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Dutch-Indian Land Transactions, 1630-1664: A Legal Middle Ground of Land Tenures

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DUTCH-INDIAN LAND TRANSACTIONS, 1630-1664: A LEGAL MIDDLE
GROUND OF LAND TENURES

A Thesis Presented

by

Daniella F. Bassi

to

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of

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ABSTRACT

Living by a commercial ethic and resisting English encroachment from New England, the Dutch made at least 40 land purchases by written deed from their Indian neighbors from 1630 to 1664. In the past, scholars have seen only a European instrument of dispossession in the so-called “Indian deeds” that document land transfers from Indians to Europeans. In fact, they are colonial phenomena with uniquely Indian qualities. This is particularly true of the Dutch-Indian deeds signed or marked between 1630 and 1664. The Dutch-Indian deeds of the seventeenth century exhibit a middle ground of land tenures, in which the Dutch were compelled to yield to aspects of Indian land tenure and law in order to successfully purchase the land and retain it without facing retaliation. Indians, for their part, partook in the sale rituals of the literate world—deed-signing—but resisted European notions of land deals as fixed, permanent agreements. The Dutch-Indian deeds thus emerge as fluid agreements that were a compromise between Dutch and Indian land tenures and legal conventions.

DEDICATION

To Daniel and Samantha, with love and gratitude.

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An author never writes his work alone. I would like to thank Harvey Amani Whitfield for resolutely taking on the task of advising my thesis after my original advisor became ill. Without his unwavering support of my academics, I would not have been able to complete this work. His gentle seriousness, prompt turnaround of drafts, candid feedback, and constant encouragement made it possible for me to endure the extended version of the writing process that a thesis requires. I would also like to thank Jacqueline Carr, my original advisor, for introducing me to New Netherland historiography and for encouraging my Dutch pursuits. She helped me begin the project on the right foot; it would have been amorphous and unfocused had it not been for her emphasis on starting out with a strong, detailed proposal. I would also like to thank Dona Brown for her support through my whole time at the University of Vermont and for exposing me to unique methodologies and to scholarship outside of my timeframe and regional specialization. Without such exposure, I would not have come up with the idea for my thesis.

I would also like to thank Arnold and Mariel Goran for their generous financial support of my research. Without their assistance, I would not have had the opportunity to start work on my thesis until the fall, since I would have been preoccupied with the responsibility of a full-time job to cover my living expenses. Neither would I have been able to afford travel to the Gomez Mill House or to the New York State Library and Archives, whose repositories set my mind in motion and helped me arrive at my research topic. I would also like to thank the staff at the Gomez Mill House for receiving me so kindly and allowing me to search their archives. My project was originally going to be about the early Jewish

population in New Netherland and its links to other Jewish communities in the Dutch Caribbean colonies. Though I ultimately pursued another topic, it was one that I would not have come to without that early research, and I cherish the memory of wandering the halls of the oldest Jewish dwelling in North America. I would also like to thank Paul Deslandes for extending the opportunity to work with the House. This project would have turned out very differently had I spent the summer doing something else.

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CHAPTER I: INTRODUCTION

On July 12, 1630, the Director and Council of New Netherland, representing an aspiring patroon named Michael Paauw, purchased Hobocanhackingh/Hoboken Island from three Munsee Indians, Arommeauw, Tekwappo and Sackwomeck, “inhabitants and co-owners of the land,” claiming to “[act] for themselves and *rato caverende* for the rest of the co-proprietors of the aforesaid land.” The terms of one of the earliest written deeds for land between the Dutch and Indians are extensive, covering all potential breaches of the agreement, and very direct in their tone: the proprietors “sold, transported, ceded, conveyed and transferred [the land] in just, true and free ownership,” to Paauw. In case those verbs were not clear enough, the document elucidated further; the land was to be transferred

with all the interests, rights and jurisdiction belonging to...the grantors, in their aforesaid capacity, constituting and substituting the aforesaid Mr. Paauw in their place and stead...and at the same time giving to and conferring on...[him] full and absolute power and command...to enter upon, peaceably possess, occupy, plant, use and cultivate the aforesaid land, and...do, act and dispose, as he would...with...other lawfully acquired lands and estates, without the grantors...retaining, reserving or holding therein any part, right, interest or authority in the least, whether of possession, command or jurisdiction, but are now and forever fully and finally yielding and renouncing it for the behoof of the aforesaid; further promising...to deliver and hold the aforesaid land free from claims, challenges, encumbrances and pretentions which anyone hereafter may make, and also to have this sale and transfer approved, ratified and acknowledged as valid by the remaining co-owners, all in good faith, without guile or deceit.

All this was granted in return for “a certain quantity of [European] merchandise, which they acknowledge to have received...before the approval of this document.”¹ To modern Western

¹ Indian Deed to Michiel Paauw for Land in New Jersey, 12 July 1630, in *New York Historical Manuscripts: Dutch*, vols. GG, HH, and II, *Land Papers*, ed. and trans. Charles T. Gehring (Baltimore: Genealogical Publishing Co., 1980), 1.

eyes, analyzing this document unaccompanied, these Indians seem to have paid an exorbitant price for ordinary European goods.

Though the precise amounts and types of trade goods that these men received is unknown, the feeling comes from a Western, economics-based sense of value—the idea that no amount of such pedestrian items could have constituted proper compensation for a piece of land. It also comes from a modern knowledge of Amerindian peoples’ ultimate territorial dispossession over time. The infamy of the 1626 Manhattan Island purchase for 60 guilders in goods is proof of this. It has been repeatedly contemplated and cited as proof of European swindling of Indians in American popular culture, both for the sale price and the probable mode of payment (trade goods).² The sellers of Hoboken Island, thus, appear to be on the losing end of the bargain from their earliest dealings with the European strangers, at the frail beginning of centuries of dispossession and abuse to come. But nothing can ever be fully understood without context.

The legacy of Euro-Indian contact in the Americas has long been one of conquest and subjugation of American indigenous peoples by ethnocentric outsiders with a thirst for land. At some moments, this story of invasion and colonization has been glorified; at others,

² Here are two relatively recent examples of non-scholarly news sources analyzing the Manhattan purchase. Both rely on common views of the purchase and try to reexamine it, determining what the true price was and what it might have meant to the indigenous sellers: Matt Soniak, “Was Manhattan Really Bought for \$24?” *Mental Floss*, October 2, 2012, accessed February 2, 2017, <http://mentalfloss.com/article/12657/was-manhattan-really-bought-24>; and “Buying Manhattan,” *The Economist*, December 23, 1999, accessed February 2, 2017, <http://www.economist.com/node/346918>. Note: As the former article explains, no one can know for certain what the sellers of Manhattan Island were paid in, because Pieter Schagen only stated that the Company’s representatives “purchased the Island Manhattes from the Indians for the value of 60 guilders,” with no other details given; however, if decades of subsequent purchases are any indication, the Dutch probably paid in trade goods and wampum, goods that they knew interested their indigenous partners. See Pieter Schagen Letter, 7 November 1626, reproduced and translated by the New Netherland Institute, <http://www.newnetherlandinstitute.org/history-and-heritage/additional-resources/dutch-treats/peter-schagen-letter/>.

it has been heavily criticized. Awareness of the process of Indian territorial dispossession by European force and deceit has arguably been the most important lesson at the heart of this reading of intercultural relations. This narrative is problematic in that it has not been sufficiently qualified with the historical scenarios that contradict it. While the aim of this thesis is not to accept or refute theories about the nature of European colonization of the Americas broadly, it does aim to encourage questioning of the assertion that Europeans simply stole Indians' land. It will do this by examining a specific arena of contact: that of the Dutch and their Munsee, Mahican and Mohawk (Iroquoian) neighbors in the first half of the seventeenth century.

This thesis will neither add to nor reject the general argument of forceful dispossession directly, because to do so would be to take a very narrow slice of chronology, a small piece of the North American continent, and a very particular set of political, economic, and cultural circumstances and use them to answer for hundreds of years of interaction between a variety of political and ethnic groups with wildly different interests. Instead, it aims to contribute to and encourage analysis of Euro-Indian contact and interaction on a case-by-case basis, to allow for a more nuanced set of conclusions to develop over what occurred during each period of interaction.

This thesis argues that the early seventeenth-century land transactions between the Dutch and their Indian neighbors in the Hudson River Valley exhibit characteristics of a legal and cross-cultural "middle ground"³ in notions of land tenure despite being in European

³ The term, "middle ground," was coined by Richard White to describe Franco-Indian interaction in the Great Lakes region in the early seventeenth century. He defined it as an arena in which culturally different peoples roughly equal in power try to pursue their own ends through mutual cultural "accommodation." In his words,

form as written documents. It will reveal this frontier of necessitated accommodation between trading partners by contextualizing the Dutch and Indian presence in the area, introducing the ideas that undergirded their respective territorialities, and by examining their motives for yielding to one another in land matters. Most importantly, it will elucidate the qualities of this middle ground through a close analysis of the approximately 40 extant agreements recording Indian land transfers to the Dutch from 1630 (the date of the earliest formal, written deed) to August, 1664 (the date of the first Dutch capitulation to neighboring English forces). It is in the records of these transactions, their negotiation, and the *de jure* and *de facto* metamorphosis of their terms that this legal borderland becomes visible. Though these deeds have been analyzed before, it has always been done alongside Anglo-Indian deeds of the same period. The very different circumstances in the New Netherland, Massachusetts Bay, and Plymouth Colonies make an analysis of the Dutch-Indian deeds expedient. There is, however, an admitted overlap between some of the colonies' dealings with local Indians. For that reason, and for a lack of exclusive Dutch-deed work, many studies of Anglo-Indian land transfers have been cited as references in this work.

