’s concept of biopolitics to engage the mixed-blood’s embodiment of mechanisms both of social discipline and control, and also of resistance, captured in the trope of “wicked intersections.” The potential for cross-reference between these two essays on *Interior Landscapes* is also found between the discussions of ecology or environmentalism by Purdy and Schweninger. Despite his acknowledgment of Vizenor’s rejection of pan-Indian creeds and identities, Schweninger proposes a distinctively Native American environmental ethos or affinity with the natural environment that he finds in Vizenor’s work; in contrast, Purdy focuses on the crows, mongrels, and weird sensitive women of *Bearheart* and the way in which Vizenor’s narrative is informed by his critique of discourses of racial purity that intersect with environmental and interspecies issues. Such issues are raised by Kimberly Blaeser in her account of Vizenor’s retellings of Charles Aubid’s testimony in the case to defend Anishinaabe rights to wild rice harvesting. Blaeser’s archival research, which informs her discussion of Vizenor’s early journalistic account of this story, links with LaLonde’s detailed account of the history of the telephone on the White Earth Reservation (Vizenor’s family hosted the first exchange in their house in Callaway) and the wide-ranging significance of communications technology in Vizenor’s writing. Toward the end of his essay, Purdy mentions the unique talents possessed by the women of the scapehouse, talents that arise specifically from their wounds. This takes us back to Linda Helstern’s opening essay, a fascinating survey of Vizenor’s varied use of the trope of disability or nonnormative-bodiedness to signify counterhegemonic agency in a variety of situations that play on issues of presence and absence.

This book is an essential addition to all academic libraries catering to scholarship in the field of Native American literature; further, it is a book that many teachers of Vizenor’s work will want to add to their own personal libraries. Scholars will reference this book fre-

quently, and readers will continue to return to the essays because of the excellent range and quality of the engagement with Vizenor's extraordinary literary achievement.

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Gerald Vizenor, ed. *Native Storyers: Five Selections*. Native Storyers series. Lincoln: U of Nebraska P, 2009. ISBN: 978-0-8032-1717-1. 198 pp.

Jeff Berglund, *Northern Arizona University*

Readers familiar with the University of Nebraska Press's Native Storyers series, edited by Gerald Vizenor and Diane Glancy, may be surprised to find that selections from all five of the series book-length publications have already been gathered together in one volume. Those readers who have spent time with Diane Glancy's *Designs of the Night Sky* (2002), Gerald Vizenor's *Hiroshima Bugi: Atomu 57* (2003), Eric Gansworth's *Mending Skins* (2005), Stephen Graham Jones's *Bleed into Me: A Book of Stories* (2005), or Frances Washburn's *Elsie's Business* (2006) will find nothing new here, save for an illustrative reminder of the series editors' sense that these authors are forging innovative paths of expression that eschew conventions of "commercial literature" by Native writers, particularly the "cryptic representation[s] of cultural victimry" and the "simulation of cultural representation" (6).

What all readers—those familiar with the series as well as those newcomer readers—will gain from this slender volume is the chal-

lenge to find continuities among diverse formalistic styles and thematic emphases. Vizenor's brief introduction to the collection provides a snippet from most of the writers with a gloss on how each example embodies "the actual practices of literary art" rather than merely securing "literature as liturgy" (7). At the close of his seven-page introduction, Vizenor sternly claims that "Literary theorists and historians who endorse imperative representations of traditions to secure literature as liturgy ignore, and at times, inhibit the actual practices of literary art . . ." (7). Implicitly, thus, Vizenor calls on his readers to find his work and that of Glancy, Gansworth, Jones, and Washburn "performances" that actuate "a sense of native presence" (7), narratives that are "imagic instances of the actual creation in stories; natural reason; visual memories; dances; ceremonies" (6), what he also suggests is a "visionary motion of liberty" (6).