Reservations about “Indian Deeds” in the Academy

In the past, scholars have been unwilling to give “Indian deeds” serious analytical consideration in spite of their potential to shed light on Indian social norms, land tenure, and their interactions with Europeans. As Robert S. Grumet, a prominent scholar of Euro-

“diverse peoples adjust their differences through...a process of creative...misunderstandings. [They] try to persuade others who are different from themselves by appealing to what they perceive to be the values and practices of those others.” The *mélange* of *surface* commonalities (for neither group can fully understand the culture of the other) is the progenitor of a new tradition of “shared meanings and practices” between the two peoples. See Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815* (New York: Cambridge University Press, 1991), x.

Munsee land transactions, puts it, they “have been loathe to rely upon...deed data to go beyond brief statements concerning the process of Indian land alienation, European real estate procedures, and Native land tenure concepts.”⁴ Though he made that observation in 1978, it is still not obsolete in 2017; there are comparatively few studies in existence that focus on interpreting Indian deeds. Most of the existing ones have been in print for decades. They either deal with regional subsets of the Anglo-Indian deeds or combine all the deeds made by one Indian people with English, Dutch, and Swedish peoples, reading across empires and cultures, and over larger timespans. No dedicated study of the Dutch-Indian deeds of the seventeenth century exists. This is most likely due to scholarly contempt for the documents; it is time to revisit this scholarly cynicism and assess its foundations.

Though scholars’ reasons for hesitating to use these documents are not unfounded, some of them are only partly valid. It is important to examine all the problematic aspects of Indian deeds before proceeding with the study.

Falsification is the greatest potential peril of the Indian deeds, and an entirely appropriate cause for caution. Examining Anglo-Indian land deeds in seventeenth-century Maine, Emerson W. Baker noted that “The face or suggestion of forgery makes them potentially unreliable source materials,” along with a host of other complications particular to their registration in isolated, English-controlled Maine.⁵ Among the Dutch cohort of deeds, the one documenting the infamous 1629 purchase of Manhattan Island from its

⁴ Robert S. Grumet, “An Analysis of Upper Delawaran Land Sales in Northern New Jersey, 1630-1758,” in *Papers of the Ninth Algonquian Conference*, ed. William Cowan (Ottawa, 1978), 25.

⁵ Emerson W. Baker, “A Scratch with a Bear’s Paw: Anglo-Indian Land Deeds in Early Maine,” *Ethnohistory* 36:3 (summer, 1989): 236-237.

inhabitants for 60 guilders in trade goods has long been determined to be a forgery likely created in 1677.⁶ Though such a finding is cause for caution, it is important to note that no other Dutch deeds have been exposed as such in the existing scholarship on Dutch-Indian relations and on Indian land transfers. In his own study, Baker concluded that, “While only half of [the 56 surviving Indian deeds for the Sagadahoc region] can be verified...most of the rest appear to be legitimate.”⁷ Grumet also notes that contemporaneous fraud seems to have been uncommon, since Native peoples were quite aware of the extent of their territories and what they were selling:

Native proprietors...rarely sold identical areas to different European purchasers, though different Native persons often claimed, and received compensation for identical tracts over a period of years. Legal documents and contemporary accounts indicate that fraud was often detected, and thus of relatively rare occurrence.⁸

Indian deeds might be fraudulent in less direct ways. Writing about Dutch-Mahican land transactions, William A. Starna argues that, though “the language of the deeds in nearly all cases adheres to a form or style, a legal protocol, that is remarkably consistent and thus, on its face, transparent,” it is “little understood...to what extent the Indian ‘proprietors’ were told of the precise wording in a deed, deeds that in all likelihood they could not read for themselves.” Starna also mentions Francis Jennings, a scholar with a more explicit stance

⁶ Paul Otto confirms this in footnote no. 65 of “Trade and Settlement,” the third chapter of his book, *The Dutch-Munsee Encounter in America: The Struggle for Sovereignty in the Hudson Valley* (New York: Berghahn Books, 2006), 104. Robert S. Grumet gives the approximate date of the forgery’s creation in his book, *The Munsee Indians: A History* (Norman: University of Oklahoma Press, 2009), 49.

⁷ Baker, 237.

⁸ Grumet, “Analysis,” 27-28.

against the documents, correctly saying that he “see[s] little more than trickery and fraud in the land transfers that took place in colonial New England.”⁹

There are other scholars, however, who dismiss the theory that linguistic barriers and illiteracy were used to take advantage of Indians in land conveyances. Grumet addresses the issue directly:

Some scholars have noted that accidental or deliberate mistranslations may have interfered with Native understanding of the terms of many land conveyances. Prince (1912) and Goddard (1971) have, however, brought attention to the widespread use of a trade jargon by both the Upper Delawarans and their European and Native neighbors. Created and utilized for international commerce and diplomacy, the jargon usually conveyed full understanding to the parties to the deeds.¹⁰

Starna seems to agree with Grumet’s point as he analyzes the land transactions between Mahicans, the English, and the Dutch, calling “the widespread use of a trade jargon...an important mitigating factor.”¹¹

Though she does not discuss land transfers, Lois Feister’s early work shows that the Dutch and the Indians made efforts to communicate with increasing nuance as their relationships became more complex. Feister explains that the potential economic rewards of the fur trade gave the Dutch and Indians incentive to communicate effectively from the very beginning. She states that “from 1609 to at least 1638,” “a type of trade jargon on the Indian

⁹ William A. Starna, *From Homeland to New Land: A History of the Mahican Indians, 1600-1830* (Lincoln: University of Nebraska Press, 2013), 111. In the latter quote, Starna is referencing pages 128-145 of Francis Jennings’ book, *The Invasion of America: Indians, Colonialism, and the Cant of Conquest* (Chapel Hill: University of North Carolina Press, 1975).

¹⁰ Grumet, “Analysis,” 27.

¹¹ Starna, *Homeland*, 111.

languages developed...[that was] quite adequate for the simple day-to-day bartering that occurred.”¹² She also points out that

The new problems [between the Dutch and the Indians] after 1640, caused by agricultural colonization combined directly with the continued fur trade, included a need for better communication which a simple trade jargon could not fulfill. Men who knew the various Indian languages as more than simple trade jargons consequently came into demand as more or less official interpreters for the rest.¹³

Ives Goddard’s later work on the use of the so-called Delaware Jargon by colonists in New Sweden supports Feister’s points. He explains that the Swedes adopted that particular trade jargon on their arrival in the 1630s because it was “already firmly established as the medium of communication between the Indians and the Dutch throughout New Netherland” and probably learned it from the many Dutchmen in their numbers. He also describes its probable provenance among the Dutch: “the jargon the Dutch used was based on the language of the Delaware River [because the] first permanent Dutch settlements [in Delaware territory] were on the [River].” These had been established in the 1620s at Fort Nassau on the eastern bank of the Delaware River and Fort Wilhemus on Burlington Island, but the Dutch West India Company (WIC)¹⁴ ordered them to move and concentrate on Manhattan

¹² Lois M. Feister, “Linguistic Communication between the Dutch and Indians in New Netherland, 1609-1664,” *Ethnohistory* 20:1 (1973): 31.

¹³ *Ibid.*, 35.

¹⁴ The Dutch West India Company’s Dutch name is “de Geoctroyeerde Westindische Compagnie,” which translates to “the Chartered West-Indian Company.” It is commonly abbreviated as WIC.

Island for financial and security reasons in 1626.¹⁵ The settlers brought the Delaware Jargon to New Amsterdam with them.¹⁶

It is important to remember, though, that this “Jargon” was just that—a reduced form of an Indian language. Anthony F. Buccini believes that true bilinguals were rare through the whole period of New Netherland’s existence, since “full acquisition of [Indian] languages, in the context of frontier life, by an adult speaker of a typologically radically different language, [as Germanic Dutch was from, say, Algonquian Mahican,] is virtually impossible.”¹⁷ Buccini argues that Indians were aware that their new trade partners would not be able to achieve fluency in their languages and thus played “an active, perhaps very conscious and intentional,

¹⁵ A 1626 Mohawk attack on Fort Orange’s commander, Daniel van Krieckenbeeck, who “had been assisting the Mahicans in an attack on the Mohawks” during the Mohawk-Mahican War (1626-1628), prompted then-Director General Peter Minuit to order “all personnel from outlying areas to gather for safety on Manhattan Island, leaving only a skeleton presence behind at Fort Orange [for the fur trade]” and possibly retaining Fort Nassau as a semi-permanent trading post, since the latter was located on the eastern bank of the Delaware River and poorly situated for fur trading with the Lenapes. See “Fort Nassau,” under “Delaware,” in “A Tour of New Netherland,” the New Netherland Institute, accessed 23 February 2017, <http://www.newnetherlandinstitute.org/history-and-heritage/digital-exhibitions/a-tour-of-new-netherland/delaware/fort-nassau/>; “Albany Region Overview,” under “Albany Region,” in “A Tour of New Netherland,” accessed 23 February 2017, <http://www.newnetherlandinstitute.org/history-and-heritage/digital-exhibitions/a-tour-of-new-netherland/albany/>; Mark Meuwese, *Brothers in Arms, Partners in Trade: Dutch-Indigenous Alliances in the Atlantic World, 1595-1674* (Leiden: Brill, 2012), 275-276; and Bruce G. Trigger, “The Mohawk-Mahican War (1624-28): The Establishment of a Pattern,” *Canadian Historical Review* 52:3 (September, 1971): 279 and 281. Note: Another Fort Nassau, built on the Hudson River in 1614 and abandoned by 1617 predates the WIC and the eponymous Delaware fort. See “Fort Nassau,” under “Albany Region,” in “A Tour of New Netherland,” the New Netherland Institute, accessed 17 February 2017, <http://www.newnetherlandinstitute.org/history-and-heritage/digital-exhibitions/a-tour-of-new-netherland/albany/fort-nassau/>; Shirley W. Dunn, *The Mohicans and Their Land, 1609-1730* (Fleischmanns, NY: Purple Mountain Press, 1994), 72-75; Daniel K. Richter, *The Ordeal of the Longhouse: The Peoples of the Iroquois League in the Era of European Colonization* (Chapel Hill: University of North Carolina Press, 1992), 88; Charles T. Gehring, “*Hodie Mihi, Cras Tibi*: Swedish-Dutch Relations in the Delaware Valley,” in *New Sweden in America*, ed. Carol E. Hoffecker et al. (Newark: University of Delaware Press, 1995), 70; Meuwese, *Brothers*, 118-121; and Trigger, 279.