I have cited these phrases meticulously because Vizenor's introduction frames the value of these five writers in such terms, not because each of these writers—save for Vizenor himself in *Hiroshima Bugi*—plainly or directly exhibit these aesthetic tendencies or obviously embody these fictive-theoretical claims. This is not to say that Vizenor's colleagues fail in their attempts, among other things, to resist "simulations of heroic tragedy." Quite the contrary. In short, their works, set alongside Vizenor's, demonstrate the multiple paths of resistance to such simulations. What we have in this collection is an expanded illustration of so many of the theoretical tenets that Vizenor has fictively explored in his narratives. The press's decision to collect these diverse writers makes an important assertion about the multiple ways of being Native storiers. Collected together, read sequentially, selectively, or out of sequence—at any rate, discursively—these series' "bed-fellows" acquire different resonances, tonalities, and so on by their very juxtaposition.

Thus, the ultimate value of this collection is a sustained meditation on the very notion of "Native storying" and "Native storiers." The immediate beneficiaries of this sustained meditation, of course, may very well be instructors who wish to introduce students to the complex of debates about American Indian literary studies. Instructors—or all unfamiliar readers—will have immediate access to a

grouping of five must-read authors, rather than choosing only one example from this emergent strand of Native American Indian literature. Readers of this journal know these writers well, but in all honesty, they too infrequently make their way onto course reading lists.

That contribution notwithstanding, in looking only at the pieces selected for inclusion, I found myself wondering if readers' puzzlement about gaps, elisions, ellipses introduced by segmentation, and so forth would disrupt the sincere attempt to look at aesthetic aspects of the work as well as the means by which each becomes part of the creative motion of action, ceremony, and liberty. The original works—save for Graham's collection of short fiction—do make use of fragments and narrative jump cuts, but this is hard to identify and make sense of in quite the same way when the original design has been effaced. My concern is not an original one, nor is my personal observation germane only to this collection; I feel this way about almost any excerpted selection in any anthology I've ever used in my classrooms. This is a greater concern, though, when looking at writers whose works have been labeled "avant-garde" and "experimental," writers whose works make use of indirection, juxtaposition, parody, and so forth. While I've long recognized it's acceptable to be confused and lost when reading—this is, after all, part of the experience—the segmentation of the full-length novels created a distorted, unnecessary experience of confusion.

Read Washburn, Graham, Gansworth, Glancy, and, of course, Vizenor in their entirety. *Native Storyers* will give you a taste of their visionary talent, but if you're like me, you'll be left feeling uncomfortably hungry for more.

Gerald Vizenor. *Native Liberty: Natural Reason and Cultural Survivance*. Lincoln: U of Nebraska P, 2009.

ISBN: 978-0-8032-1892-5. 336 pp.

Matthew L. M. Fletcher, *Michigan State University*

With *Native Liberty*, acclaimed White Earth Ojibwe novelist and literary critic Gerald Vizenor ventures deeper into American Indian

law and policy than before. As the head of a recent commission tasked with drafting a new tribal constitution with the White Earth Band of Chippewa Indians, Vizenor's views on law and policy have become that much more relevant. *Native Liberty* is a collection of essays and speeches, many of which touch upon Vizenor's personal history and views as the leading theorist on American Indian literature. But it is law and policy that frequently detains Vizenor here—and his warnings, couched in the terms of a Native literary and cultural critic, are worth a great deal more than yet another gaming compact extension.

Vizenor's most direct involvement with the law, ironically, was as a defendant in a contract claim related to fundraising for the establishment of a courtyard dedicated to Ishi located at the University of California, Berkeley. Ishi, as is well known, was the Indian (supposedly "the last of his tribe") who had lived for years at the university's Museum of Anthropology under Alfred Kroeber. Vizenor recounts that he had originally proposed to rename a building on campus after Ishi in 1985, but the Berkeley administration had rebuffed his efforts until Congress enacted the Native American Graves Protection and Repatriation Act in the early 1990s. Only after being embarrassed by this federal statute and its requirement that the university repatriate much of its holdings, including thousands of American Indian remains and funerary objects, did the administration agree to dedicate Ishi Court. The ceremony in which Ishi's remains (most particularly, his brain, removed for baffling pseudo-scientific reasons and held by the university) were repatriated and then reburied involved a character Vizenor describes as a kitschy fraud who claimed to be able to feel Ishi's spirit move through him as he touched the urn housing Ishi's remains. It is this man, Harkin Lucero, who unsuccessfully sued Vizenor for money damages.

One can't help but think Vizenor's experience as a defendant in a suit decided in a state court before a non-Indian jury affects his views on law and policy. He reserves special contempt for American Indian tribal gaming, referring to "the rise of casinos" as a "crafty union of avarice and mercenary sovereignty" (22). Vizenor juxtaposes Indian gaming with traditional potlaches, where tribal lead-

ers gained authority and influence through the act of *giving away* their personal possessions, not in the act of *acquiring* the possessions of outsiders, and then sharing those resources with states and local governments. This juxtaposition implies that Indian leaders of gaming tribes are more influential among outsiders than they are among their own people. The experiences of tribal leaders at election time often demonstrate this irony.

Vizenor's views would irritate sovereignty warriors all over the nation, even many of those fighting for the tribes without lucrative gaming operations. Indian nations share at least one thing in common—the quest for tribal governmental revenues for purposes of funding critical public services from health care to public safety to education, services all too frequently denied Indian people from early times. This “mercenary sovereignty” is encapsulated in the regulatory and taxation exemptions from state and federal law; or, in other words, what Indian nations utilize to generate economic activity in Indian Country absent a tax base. In fact, Vizenor's critique is exactly what the US Supreme Court has been telling Indian nations for decades: that federal Indian law and policy has created enough space for tribal sovereignty to exist, and that space does not include economic advantages over non-Indians. While the Supreme Court can speak only in the archaic language of federal Indian law and in Nero-like “thumbs up” or “thumbs-down” orders, Vizenor recommends that Indian nations get down to the business of governing.

But Vizenor has bigger fish to fry. He raises the first reservation newspaper, the *Progress*, and his ancestors' involvement in its publication over a century ago. The editors hailed to a “moral law” of Indian advocacy opposing the federal government and others, an advocacy that Vizenor seems to liken to a union of Indian *nation* and Indian *people*. Then Vizenor iterates and reiterates an anecdote about the testimony of Charles Aubid in a federal court about how the Anishinaabe treaty negotiator (John Squirrel) would have understood treaty language. The judge, surprised by Aubid's caustic reaction to being told that his recounting of oral tradition was inadmissible hearsay, allowed him to testify after Aubid pointed to the law books strewn around the courtroom and demanded to

know why he should believe the “stories of dead white men” (87, 133). Now, treaty rights (somehow) belong to the tribe, and Indians have to petition their own government for the right to exercise them. It is the law of a treaty between sovereigns that it should be so, and the good public policy of tribal governance that Indian people consent to the regulation of their government to utilize these limited resources. But Vizenor, I think, would point out that *Tribe* and *Anishinaabe* (Indian person, for this purpose) are separated by these legal and policy considerations in a way that Charles Aubid and John Squirrel would never have contemplated.

Native Liberty is well worth the read, but is not flawless. Vizenor’s survivance celebrates how Indian nations made “treaties with enemies” (162), but it somehow refuses to celebrate the deals made by Indian nations in gaming that have traded sovereignty for the pumping of billions of dollars of revenue into tribal communities. And Vizenor’s comment on David Treuer’s cultural sovereignty argument regarding “Native American literature” rings hollow because it misses the bigger problem that Treuer’s individualistic supremacy of the Indian person over the Indian nation is functionally the same as the tribe undercutting the Anishinaabeg.

Vizenor is at his finest in *Native Liberty* where he highlights how Indian nations, in all their brilliance and craft (survivance?), suppress Indian stories—the lifeblood of the culture—by playing by the legal and political rules of outsiders. This is the take-away of *Native Liberty*.

Deborah L. Madsen and A. Robert Lee, eds. *Gerald Vizenor: Texts and Contexts*. Albuquerque: U of New Mexico P, 2011. ISBN: 978-0-8263-4915-6. 448 pp.

David Stirrup, *University of Kent*

In *Understanding Gerald Vizenor* (2009), Deborah Madsen crafts a truism of utmost economy: “Reading his work is difficult.” Although the present volume does not purport to elucidate like Madsen’s earlier text, neither does it dwell, in the main, on what is difficult about

Vizenor. Instead, the majority of contributors understand that difficulty in the context of “[h]is challenges to received thinking,” while the volume as a whole “seeks to give due evidence of the complexity of his work and the richness of the diverse critical responses to it” (2). It does so, on the whole, with reassuring clarity and insight.