¹⁶ Ives Goddard, “The Delaware Jargon,” in *New Sweden in America*, ed. Carol E. Hoffecker et al. (Newark: University of Delaware Press, 1995), 138, 143, 142.

¹⁷ Anthony F. Buccini, “*Swannekens Ende Wilden*: Linguistic Attitudes and Communication Strategies among the Dutch and Indians in New Netherland,” in *The Low Countries and the New World(s): Travel, Discovery, Early Relations*, ed. Johanna C. Prins et al (Lanham: University Press of America, 2000), 17 and 23.

role in the development of ‘pidginized’ or reduced forms of their languages for use with the Europeans.”¹⁸ Indians who acquired some Dutch similarly learned a reduced form of it, though only to a small extent, since they were not incorporated into Dutch colonial society and since they could not reasonably be expected to learn the language of such a seemingly small and impermanent group.¹⁹ As Buccini explains, “in the absence of widespread bilingualism...Europeans and Indians bridged the linguistic divide primarily through the use of pidginized varieties of the Indian languages and, in the later period around areas of relatively dense settlement, perhaps through reduced forms of Dutch.”²⁰ These abridged versions of languages, by definition, were limited, lacking the full range of nuances of their parent tongues; however, they successfully packed all the necessities of communication between business and political partners into a functional, accessible package.

In his book, *The Munsee Indians: A History*, Grumet also makes the important point that ritual could surpass direct translation in conveying meaning in these complex cross-cultural transactions. As he argues:

Even if both parties did not exactly understand everything written or said, the endlessly repeated structure of deed contents and the ceremonial readings and signings of deed documents composed what can be thought of as a ritual formula. Literate or illiterate [which many Dutch colonists also were, as evidenced by the frequent appearance of marks next to their names], Indian or colonist, all people in colonial America were attuned to the nuances of social etiquette, political procedure, and religious ceremony. Respect for proper performance of reading and signing rituals during land deals went far in assuring all parties that appropriate ceremonies and forms were being observed. It is unlikely that many would casually overlook or unquestioningly countenance omissions of particular parts of these rituals or alterations in their order of presentation.²¹

¹⁸ *Ibid.*, 21-22.

¹⁹ *Ibid.*, 17-18 and 21.

²⁰ *Ibid.*, 17.

²¹ Grumet, *Munsee*, 87-88.

Further, Grumet reminds us that when early misunderstandings over land did occur, their consequences were probably disseminated through Native communication networks. “Such information,” he explains, “travelled quickly through the Upper Delawaran groups, and misunderstandings of such magnitude could not have survived many signings.”²² Thus, literal misunderstandings are unlikely to have been influential factors in Dutch-Indian land transactions beyond the earliest dates.

Another concern, if a given deed is not an eighteenth or nineteenth-century fabrication and the purchase was legitimately made (with proper translation and delineation of the tract to be alienated), is that the Indian signatories could have been random persons not authorized to sell the land at all. William A. Starna is a proponent of this perspective. He does not believe that there is any way to prove that the Indians named in the extant deeds were really entitled to part with the land or that they truly understood that they were parting with it in the broad European sense of permanently alienating it by sale. Starna argues that, “Once fully considered, there is little to support the notion that Mahicans ‘owned’ land in the region, either before or after contact,” though he concedes that “What did matter is that the Dutch wanted to purchase land in accordance with the prevailing law and that the Mahicans made themselves available to sell it to them.”²³

The reappearance of certain names in the documents works against this hypothesis. Though the inconsistency in European spellings of Indian names makes it impossible to

²² Grumet, “Analyzing,” 26-27.

²³ Starna, *Homeland*, chap. 7 and p. 117.

confirm beyond a doubt that two names with a similar sound/spelling refer to the same person, reasonable associations can be made.²⁴ Discussing the wide Hudson Valley kinship ties that allowed people to “move among distinctive political organizations [with apparent ease],” Tom Arne Midtrød noted the possible connection between the Esopus man, “Captain Jan Bachter,” who sold Mahican territory...[to the English] in...1683,” to the “Catskill Mahican leader Onekeek...called Jan de Backer by the Dutch.” He concluded that

Even if he was not...Onekeek, [the name] is a sign that he had ties to the Mahicans. It is possible that the purchasers simply acquired a deed from a man with no right to sell, but then it is peculiar that they made sure to record Jan Bachter’s Esopus background, which left this transaction open to challenges from anyone familiar with the Valley’s Native territorial boundaries.²⁵

Grumet has managed to make more concrete connections by using other documents that “[identify] aliases...[and] not[e] marriages and other relationships” where possible. Analyzing the names on the 600 deeds signed by Mahicans and Munsees from 1630 to 1779, he identified “207 individual signatories comprising more than 2,700 names in the sample.” He explained that “Many of these individuals appear in two or three deeds and then disappear...[though] more prominent leaders...put their marks upon many land conveyances.”²⁶ In his subsequent book, *The Munsee Indians: A History*, he updated this finding, stating that “at least 210 prominent Munsee individuals and several hundred other signatories ultimately conveyed the whole of their lands to colonists [over the 150-year

²⁴ Robert S. Grumet, “The Selling of Lenapehoking,” *The Bulletin of the Archeological Society of New Jersey* 44 (1989): 1.

²⁵ Tom Arne Midtrød, *The Memory of All Ancient Customs: Native American Diplomacy in the Colonial Hudson Valley* (Ithaca: Cornell University Press, 2012), 22 and 23.

²⁶ *Loc cit.*

period].”²⁷ These names repeated over time attest to Dutch and English recognition of Indian social hierarchies in purchasing land from them. Additionally, the fact that such names only appear within a small chronological window, never to be seen again in the record, bolsters their legitimacy: Munsee peoples did not recycle the names of their dead, at least until a very long period had elapsed. In fact, Herbert C. Kraft notes that “People did not say that person’s name ever again because it would bring sadness to the family.”²⁸

Others analyze the names without addressing such a concern. In her book, *The Mohicans and Their Land, 1609-1730*, Shirley W. Dunn takes the names and the social and political positions that often accompany them in deeds at face-value. She analyzes Dutch nicknames given to some signers and the pictorial marks that Indians affixed to the deeds, noting that Mohican “chief sachem Aepjen signed several deeds, usually as a witness.”²⁹ Further, she construes reappearing marks of a similar design as possibly “tribal, clan, or family related, [possibly] represent[ing] group commitments rather than individual names,” though she does admit that there was “only occasionally repetition of the same mark by one person from one deed to another.”³⁰ Dunn also devotes a chapter to a history of important Mahican leaders, partly tracing their eras of leadership through the appearance of their names on deeds and then aligning them with mentions in other primary source documents.³¹

²⁷ Grumet, *Munsee*, 83.

²⁸ Andrew Lipman, “Buying and Selling Staten Island,” *Common-Place: The Interactive Journal of Early American Life* 15:2 (winter, 2015): 17; and Herbert C. Kraft, *The Lenape or Delaware Indians: The original people of New Jersey, southeastern New York State, eastern Pennsylvania, northern Delaware and parts of western Connecticut*, 7th ed., 2003 (Dr. Herbert C. Kraft, 1987), 49.

²⁹ Dunn, 241.

³⁰ Dunn, 242.

³¹ Dunn, 164-169.

The consistency in the names of certain sachems in Dutch-Indian deeds and Dutch documentation of peace treaties indicates that the signatories are unlikely to have been random Indians bribed into selling “their” land in return for trade goods or alcohol. For example, Aepjen was one of the sachems mentioned in the meeting held on August 30th, 1645, to conclude a peace between “the Dutch and the River [Delaware] Indians,” with the Mohawks acting as mediators:

This day...appeared before the director and council in Fort Amsterdam, in the presence of the entire community, the following sachems or chiefs of the Indians, as well for themselves as in the capacity of attorneys of the neighboring chiefs, to wit: Oratany, chief of Achkinckeshacky...as also Aepjen personally, speaking for the Wappinckx, Wlquaeskeckx, Sintsings and Kichtawanghs.³²

As mentioned before, Aepjen also signed many deeds, and it is very unlikely that he was a made-up or unauthorized person. Dunn even notes that Indian marks on deeds were often blotchy and shaky, indicating that the signer was inexperienced with Dutch writing implements and probably not a European imposter.³³

There was foul play in some of these transactions. To the forged deed for Manhattan Island and unknown instances of fraud detected soon enough to be erased from the record, we can add Andrew Lipman’s broad comment that “It is true that white land agents...lied about their deeds’ terms and tried to garner the signatures of intoxicated or unauthorized sellers.” Lipman goes on to say that “Chicanery and coercion were certainly part of the process, but seldom blatant,”³⁴ and launches into a very nuanced interpretation of the third

³² Articles of peace concluded in the presence of the Mohawks between the Dutch and the River Indians, 30 August 1645, in *New York Historical Manuscripts: Dutch*, vol. IV, *Council Minutes, 1638-1649*, ed. and trans. Arnold J. F. Van Laer (Baltimore: Genealogical Publishing Co., Inc., 1974), 279.

³³ Dunn, 238.

³⁴ Lipman, “Buying,” 17.

and final deed for the purchase of Staten Island, signed in 1670 by its European and Native inhabitants. The key word here is “tried,” and specificity is critical. By the 1670s, the English had gained a strong foothold in the Northeast, and though the Dutch would briefly retake their colony from 1673 to 1674, it was clear to Native peoples that they would have to deal with the English alone for the foreseeable future. The power dynamic was much more complex during the Dutch period, and it translated into more leverage in land sales than would exist after New Netherland became New York. In spite of that reality, Lipman uncovered collaboration and Indian consent in the 1670 sale, because military strength was not the sole factor at play even as Indian power declined in the Northeast.