The volume is divided into “Texts,” “Contexts,” and “Vizenor Texts,” the distinction between the first two sections largely one of coverage. While the six essays listed under “Texts” examine single works, the seven under “Contexts” seek to develop broader thematic and contextual readings of both Vizenor and the works of others—notably Kimberly Blaeser (Doerfler) and William Apress (Lopenzina). Under “Vizenor Texts” we find a new interview between Lee and Vizenor; Vizenor’s own essay on the proposed Constitution of the White Earth Nation; and the constitution itself. Overall, the volume draws an effective compromise between discussion of new works (including the novels *Hiroshima Bugi* [Breinig] and *Father Meme* [Lee, Madsen, and Shanley]) and new treatments of older works (including Gamber’s lively foray into the multiple significations of nouns in the screenplay to *Harold of Orange*).

Absent from this lineup is extended consideration of the recent *Bear Island: The War at Sugar Point* (2005), and *Almost Ashore* (2006)—although a range of poetry features in Moore’s excellent analysis of Vizenor’s poetics of presence. Similarly absent is the newest novel, *Shrouds of White Earth* (2010). But the misadventure of competing with Vizenor’s productivity aside, the editors rightly hope to establish “the latest evaluation of Vizenor’s achievements and contributions to contemporary cultural life” (1). The key lack in the introduction—an otherwise committed set of claims for Vizenor’s importance—is that neither those established contributions nor the “new directions in which Native Literary scholarship is tending” (9) are fully spelled out. Looking down the list of chapters, we are left wondering how the range of poststructuralist, psychoanalytical, and formalist readings will prove entirely new, embody the directions of Vizenor studies of the last decade, or indeed represent a likely future direction. Readers would benefit from more commentary on this, particularly in relation to recent shifts in Native studies.

Lacan, Derrida, Bataille, among other “postmodern” thinkers, take their places (in essays by Madsen, Snyder, Moore, and Shanley, in particular) alongside Vizenor’s Japanese influences (Lee, Velie, Moore), a two-hundred-year history of American satire (Breinig), elaborations of the connections between *Father Meme* and holocaust writing (Lee and Shanley), and Vizenor’s commitment to questions of education (LaLonde) and repatriation (Helstern). Most contributors remind us of Vizenor’s resistance to “discourses of dominance,” and the volume refuses to compromise his own expansive intellectual and cultural reach. But its major strength is that it also refuses to entertain notions of separation or exclusivity between the theory-driven and the tribal-centric.

The volume’s highest points in that regard include Snyder’s “Gerald’s Game: Postindian Subjectivity in Vizenor’s *Interior Landscapes*,” reconciling the nationalistic lenses through which Vizenor’s prose can be read with Vizenor’s own vehemently antinationalistic (antitotalitarian) critical stance. Similarly, in “‘He Made a Teasing Whistle on the Wind’: Situating the Literary Activism of Gerald Vizenor” LaLonde presents a lucid account placing the genesis of Vizenor’s political commitment very squarely at White Earth. These two essays—the situatedness of which has resonances in many of the other contributions—are further complemented by Doerfler’s clear assessment of Vizenor’s neologistic bent and its application to the White Earth Nation. Largely foregoing theory for a historically located understanding of terms, Doerfler “reads” Blaeser’s poetry through a Vizenorean lens. Given the often rebarbative exchanges in Native literary studies of late, these interventions are more than welcome. They are also timely, if the Emory discussion between Womack, Krupat, Pulitano, Brooks, and Elliott in April 2011 is an indicator of further constructive engagement to come.

Shamoon Zamir’s reading of *The People Named the Chippewa* is less convincing—not least for statements like “if this photograph is indeed meant to signal the passing of ‘the last traditional tribal culture,’ then it is surprising to find it filled not with a sense of loss and melancholy, but with a lively and playful self-possession” (174), which uncomplicatedly articulate a host of assumptions about cul-

ture, tradition, and history. That said, his desire to more fully engage Vizenor as a producer as well as discussant of visual materials is laudable, if overstated when he complains of “critical disinterest in [Vizenor’s] visual dimensions.” One wonders what has happened to Vizenor the imagist poet in Zamir’s account.

Lee’s interview serves as a platform to reflect on past endeavors and expound on the Vizenorisms that make it into the White Earth Nation Constitution (“survivance” and “natural reason” notably). An interview with more bite might see Vizenor expanding on his disdain for “commercial literature, published by slippery . . . editors” (272), or elaborating the tensions between different constituencies at the Constitution Conventions discussed with clarity in his own chapter: “I had my doubts about how the diverse views of forty delegates—and some delegates espoused notions of racial separatism—could be reconciled . . .” (285). The latter essay, I should note, is an important addition to the growing body of legal-political and historical work on tribal constitutions, Native nationhood, and indigenous citizenship.

So too is this collection of essays, which finds its place in the Vizenor oeuvre, complementing the material already out there while moving across the notional boundaries of Native studies’ various separatisms. More than that, though, it effects a balance between locating Vizenor as White Earth Anishinaabe while insisting on his own liberative discourse as a contributor to intellectual culture more broadly.

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NEWS AND ANNOUNCEMENTS

The Association for the Study of American Indian Literatures announces the ASAIL Emerging Scholars Professional Development Fellowship, which provides travel assistance honoraria of \$300 (US) for graduate students and advanced undergraduates to attend and present at professional conferences. Applications will be accepted on an ongoing basis. Applicants must provide the following information: a cover letter, CV, and acceptance letter confirming acceptance to present at a professional conference on a topic relating to the study of Indigenous literatures or languages. Awards will be distributed at the discretion of the ASAIL President and Treasurer based on funding availability. Send applications and queries to the current ASAIL President, Patrice Hollrah, at patrice.hollrah@unlv.edu.

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JEFF BERGLUND, associate professor of English at Northern Arizona University, is the editor of *Sherman Alexie: A Collection of Critical Essays* (U of Utah P, 2010), as well as the author of *Cannibal Fictions: American Explorations of Colonialism, Race, Gender, and Sexuality* (U of Wisconsin P, 2006).

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LISA BROOKS is John L. Loeb Associate Professor of the Humanities at Harvard University. Her book *The Common Pot: The Recovery of Native Space in the Northeast* (U of Minnesota P, 2008) focuses on the role of writing as a tool of social reconstruction and land reclamation in the Native networks of the Northeast.

DAVID J. CARLSON is professor of English at California State University, San Bernardino, where he teaches American Indian and early American literatures. He is the author of *Sovereign Selves: American Indian Autobiography*

and the Law (U of Illinois P, 2006). He is currently working on a new book-length project tentatively titled “The Discourse of Sovereignty in American Indian Print Culture.”

MATTHEW L. M. FLETCHER is professor of Law at Michigan State University College of Law and director of the Indigenous Law and Policy Center. He is the chief justice of the Poarch Band of Creek Indians Supreme Court and also sits as an appellate judge for the Pokagon Band of Potawatomi Indians, the Hoopa Valley Tribe, and the Nottawaseppi Huron Band of Potawatomi Indians. He is a member of the Grand Traverse Band of Ottawa and Chippewa Indians, located in Peshawbestown, Michigan. In 2010 he was elected to the American Law Institute. He graduated from the University of Michigan Law School in 1997 and the University of Michigan in 1994. He recently published *American Indian Tribal Law* (Aspen, 2011) and *Cases and Materials on Federal Indian Law* (6th ed., Thomson/West, 2011) with David Getches, Charles Wilkinson, and Robert Williams.