The Dutch transactions occurred earlier, with a European power that had a much more tenuous presence in the area than the English, and with an array of Indian peoples that were both in a vulnerable position near encroaching settlement (including the very residents of Staten Island) and a very influential position. Cantwell and Wall note that “As more Dutch settlers arrived, some no longer...clustered their settlements around the trading post at Fort Orange. Instead, they settled in isolated farmsteads,”³⁵ where they were vulnerable to attack. There were not many alternatives in a sparsely populated colony that was attempting to develop agriculturally. Finding individuals who were authorized to alienate land was crucial to gaining Indian support in the subsequent use of new property. Dutchmen could get unidentified people to sign suspect documents, but budding settlements would undergo an ordeal to maturity, especially because “All the Dutch settlements were surrounded by Indian

³⁵ Anne-Marie Cantwell and Diana diZerega Wall, “Landscapes and Other Objects: Creating Dutch New Netherland,” *New York History* 89:4 (fall, 2008), 321.

country.”³⁶ Indeed, unwanted settlements in the Esopus region between Fort Orange and New Amsterdam were razed until matters were resolved. Examining transfers of Penacook-Pawtucket land to the English, Peter S. Leavenworth concluded that “Legal imperatives...provided two...reasons for seeking Indian consent: social custom and protection from challenges to one’s title. A third motivation...was fear of violent retaliation.”³⁷

It should also be remembered that the Dutch officials in New Netherland had authorities to answer to in Amsterdam, which helped to insure a degree of honesty in the internal records of the WIC, a profit-seeking joint-stock company. The WIC shareholders demanded detailed records of the goings-on in the colony and especially of financial transactions over decades of operation. Just a brief look through the court minutes of Rensselaerswijck shows that every stuyver³⁸ of gifts or payment to the Indians seems to have been accounted for: “For 30 rapier blades...presented to the chiefs [sometime between 1648 and 1649]...30:-- [florins]...For purchase of the kill called Papenakick and expenses, disbursed and paid 264:-- [florins]...The purchase and expenses of...Katskil...1239:4:-- [florins]...The purchase of Klaverrack amounts to 653:9:-- [florins]...”³⁹

³⁶ *Ibid.*, 328.

³⁷ Peter S. Leavenworth, “‘The Best Title That Indians Can Claim’: Native Agency and Consent in the Transfer of Penacook-Pawtucket Land in the Seventeenth Century,” *The New England Quarterly* 72:2 (Jun., 1999): 278.

³⁸ The guilder, also called a florin, was the Dutch currency of the seventeenth century. A guilder comprised 20 stuyvers, 40 groots, or 160 duits. There were sub-currencies of the guilder beyond the doubt, but it is not necessary to enumerate them for this study. Those who would like to know more can consult the New Netherland Institute’s “Guide to Seventeenth Century Dutch Coins, Weights and Measures,” date last modified unknown, <http://www.newnetherlandinstitute.org/research/online-publications/guide-to-seventeenth-century-dutch-coins-weights-and-measures/>.

³⁹ Account of Receipts and Disbursements by Brant van Slichtenhorst as Director of the Colony of Rensselaerswyck, in *Minutes of the Court of Rensselaerswijck, 1648-1652*, ed. and trans. Arnold J. F. Van Laer (Albany: University of the State of New York [Press], 1922), 205 and 206-207. The blades are listed under “Receipts,” under the subsection for the years 1648-1649, and the purchases of land are listed under “Disbursements” for the years 1648-1650.

The WIC also had strict policies concerning indigenous peoples in New Netherland: one of the first commands given to the colony's second Director General, Willem Verhulst (1625-1626), was that "he pay the Indians for lands which he intended to colonize [and that] Land cessions were...to be voluntary."⁴⁰ This command was repeated more than once, showing its importance to the Company's members. On January 12, 1630, Kiliaen van Rensselaer, a WIC shareholder and founder of the WIC-authorized patroonship of Rensselaerswijck, was very specific, covering all his bases, when he instructed Bastiaen Janssen Crol, "commis at Fort Orange," to

try to buy the lands hereafter named for the said Rensselaer, from the Mahijcans, Maquaas or such other nations as have any claim to them, giving them no occasion for discontent, but treating them with all courtesy and discretion...In case he can not purchase the said lands from one or two nations, that he purchase the same from all who pretend any right to them. Having bought the islands, that he convene not only the respective chiefs but all the people, in order to make the payment in the presence of them all, and that he takes then the chief of each nation to the island of the Manhates to confirm the purchase before the director and council, and that he have the same recorded among the resolutions and send me a copy.⁴¹

On the other hand, the fact that the Company had a definite profit motive and much to gain from large-scale land acquisition at low prices must be factored in. This economic driving force can be felt throughout the documentary record. For example, the "30 rapier blades...presented to the chiefs," accounted for under a section called "Receipts" for the years 1648 and 1649, were described as "broad, rusted and not merchantable...valued at one guilder [/florin] each." By comparison, a few entries above, under the same section, colonists

⁴⁰ Trelease, 40.

⁴¹ Instructions to Bastiaen Jansz Krol, 12 January 1630, in *New York State Library Van Rensselaer Bowier Manuscripts, Being the Letters of Kiliaen van Rensselaer, 1630-1643, and Other Documents Relating to the Colony of Rensselaerswyck*, ed. and trans. A. J. F. Van Laer (Albany: University of the State of New York [Press], 1908), 158-159.

Henrick Backer, Jan Thomas, and Volckert Jans “furnished [the Company with] 5 rapier blades at fl. 2-10 each,” valued at “12:10 [florins.]”⁴² Thus financially contextualized, 30 florins in unsellable rapier blades seems an exceedingly fair price to pay for good relations and very profitable continued fur trading with neighboring Indian polities through participation in their rituals of reciprocity. The WIC had to give such gifts at fairly regular intervals or conflict would ensue, with Indians plundering European settlements to restore physical and cosmic equilibrium. Just as importantly, conflict would bring a costly slowdown in trade. The WIC, unable to avoid this important ritual, tried to keep a strict budget for “gifts for the Indians,” though it was not always successful.

When it comes to land specifically, there is evidence to suggest that the WIC made intense efforts to get the best deal possible, as one expects a private business operation to do. They were already fortunate that land was nowhere near close to being in short supply, which naturally depressed its prices, and that, at least in the beginning, what interested Indian proprietors were relatively affordable trade goods⁴³ and wampum.⁴⁴ Still, the WIC sought the

⁴² Account of Receipts and Disbursements by Brant van Slichtenhorst as Director of the Colony of Rensselaerswyck, in *Minutes of the Court of Rensselaerswijck, 1648-1652*, ed. and trans. Arnold J. F. Van Laer (Albany: University of the State of New York [Press], 1922), 203 and 205-206.

⁴³ Indians traded food, furs, and land with Europeans for practical European wares like adzes, awls, steel axes, copper kettles, knives, muskets/guns, bars of lead and gunpowder (for ammunition), alcohol, glass beads, blankets, other textiles, and tobacco. Usually wampum was also a part of the transaction. Wampum, also called sewant by the Dutch, were white and purple beads made of the shells of local clam species and strung into belts that were valued by Algonquian and Iroquoian peoples for their spiritual and literal value in maintaining political and social equilibrium among both individuals and neighboring groups. See Lois Scozzari, “The Significance of Wampum to Seventeenth Century Indians in New England,” *The Connecticut Review* 17:1 (1995): 59-61; and Faren R. Siminoff, *Crossing the Sound: The Rise of Atlantic Communities in Seventeenth-Century Eastern Long Island* (New York: New York University Press, 2004), 3-4.

⁴⁴ Peter S. Leavenworth notes that “By the 1650s, Indians [dealing with the English, at least,] were no longer willing to accept payment in trade goods [for their land,]” and that, “With few exceptions, most land sales that mention price thereafter cite cash.” Leavenworth, 286.

best bargain possible even within this scenario, at the expense of Indians, Dutch settlers (by trying to prevent individual settlers from purchasing land directly from Indians)⁴⁵, and also the neighboring English and Swedish colonies with which they had disputes over land and boundaries.

Where Indians are concerned, while it can be said that the WIC and individual Dutch settlers simply offered indigenous peoples the articles that they prized most in return for their land, neither were they transparent about how land was priced and paid for among their own people. A section of a 1660 letter from Jan Baptist van Rensselaer to Jeremias van Rensselaer proves the definite existence of the intent on the WIC's part to hide the full potential sale price of land to the Dutch from Indian proprietors:

There is...a misunderstanding about your having given [some colonists] permission to purchase at their own expense from the Indians the small island in front of their door, for they have already bought nearly the whole of it from the Indians and they have thereby put the Indians wise as to the [value of the] land, for they had to buy it from the Indians at the highest price and had to give them fully as much for it as the whole of Pasecanees Island has cost, so that already several Indians have come to me and stated that they wished to return the goods for which they had sold their land so cheaply. Among them den Uyl [/Stichtigeri] was one of the foremost, on account of the island opposite the fort, which he wished to have back, so that we are likely to have much trouble yet with that beast.⁴⁶

In this brief excerpt of a much longer letter, one can hear a tone of serious concern over Indian ex-proprietors discovering how much they could have convinced the Dutch to pay for

⁴⁵ See the WIC correspondence records for some instances of the Company complaining about such private dealings: Letter from the Directors in Amsterdam to Petrus Stuyvesant, 4 April 1652, 147-148 and 154; and Letter from the Directors at Amsterdam to the Director General and Council, 22 December 1657, in *New York Historical Manuscripts: Dutch/New Netherland Documents Series*, vol. XII, *Correspondence, 1654-1658*, ed. and trans. Charles T. Gehring (Syracuse: Syracuse University Press, 2003), 158.

⁴⁶ Jan Baptist van Rensselaer to Jeremias van Rensselaer, 3-6 June 1660, in *Correspondence of Jeremias van Rensselaer, 1651-1674*, ed. and trans. A. J. F. Van Laer (Albany: University of the State of New York [Press], 1932), 225.

their real estate. Judging by it and the date of the letter, 1660, only four years before the colony would cease to exist as a Dutch domain, one can guess that this crafty omission of information had gone on for quite some time.

Another piece of evidence to this effect is found in the response from Stuyvesant and the Council of New Netherland to “the humble remonstrance and petition of the colonies and villages in this New Netherland Province” presented to them in 1653. One of the concerns of the petitioners was that they lived in fear that “a new war will again be started by the natives of this country, [because of] the murders they have committed under the pretext that they have not been paid for their lands.” The reply of the Director General and Council was as follows:

May God grant that the English and those of Dutch nationality give no cause or inducement to a new and feared war with the natives, whether it be by showing too much fear of them or by cheating them or by telling them, among other things, what a morgen of land is worth to the English and Dutch, whereby the natives then conclude that they formerly had sold their land too cheaply. It could well happen that they might express dissatisfaction, claiming that they had not received full value.⁴⁷

Stuyvesant then went on to say that the Indians were not attacking due to land-related grievances and that such an allegation was “made entirely without foundation and in bad faith.” He then explained that the murders recently committed by them stemmed from the belief that that “Moolyn [Cornelius Melyn, a settler and patroon of the Staten Island colony

⁴⁷ To the right honorable, the Director-General and Council of New Netherland on the behalf of the noble High and Mighty Lords States-General of the United Provinces, the humble remonstrance and petition of the colonies and villages in this New Netherland Province, 11 December 1653, and Response of the Director-General and Council to the above-written remonstrance of 11 December signed by the mayors and schepens of this city and by some Englishmen, 13 December 1653, in *New York Historical Manuscripts: Dutch*, vol. V, *Council Minutes, 1652-1654*, ed. and trans. Charles T. Gehring (Baltimore: Genealogical Publishing Co., Inc., 1983), 93, 97. Read all the documents on pages 91-97 for context, as well as the notes 87 and 88 regarding them on page 225.

from 1641 to 1655,]⁴⁸ is a sorcerer, that he has poisoned them, that he has sold [them] bad powder and guns and so forth; consequently, the Indians from the south have all sworn to kill him and all the people on Staten Island.”⁴⁹ Regardless of what occasioned the murders,⁵⁰ it is clear that there were real efforts made to reveal as little as possible about the value that land held in Dutch and broader European culture.

But the most important reason for regarding the deeds with chariness is the notion that differences in Indian and European conceptions of land tenure prevented the former from fully understanding the implications of these documents to the latter, in spite of good translations, ritualistic repetition, or any number of “safeguards.” There are a range of theories about Algonquian and Iroquoian Indians’ territoriality, from the idea that they had no conception of property in land to the assertion that sachems had long used the transfer of land to strengthen political alliances. The most widely accepted theory, however, is that these peoples were indeed territorial, but that their ownership of land was communal and usufruct—that is, small subgroups/villages “owned” the land that they were using until they

⁴⁸ Jaap Jacobs, *The Colony of New Netherland: A Dutch Settlement in Seventeenth-Century America* (Ithaca: Cornell University Press, 2009), 73.

⁴⁹ Response of the Director-General and Council to the above-written remonstrance of 11 December signed by the mayors and schepens of this city and by some Englishmen, 13 December 1653, in *New York Historical Manuscripts: Dutch*, vol. V, *Council Minutes, 1652-1654*, ed. and trans. Charles T. Gehring (Baltimore: Genealogical Publishing Co., Inc., 1983), 97 and 225n.87 and 88.

⁵⁰ Some scholarly works mention that Melyn somehow managed to sour relations with neighboring Indian groups. Though the reason for the turn is not known for certain, he did reportedly conduct an illicit trade in firearms and liquor with them that may have been at the crux of it. He may have been uncompromising in his dealings, evoking Native anger, as implied by Grumet in one of his footnotes. Thus, Stuyvesant’s explanation for the murders was probably correct. See Donna Merwick, *The Shame and the Sorrow: Dutch-Amerindian Encounters in New Netherland* (Philadelphia: University of Pennsylvania Press, 2006), 152-153; and Grumet, *Munsee*, 337n.18. Staten Island was attacked by the Susquehannocks and allied Munsee groups in the Peach War of 1655. Fifteen colonists were killed, and the settlement was dispersed (Meuwese, *Brothers*, 280-283). Jacobs notes that “Attempts to build up the colony again were not successful” (Jacobs, 73).

moved to a new location, at which point it became available for others within the greater tribe to use.⁵¹ Indian land tenure will be explained in more detail in chapter three, but suffice it to say that many scholars believe that there is no way that Amerindian peoples could have understood what European fee simple, non-usufruct ownership and individual freehold entailed when they had never encountered it.⁵² They would have, thus, had a rude awakening, finding that they were not allowed back on land that they had sold even if it was not in use at the time, or that that they had not asked for enough goods or wampum in payment since the transfer held such permanence to the buyers.

Many points can be made that dilute (though not completely overturn) what Grumet has termed the “misunderstanding hypothesis.” First, if Indian sellers did misunderstand the terms of the agreements initially, they were not fooled for long, quickly catching on. Leavenworth argues that “By the mid-1600s, every Indian had known for years how the English used the land they acquired...Most Indians well comprehended the implications of their land sales.”⁵³ Examining Anglo-Abenaki deeds in Maine, Baker makes the concurring

⁵¹ Starna, *Homeland*, 106-107; Charles A. Bishop, “Territoriality among Northeastern Algonquians,” *Anthropologica* 28:1/2 (1986): 40-42; Midtrød, *Memory*, 72-73; Tom Arne Midtrød, “Native American Landholding in the Colonial Hudson Valley,” *American Indian Culture and Research Journal* 37:2 (2013): 90-94; Matthew Dennis, *Cultivating a Landscape of Peace: Iroquois-European Encounters in Seventeenth-Century America* (Ithaca: Cornell University Press; New York State Historical Association, 1993), 152; Paul Otto, *The Dutch-Munsee Encounter in America: The Struggle for Sovereignty in the Hudson Valley* (New York: Beghahn Books, 2006), 97; and Amy C. Schutt, *Peoples of the River Valleys: The Odyssey of the Delaware Indians* (Philadelphia: University of Pennsylvania Press, 2007), 31-40; Leavenworth, 281-282; Grumet, *Munsee*, 84 and 86; and Siminoff, 114-115. Note: Some of the disagreement among scholars can be attributed to different conceptions of the meaning of property in land. Starna, for example, acknowledges communal and even kinship-based usufruct ownership but does not consider them to constitute any sense of ownership because he construes “property”/“landholding”/“ownership” as strictly European/Western conceptions.

⁵² These scholars say that Indians thought that they were granting European buyers (temporary) usufruct rights or shared use of the land rather than private title to it. See Otto, 97; Schutt, 31-33; and Midtrød, *Memory*, 72; Midtrød, “Native,” 93.

⁵³ Leavenworth, 298.

point that, “Although it is possible that Indians did not completely comprehend the English concept of exclusive ownership, [the] clauses in deeds guaranteeing continued native use of the land argue otherwise.”⁵⁴

Second, the existence of commonalities between European and Indian conceptions of land tenure also makes it probable that Indians understood the transaction more than previous scholars have imagined. Grumet outlines the similarities between European and Lenape peoples, for example: “Both peoples...believed that they held land in trust for spirits. European[s]...in the name of God by ‘Divine Right[,]’ [and] Lenapes...for the Great Spirit, Kishelemukunk...[They] felt intensely spiritual connections with the land [in spite of Europeans’ stronger regard for it as a commodity].” Both cultures also designated lands for common use, Europeans through common pastures and Indians through hunting reserves. Most importantly, both peoples had developed customs around “territorial transfer,” since they both “required formal transfers of title [to it].”⁵⁵ Faren R. Siminoff points out that

like their English counterparts, the Indians...acknowledged several forms of individual land allotment and rights to land...The sachem could allot land to commoners, kinsmen, or loyal followers. He could make such an allotment for life or attach hereditary rights to it. He could demand a single payment or a series of payments, and he could revoke the allotment and reallocate the resource.⁵⁶

Andrew Lipman takes this point further, boldly asserting that, while “it is true that Natives and Europeans had drastically different uses for land...the idea that Natives were incapable of seeing land as a transferable property is a kind of Noble Savage hokum that insists Indians

⁵⁴ Baker, 245-246.

⁵⁵ Grumet, “Selling,” 2-3.

⁵⁶ Siminoff, 114-115.

had a spiritual reverence for every square inch of soil, and thus barely made a mark on the earth...[land that] erases thousands of years of actual indigenous land use.”⁵⁷

Beyond preexisting similarities in land tenure, Leavenworth finds evidence of the two groups making efforts to find such common ground, which is just as important: seventeenth-century Massachusetts deeds make mention of agreements being sealed by the “medieval English practice” of “turf and twig,” in which “the interested parties met for a brief ceremony during which the seller handed the buyer a clump of stick from the land being sold.” He believes that this simple, ritualistic agreement likely predated written deeds in the area and that it probably “appealed to English and Indian alike.”⁵⁸ The lack of a formal written deed (or mention of it) for Manhattan Island, the first purchase the Dutch made, suggests that a similar kind of simple puzzle-piecing of related concepts and rituals around land was at work among the Dutch and their newfound trade partners as well.

Baker finds support for these ideas, noting that Kennebec Indians’ complaints to the English in 1677 were very specific, but that they included “none about land transactions.”⁵⁹ It is important to listen to Native voices where they appear in interpreting these sales. A broad look at the texts of Dutch treaties and meetings with their neighbors shows that Indians complained repeatedly about cattle encroachment, murders, assault of fur traders coming into town, and sales of alcohol to their people. Misunderstandings about land sales, on the other hand, are only occasionally referenced in the documentary record, and they usually take the form of officials complaining that Indian sellers were reselling land or alleging that

⁵⁷ Lipman, “Buying,” 17.

⁵⁸ Leavenworth, 290 and 291.