A. ROBERT LEE retired as a professor at Nihon University, Tokyo, in 2011, having previously taught at the University of Kent, UK. He is currently a research fellow at the University of Murcia. His publications include *Designs of Blackness: Mappings in the Literature and Culture of Afro-America* (Pluto P, 1998), *Multicultural American Literature: Comparative Black, Native, Latino/a and Asian American Fictions* (UP of Mississippi, 2003), which won a 2004 American Book Award, *Gothic to Multicultural: Idioms of Imagining in American Literary Fiction* (Rodopi, 2009), and *Modern American Counter Writing: Beats, Outriders, Ethnics* (Routledge, 2010). His work on Gerald Vizenor includes the introduction to *Shadow Distance: A Gerald Vizenor Reader* (Wesleyan UP, 1994), *Postindian Conversations* (U of Nebraska P, 2000), and, with Deborah Madsen, *Gerald Vizenor: Texts and Contexts* (U of New Mexico P, 2010). His *Native American Writing* (Routledge, 4 vols.) was published in 2011.

JAMES MACKAY is lecturer in comparative literatures at European University Cyprus. He is currently working on a monograph on writers who adopt a spurious or exaggerated Native American authorial persona. He is the editor of the *Salt Companion to Diane Glancy* (Cambridge UP, 2010) and has previously published articles on the works of Jim Barnes, Diane Glancy, E. Pauline Johnson, and Gerald Vizenor, among others. He is also the author of the 2008 European Network Against Racism shadow report “Racism in Cyprus.”

DEBORAH L. MADSEN is professor of American literature and culture at the University of Geneva. She has published extensively on manifest destiny, American exceptionalism, and such Native American Indian writers as Gerald Vizenor, Michael Dorris, Louise Erdrich, Leslie Marmon Silko, Paula Gunn Allen, and Joy Harjo. She has published more than a dozen books, including *Understanding Gerald Vizenor* (U of South Carolina P, 2009), *American Exceptionalism* (UP of Mississippi, 1998), and *Allegory in America: From Puritanism to Postmodernism* (Macmillan, 1996). Her edited volumes include *Louise Erdrich* (Continuum, 2011), *Gerald Vizenor: Texts and Contexts* (U of New Mexico P, 2010), *Native Authenticity: Transnational Perspectives on Native American Literary Studies* (State U of New York P, 2010), *Beyond the Borders: American Literature and Post-Colonial Theory* (Pluto P, 2003), *Post-Colonial Literatures: Expanding the Canon* (Pluto P, 1999), and *Visions of America since 1492* (St. Martin's P, 1994). She is currently completing a monograph titled "Contra Trauma: Reading Theory through Native American Literature," an interdisciplinary critique of dominant white settler paradigms of trauma that fail to account for the specific historical experiences of indigenous peoples. She is coeditor with Gerald Vizenor of the SUNY Press series Native Traces.

DAVID STIRRUP is a senior lecturer in American literature at the University of Kent (UK), where he is also director of the Centre for American Studies. He works on Native North American literatures, indigenous and postcolonial theory, and contemporary US and Canadian literature more broadly. His publications to date include *Louise Erdrich* (Manchester UP, 2010) and essays on a range of nineteenth-, twentieth-, and twenty-first-century Native North American writers, contemporary Anishinaabeg painters, installation art at the Canada-US border, and indigenous rights discourse and the European far right. He is currently working on a monograph project on ethics and aesthetics in contemporary Anishinaabeg writing.

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This list is provided as a service to those readers interested in further communications with the tribal communities and governments of American Indian and Native nations. Inclusion of a government in this list does not imply endorsement of or by SAIL in any regard, nor does it imply the enrollment or citizenship status of any writer mentioned. Some communities have alternative governments and leadership that are not affiliated with the United States, Canada, or Mexico, while others are not currently recognized by colonial governments. We have limited the list to those most relevant to the essays published in this issue; thus, not all bands, towns, or communities of a particular nation are listed.

We make every effort to provide the most accurate and up-to-date tribal contact information available, a task that is sometimes quite complicated. Please send any corrections or suggestions to SAIL Editorial Assistant, *Studies in American Indian Literatures*, Department of English, 1 University Station, University of Texas at Austin, Austin, TX 78712, or send an email to Laine Perez, editorial assistant, at leperez@mail.utexas.edu.

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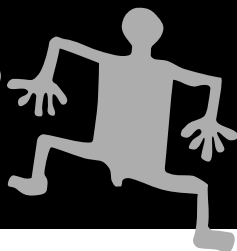


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