⁵⁹ Baker, 246.

certain tracts had not actually been purchased. For example, in an “[e]xtract of the general letter from New Netherland dated October 30, 1655, signed by Petrus Stuyvesant, Nicasius de Sille, [and] La Montaigne,” the writers complained that “purchase and conveyances” from Indians were not the best way to defend their claims on the Delaware/South River from the Swedes, since “...the savages...sell as often as there appear purchasers...”⁶⁰

In New Netherland, there was never an instance of complete denial that a transfer had occurred. Instead, Indians questioned the size of the parcel in question, taking advantage of the very real potential for misunderstanding between two different cultures and the vagueness of some documented land transactions to get a better deal. Even the defeated Esopus, who had technically ceded their all their lands in 1660 as part of a peace treaty following the eponymous war, alleged that a “second large piece of land was not comprehended in the peace.” Though a second, conclusive war⁶¹ between the two parties eventually broke out again, the WIC was compelled to “[give] satisfaction for the second large piece in dispute.” They made a compensatory present to the Esopus in May of 1663, though no formal deed was drafted.⁶²

More often, Indians tried to extract further payment from their Dutch buyers to make a transaction fairer when they found that they had been underpaid. When they complained

⁶⁰ Dingman Veersteeg, trans., and Martha Dickinson Shattuck, ed., *New Netherland Papers, C. 1650-1660, From the Collected Papers of Hans Bontemantel, Director of the Amsterdam Chamber of the West India Company, Held by the New York Public Library* (Albany: The New Netherland Research Center and the New Netherland Institute, 2011), 27 and 29.

⁶¹ The Second Esopus War of 1663, which fizzled out with a Dutch victory.

⁶² Petition of the Overseers of Wiltwijck, date unknown (sometime after 15 July 1660 (end of the First Esopus War) and before 5 June 1663 (beginning of the Second Esopus War); likely 1662, the year of Nieuw Dorp’s founding in the area (present-day Hurley, NY)), in *New York Historical Manuscripts: Dutch/New Netherland Documents Series*, vol. XII, *Correspondence, 1654-1658*, ed. and trans. Charles T. Gehring (Syracuse: Syracuse University Press, 2003), 208. Sections of this letter have been lost, including the portion just preceding the last phrase quoted. Also, Midtrød, *Memory*, 76.

directly about insufficient payment, as in the instance noted earlier, the complaints seem to have quickly set a resolution in motion. The remnants of a document from the 1652-1654 council minutes relate such an instance that occurred in 1652: a colonist named Jan Schnediger approached one of the members of the Council demanding 500 guilders that he had promised to certain Indians in payment for their land in “the Flat Bush.” He was very concerned, “saying, among other things, that the losses and damages hereafter [caused] by the natives” would be the Council’s fault. It is evident that this man’s concern was very real and not a mere excuse to extort money from the Company: he was reportedly “pleased to address [the Council] in a most insulting manner,” his “words...shouted so loud that everyone could hear them” when proof of purchase and information on the qualities of the land were demanded.⁶³

In fact, the next few lines reveal that Jan had brought this matter up once before. The Council had apparently stalled in consenting to pay, with the following musings:

Is it expedient and advantageous to encourage and embolden the Indians to the point that the lands have to be bought and paid for again because of their threats[?]. . . Would it not lead to serious consequences, if it can be proved, that there is in the midst of the purchased land some which has not been bought (although we are not quite convinced of it), or what would be the consequences of the situation if we gave a small gift to the Indians? Would not their wicked and insatiable avarice take advantage of it and consider it as an inducement to murder more Christians, imagining them to be fainthearted, and threaten a massacre so that later on they may again obtain money and goods for another piece of wild and waste land?⁶⁴

⁶³ Minutes No. 43: Honorable Gentlemen of the Council., 17 June 1652, in *New York Historical Manuscripts: Dutch*, vol. V, *Council Minutes, 1652-1654*, ed. and trans. Charles T. Gehring (Baltimore: Genealogical Publishing Co., Inc., 1983), 28.

⁶⁴ *Loc cit.*

In these words, the desire to remain tough and to drive a hard bargain through to the end, in spite of Indian military power and threats, is palpable. One also hears frustration. The thought of a dwindling profit margin stung. Land that had been acquired at a bargain became more expensive through repurchase. But the frustration also seems to be caused by a cultural disconnect:

Concerning these points I was somewhat in doubt whether the Indians had a better claim to the wild and waste bush, upon which God and nature had grown trees, than any other Christian people, and what proof and assurance could be produced that the Indians had a better right and title to this parcel of land than other Indians, even more than the greatest sachem or chiefs who a long time ago had sold, given and ceded the whole piece of land and its dependencies...and received according to the declaration of the late director and council satisfactory payment for it in goods.⁶⁵

There is exasperation over the realization that the Dutch ultimately depended on the word of their Indian neighbors that they were the true owners of a given parcel of land when making a purchase. This seems to come from two ideas central to Dutch and broad European land tenure: the idea that owned land should show very specific signs of human presence—cleared fields, permanent houses, cattle, etc.; and the notion that ownership was backed not only by social affirmation, but by written documents notarized by an official entity. If one moves past the moment of ethnocentrism at the beginning of the passage, one can see in its extrapolation that a cultural and conceptual confusion about how land ownership was manifested in Indian cultures genuinely complicated these transactions.

In spite of the Company's definite desire to come out ahead in land dealings, the presence of a conceptual blind spot often gave way to acquiescence, especially since Indian

⁶⁵ *Ibid.*, 28-29.

peoples were not docile or gullible neighbors. In Jan's case, the Council ultimately decided to pay up:

Nevertheless, (although it was improper and contrary to all reason and equity) we agreed, for the sake of preventing blame and new troubles, to allow the aforesaid Jan Snediger recently to give or promise to the Indians a gift and make a report to us so that we might compensate him in due time; however, we never thought, much less expressly ordered him, to promise such a large sum at our expense or the expense of the Company for such a small piece of land...⁶⁶

One can hear them rationalizing this reluctant concession, but it was made nonetheless, and it shows the reality that the Dutch needed to meet their neighbors somewhere in the middle to be able to live in relative harmony with them. As Grumet puts it, "Colonial administrators could not...afford to alienate Indians by simply ignoring their demands or rejecting their claims out of hand. Instead both parties compromised."⁶⁷

As the previous incidents of misunderstanding show, land issues were never brought up in formal records of treaties or official meetings between Indian and Dutch authorities. It seems that most Indians did not feel hopeless to correct these clashes in the interpretation of land agreements, and that they could resolve them relatively informally as they came up. It also suggests that the Dutch righted their wrongs to some acceptable degree and in a timely manner when issues were raised. If the words of panicked settlers are to be believed, there would have been more turmoil had this not been the case. What is evident is Grumet's insightful comment that "Neither the signatories nor their successors...wound up regarding these cessions as unconditional surrenders. All...evidently came to treat them as species of

⁶⁶ *Ibid.*, 29.

⁶⁷ Grumet, *Munsee*, 96.

promissory notes guaranteeing exclusive purchase rights to the nation of the colonists signing the deeds.”⁶⁸ Moreover, the presence of these instances of misalignment over land in the documentary record show that there was a good measure of integrity in the Dutch record. Had the Dutch sought to conceal Indian dissension over previous transfers, they would not have mentioned them at all.

Finally, some scholars also interpret the deeds as possibly forced agreements. Discussing Anglo-Indian land transferal in eastern Long Island, Faren R. Siminoff carefully declares that “While some competing [native and European territorial] claims were extinguished through force of arms, as with the Pequot lands, more typically the goal was accomplished through (seemingly) voluntary transactions between the appropriate native and settler authorities.”⁶⁹ The same can be said of the Indian land transfers to the Dutch; only the Esopus Indians ceded land after a military defeat; this was done as part of the concessions of their peace treaty with the Dutch, which was concluded in 1660, though Holly Rine reminds scholars that “This was an agreement that the Esopus did not keep and the WIC was unable to enforce.”⁷⁰ The Esopus did, however, finally cede “all their territory as far inland as the two...forts [destroyed during the hostilities]” to the Dutch in 1664, shortly before the English takeover of New Netherland in August of that same year (apart, of course, from that other large piece mentioned earlier!).⁷¹

⁶⁸ *Ibid.*, 95.

⁶⁹ Siminoff, 111.

⁷⁰ Holly Rine, “‘Such Splendid Country,’ The Esopus Region, a Multi-Ethnic Colonial Landscape on the Hudson River, 1652-1670,” *The Historian* (2011): 722.

⁷¹ Allen W. Trelease, *Indian Affairs in Colonial New York: The Seventeenth Century* (Ithaca: Cornell University Press, 1960), 168.

Recent Trends toward Acknowledging Indian Agency in Early Land Transactions

It must be acknowledged that Northeastern Indians were not on a wholly level playing field with the English, Swedish, and Dutch newcomers in these early land transactions, even if some of the concerns with the documents discussed above are not as relevant as was once thought. While each imperial scenario was unique, Grumet, in his wide-ranging study of Munsee land deals with the English and the Dutch, describes “negative reciprocity,” which “occurs when one party accepts less for what both parties consider a more valuable commodity,” as characteristic of “transactions between Indians and colonists in Munsee country throughout the colonial era.”⁷² He states that

There was no question that Indians in Munsee country had to part with land they did not want to sell after epidemics and military defeats ended their ability to resist colonial demands. Knowing that continued resistance would result in the loss of their lives as well as their lands, Indians with few other choices decided to sell lands they would much rather have kept at prices they knew were much lower than their resale value among colonists.⁷³

While Grumet’s words hold true for most of the period that his book covers (it ends in the late-eighteenth century and even talks about the present day), the Dutch-indigenous transactions of the early seventeenth century require a more specific, customized statement. The earliest Dutch land purchases from Indians were characterized by something closer to Grumet’s “balanced reciprocity,” in which “more or less politically equal parties give and receive commodities both regard as equivalent in value.” After that, there was a divergence:

⁷² Grumet, *Munsee*, 91-92

⁷³ *Ibid.*, 92.

Dutch dealings with the Mohawks (part of the Iroquois Confederacy)⁷⁴ and Mahicans⁷⁵ in the upper Hudson Valley, who retained their military power and financial power in the form of a sufficient supply of beavers, exhibited more respect and balanced reciprocity through to Dutch loss of sovereignty. By contrast, Munsee-speaking groups in the lower Hudson Valley and Long Island areas experienced negative reciprocity after the 1640s, as Dutch settlement expanded and the supply of beavers dwindled.⁷⁶ Dealings in the upper Delaware River Valley

⁷⁴ For reference, the Dutch sometimes referred to the Mohawks as “Maquaas”. They lived in what is now western New York state, on the Mohawk River and the western side of the upper Hudson River, and were an Iroquoian-speaking people. The Mohawks were the easternmost members of the Iroquois Confederacy, which formed sometime between 1534 and 1634, mostly before European contact. They were considered the “keepers of the eastern door” of Iroquoia. The Iroquois Confederacy is also called the Five Nations, the Haudenosaunee Confederacy, the League of Nations, and/or the League of Five Nations. Its members were the Mohawk, Oneida, Onondaga, Cayuga, and Seneca peoples. The peoples are collectively referred to as the Iroquois or Haudenosaunee. Long after the period of this thesis, in 1722, the Tuscarora (originally from the North Carolina and Virginia areas) joined the League, which was then called the Six Nations. As the name “Iroquois” suggests, the original five peoples were part of the broad Iroquoian language group, rather than the Algonquian one. See “The League of Nations” and “About the Haudenosaunee Confederacy,” the Haudenosaunee Confederacy, accessed February 10, 2017, <http://www.haudenosauneeconfederacy.com/leagueofnations.html> and <http://www.haudenosauneeconfederacy.com/aboutus.html>; *Britannica Academic*, s.v. “Iroquois Confederacy,” accessed February 11, 2017, <http://academic.eb.com.ezproxy.uvm.edu/levels/collegiate/article/Iroquois-Confederacy/42815>; *Britannica Academic*, s.v. “Mohawk,” accessed February 11, 2017, <http://academic.eb.com.ezproxy.uvm.edu/levels/collegiate/article/Mohawk/53196>; and Jon Parmenter, *The Edge of the Woods: Iroquoia, 1534-1701* (East Lansing: Michigan State University Press, 2010), 4; and Jon Parmenter, “The Iroquois World, 1534-1634,” map, in *The Edge of the Woods: Iroquoia, 1534-1701*, Jon Parmenter (East Lansing: Michigan State University Press, 2010), 5.

⁷⁵ The Mahicans (also spelled “Mahikan” or called “Mahikanders” in Dutch records) are the same people who are also called Mohicans today. They were rivals of the Mohawks and lived on both sides of the upper Hudson River Valley. They are part of the larger group of Indian peoples known as northeastern Algonquians, which is a broad linguistic grouping. See *Britannica Academic*, s.v. “Mohican (people),” accessed February 11, 2017, <http://academic.eb.com.ezproxy.uvm.edu/levels/collegiate/article/Mohican/50129>; Robert S. Grumet, “Munsee Country in the Northeast,” map, in *The Munsee Indians: A History*, Robert S. Grumet (Norman: University of Oklahoma Press, 2009), 11; Jon Parmenter, “The Iroquois World, 1534-1634,” map, in *The Edge of the Woods: Iroquoia, 1534-1701*, Jon Parmenter (East Lansing: Michigan State University Press, 2010), 5; William A. Starna, “Map 2. The Core of Mahican Country, 1600-1700. After Huey, ‘Mahicans, the Dutch, and the Schodack Islands,’” map, in *From Homeland to New Land: A History of the Mahican Indians, 1600-1830*, William A. Starna (Lincoln: University of Nebraska Press, 2013), 7; Starna, *Homeland*, 38-43; and Dunn, 46 and 49.

⁷⁶ Allen W. Trelease, “Indian-White Contacts in Eastern North America: The Dutch in New Netherland,” *Ethnohistory* 9:2 (Spring, 1962), 139-140; and Meuwese, *Brothers*, 238-241 and 255-257.

with the powerful Susquehannocks⁷⁷ and Munsee-speaking groups⁷⁸ there had a similar tone to those at Fort Orange. The region lay at the peripheries of the colony, and the Peach War⁷⁹ and other attacks in moments of disaffection had made the Dutch careful to maintain harmony.⁸⁰ That most of these transactions still look financially unfair to modern eyes is due to the limits of cross-cultural conversion they brush up against, which Andrew Lipman calls “the real swindle”:

There was an inherent imbalance when hunting-and-farming gift-centered societies that were suffering devastating population losses from disease did business with

⁷⁷ The Dutch called the Susquehannocks/Susquehanna “Minquas.” This powerful Iroquoian-speaking group lived inland from the upper Delaware River, along the Susquehanna River. They were also rivals of the Iroquois. See *Britannica Academic*, s.v. “Susquehannock,” accessed February 11, 2017, <http://academic.ub.com.ezproxy.uvm.edu/levels/collegiate/article/Susquehannock/70494>; Robert S. Grumet, “Map 2. Munsee Country in the Northeast,” map, in *The Munsee Indians: A History*, Robert S. Grumet (Norman: University of Oklahoma Press, 2009), 11; Mark Meuwese, “Map 4. New Netherland, 1609-1664,” map, in *Brothers in Arms, Partners in Trade: Dutch-Indigenous Alliances in the Atlantic World, 1595-1674*, Mark Meuwese (Leiden: Brill, 2012), 229; and Meuwese, *Brothers*, 275-276 and 281.

⁷⁸ The Delaware language, part of the larger Algonquian language group, had many subdivisions, by which its peoples are broadly classified. The Unami-Delaware speakers were the southernmost peoples, located along the lower Delaware River, south of the Raritan River. North of the Raritan River, living along the upper Delaware River, in the lower Hudson Valley, and in western Long Island were Munsee-Delaware speakers. The Dutch mainly dealt with the upper Delawares (and with the Susquehannocks) in the southern portion of their colony and not with the Unami speakers. Scholars often group the many distinct bands of the Munsee-speaking peoples under the terms “Munsees,” “Delawares,” “Lenape,” or “Lenni Lenape,” though the latter three are more frequently used to study Unami- and Munsee-speaking peoples together. In spite of these unifying names, Munsees consisted of numerous small, distinct bands/villages, including the Raritans, Hackensacks, Tappan, Minisinks, Canarsee, Manhattans, and Navasinks, which are enumerated independently in Dutch and English records. See Kraft, 9-10; Otto, 4-5; Grumet, *Munsee*, 3 and 9; Robert S. Grumet, “Map 1. The Munsee Homeland,” map, and “Map 2. Munsee Country in the Northeast,” map, in *The Munsee Indians: A History*, Robert S. Grumet (Norman: University of Oklahoma Press, 2009), 5 and 11; Paul Otto, “Map 1: The Dutch-Munsee Frontier,” map, and “Map 2: Munsee Bands in the Early Seventeenth Century,” map, in *The Dutch Munsee Encounter in America: The Struggle for Sovereignty in the Hudson Valley*, Paul Otto (New York: Berghahn Books, 2006), 3 and 5.

⁷⁹ The Peach War took place in 1655, shortly after the Dutch conquest of New Sweden (1638-1655) that year. The Susquehannock people and their native allies carried out a surprise attack on New Amsterdam, Staten Island, and other southern New Netherland settlements in retaliation for the conquest of their Swedish allies and trading partners. The Susquehannock had long held distrust for the Dutch due to their close alliance with the Iroquois, who were their rivals. From then on, Dutch policy in the area was much more diplomatically conscientious. See Meuwese, *Brothers*, 280-283.

⁸⁰ Meuwese, *Brothers*, 283 and 285.

growing colonial societies connected to a global web of trade that gave them a much broader selection of technology and wares.⁸¹

The lack of a completely level playing field does not, however, preclude the existence of a legal and cultural middle ground of give-and-take in these transactions, as the Esopus situations examined earlier reveal. In addition to the above-cited counterweights to doubts about Indian deeds' validity as a source for understanding Euro-Indian land transactions, there has been a recent trend toward acknowledging Indian agency to a greater extent in these exchanges.

Rather than reading deeds as the product of sly European swindling of the naïve “noble savage,” many scholars have found evidence helping to discern Indians' possible motivations for alienating certain tracts to their European neighbors over time and for pricing them as they did. As he acknowledges the problematic aspects of these exchanges, Lipman explains that “When we calculate prices in European currency, we erase the Native perspective on what they were ‘actually’ being paid.”⁸² Similarly, thinking only in terms of European gains in land and Indian losses in it makes for a decontextualized and Eurocentric reading of the transfers, one that ignores their essential character of exchange. Exchanges are translations by nature; in the case of Indian land, they were also cross-cultural, and must be read using both Indian and European tenets.

As seen above, some scholars have argued that Indian peoples sold land and sold it cheaply out of desperation—with the potential for European coercion in mind, and because

⁸¹ Lipman, “Buying,” 17.

⁸² *Loc cit.*

of their reduced numbers due to epidemic decimation. While these reasons are undoubtedly valid in some scenarios, they do not constitute all Indian motives behind land transfers in the seventeenth century. As Leavenworth notes, “A framework of collective defeat has been applied by historians only with the benefit of hindsight.”⁸³ In fact, Indians had other reasons for selling as well; one of the most compelling ones is the procurement of a range of what were ultimately short-term gains. Peter A. Thomas, discussing sales to the English in the Connecticut River Valley, believes that

the earliest quitclaims to land...in 1636...stemmed from an attempt by individuals or families to place the English in a position where they would feel an obligation to reciprocate with equally sociable treatment. The “economic” value of the articles received in “payment” may have had far less importance than the social and political relationships which they hoped would develop from the transactions.⁸⁴

He also acknowledges the perceived economic advantages of having Europeans settle nearby at the time, saying that “The presence of a new English town brought a ready market for horticultural produce until the settlers gained...self-sufficiency, as well as a local point of exchange for pelts and Western goods.”⁸⁵

A continuing need and desire for European goods in spite of a shrinking fur trade was also a factor for some peoples. Thomas notes that starting “in the 1650s...land ceased to be a minor supplemental resource in the Indian-English exchange system and became a major replacement item for pelts.” Like furs, land provided access to European trade goods and wampum. It was the answer for “Indian leaders who relied on the fur trade for goods to

⁸³ Leavenworth, 298.

⁸⁴ Peter A. Thomas, “The Fur Trade, Indian Land, and the Need to Define Adequate ‘Environmental’ Parameters,” *Ethnohistory* 28:4 (Fall, 1981): 363.

⁸⁵ *Ibid.*, 371.

bolster their...prestige, or to obtain wampum to foster socio-political alliances between Indian communities, and who depended on this exchange as a mechanism to maintain positive communications with their English neighbors.”⁸⁶ Grumet, however, notes that this desire, though “an important factor,” was “limited and controlled” in the case of Upper Delawarans, as shown by the “measured pace of [their] land sales.” He also adds that “severe paucity of marketable commodities” is not a sale catalyst applicable to these particular peoples, since they had “many sources of income beyond pelts and land.”⁸⁷

Exploration of Indian land valuation has also uncovered other inducements for alienation. Some scholars posit that Indians sold Europeans lands that had depreciated in their estimation. Grumet believes that Munsee Indians may have invested land and goods with value based on their spiritual power, which was itself based on ritual purity. This is opposed to societies that assign “market prices” to it. He asserts that “It is entirely possible that Indians may have regarded places vulnerable to military and microbial assaults, denuded of game, and ruinously close to Europeans as ritually defiled land that had become...mere dirt.”⁸⁸ Staten Island is an example of a piece of land that Europeans clearly considered choice, since they bought it three times before they were finally able to keep it. Local Indians seem not to have agreed, for they christened it “Aquehonga Manacknong, a name that likely meant ‘the place of bad woods.’”⁸⁹ European proximity seems to have been strikingly relevant as well. Though advantageous for trade, excessive closeness to European settlements could

⁸⁶ *Ibid.*, 372.

⁸⁷ Grumet, “Analysis,” 28

⁸⁸ Grumet, *Munsee*, 89 and 90.

⁸⁹ Lipman, “Buying,” 17.

create conflict: Lipman notes that “The Munsees found colonists to be bad neighbors, since [their] free-roaming livestock trampled Native cornfields.”⁹⁰ Grumet himself has found that “Only those lands abutting upon already alienated tracts were sold by Native proprietors,”⁹¹ which implies that European nearness impacted desirability.

Similarly, Indians’ perception and valuation of European goods cannot be dismissed as gullibility. Such an assumption would be disrespectful and inaccurate. Culture provides the ultimate lens for appraisal in any community, no matter how absolute and emotionless the values derived may seem, and it seems that Indian peoples endowed European goods with a lot of value, coming from faraway places and looking as exotic as they did. As Grumet points out, “many sources clearly affirm that Indians considered...European trade goods as spiritually powerful as wampum.”⁹² The cultural difference that produced divergence between Indian and European estimations of the same goods was powerful enough that it is visible in the ways that the two peoples used the items. To a European, a copper kettle was simply an everyday cooking tool, used to heat water and cook, and made of a metal that they did not regard as precious. Indians, on the other hand, cleaved them into pieces that they strung around their necks and wove into clothing for ornamentation and perhaps spiritual power.⁹³ They used them to cook as well, but the alternative use is evidence of a significantly different interpretation occurring, even after Natives had seen the traditional European use of the object. Perhaps, beyond ritual purity, a kettle was special for its foreignness; for its

⁹⁰ *Loc cit.*

⁹¹ Grumet, “Analysis,” 31.

⁹² Grumet, *Munsee*, 90.

⁹³ Diana DiPaolo Loren, *In Contact: Bodies and Spaces in the Sixteenth- and Seventeenth-Century Eastern Woodlands* (Lanham: AltaMira Press, 2008), 23.

possible “alien spirit powers;” or for Indian peoples’ inability to reproduce them because they had not developed metallurgy; or for its endurance over a fire.⁹⁴ Dutchmen and Indian peoples could only hope to trade what would interest the other party, because things are ultimately only worth what someone is willing to give for them at the time. While the reasons for Indians’ interest in certain objects may not have interested eager traders long dead, historians must now consider them in contextualizing and explaining purchase prices of land.

Finally, political advantages (or the potential for them) may also have instigated transactions and influenced pricing. Leavenworth notes that “During the first half-century of English occupation, [lower Merrimack] Indians...[sold] land they thought expendable at the time and for which they secured certain rights of ongoing importance.”⁹⁵ Grumet similarly states that, in signing deeds, Indians sought “legal protection of colonial administrators in peacetime and military protection in times of war.” Selling land helped maintain the political alliances that provided necessary protection from other powers in a world of constantly encroaching boundaries. In return, Europeans secured “the protection of lawful title...[and were shielded] from Indian retribution that would surely follow outright seizure of their lands.”⁹⁶

Though the notion of a level playing field is subjective, it is useful in analyzing early Dutch-indigenous land transfers. But both European and Indian yardsticks must be applied to this analysis if it is to be fair and accurate. These land transactions were, after all, the children of two broad types of cultures coming in contact.

⁹⁴ Grumet, *Munsee*, 90.

⁹⁵ Leavenworth, 299.

⁹⁶ Grumet, *Munsee*, 90.

Dutch-Indian Land Transfers: Legal and Cultural Middle Grounds

This chapter has sought to address the problems of source reliability and cross-cultural equivalency that plague an analysis of the seventeenth-century Dutch-Indian deeds. While exposing their problems, it has aimed to explain why these documents can still provide valid insights on Dutch-Indian relations and land transactions. Regardless of one's opinions about the transactions and their ostensible consequences for the sellers, the extant Dutch-indigenous deeds⁹⁷ signed and marked between 1630 and 1664 show clear signs of a legal and cultural middle ground between Dutch settlers acting in the name of the WIC and the Indian peoples of present-day New York and northern New Jersey.

This middle ground is manifest in a variety of concessions and alterations that both peoples made to their land tenure practices, from the rituals surrounding sales to the realization of their terms and conditions, regardless of either people's designs with the other. Its existence is even more apparent when the deeds are viewed alongside contemporaneous documents that mention Dutch-Indian affairs generally and the transactions themselves. The deeds did not—indeed, could not—represent solely Dutch interests as much as they might have tried. Concessions had to be made for the allies and trading partners of the Dutch, even in writing. But even those deeds that were a bare-bones exchange of goods for land, with no other privileges (like hunting rights) granted to its original owners, show two cultures coming together and responding to one another. An Indian deed was not a traditional Dutch

⁹⁷ An unknown amount of deeds and other related documents may have disappeared over the centuries, and most significantly in the Albany Capitol Fire of 1911, which destroyed much of the New York State Library's (NYSL) collection and left what surviving documents blackened, crumbled, and difficult to read. See the NYSL's website for details on the damage: <http://www.nysl.nysed.gov/mssc/capitolfire/>.

document, though it preserved many of the qualities of one. What is more, the signing of a deed did not equate to the Dutch having the last word over a piece of land. The Dutch and their Indian neighbors were interdependent peoples for different periods of time, and the land transactions between them bear the imprint of those entanglements.

Chapter two will contextualize the seventeenth-century Dutch-Indian land transfers by grounding them with an explanation of the different peoples vying for power in the area. It will introduce the Dutch presence in the area, their colonizing logic and economic orientation, and the formation of the Dutch West India Company. The chapter will also discuss the various Indian peoples—Mohawk/Iroquois, Mahican, Munsee, Susquehannock, Pequot, Ninnimissinuok, and Huron—in the greater region and their general domestic concerns, which undergirded their interests in the Dutch, Swedish, English, and French newcomers and influenced their engagement with them over these decades of cohabitation. Finally, it will explain the beginnings of Dutch permanent settlement in New Netherland as an effort to protect their colonial claims from English usurpation and encroachment. The chapter will also go over Dutch and English territoriality and theories of possession, which culminated in the Dutch's direct acknowledgment of Indian title to the land and began the process of purchase by deed.

Chapter three will describe Dutch and Indian land tenures in detail and analyze the Dutch-Indian deeds, proving that they are evidence of a uniquely bi-cultural land tenure that was conceived by Dutch-indigenous contact and interdependence. Provisions like usufruct rights to land and the promise of military protection written into some deeds shows that they only look Dutch on the surface. In reality, New Netherland Dutch-Indian deeds are unique

documents born of a new world of shared customs and cross-cultural interaction; Indian customs had a major part in creating the rituals surrounding Euro-Indian land purchases and some of the provisos of their written remains. The chapter will analyze the deeds alongside the texts of Dutch-indigenous peace treaties and diplomatic meetings, internal WIC correspondence, and other New Netherland legal documents in order to render these frontier of land sales, trait by trait. These early land sales were points where divergent interests converged, where two very different cultures reached for mutual intelligibility, and where Indian agency and power remained conspicuous even when they were signed after the Dutch had gained a stronger foothold in the area.

CHAPTER II: DUTCH AND INDIAN INTERESTS IN EARLY NEW NETHERLAND

This chapter contextualizes the relationship between the Dutch and their Indian allies/trading partners—the Mohawk/Iroquois, Mahican, Munsee, and Susquehannock peoples—in New Netherland. First, it describes the Dutch impetus for colonization of the Atlantic world and the motives that brought them to New Netherland/eastern Iroquoia/northern Lenapehoking/Mahican country. Then, it introduces the locations, broader culture, economic relationships, and political affairs of pre-Contact Indian groups in what became New Netherland. With this information, it attempts to shed light on Indians' reasons for dealing with the Dutch as they did in the various regions of contact across the colony. Additionally, the chapter traces the development of Anglo-Dutch competition for land in the Northeast, which culminated in the Dutch strategy of permanent settlement and formal purchases of land from Indians to secure their North American claims. It is imperative to understand the differences between Dutch and English imperial logic, conceptions of land ownership, and colonization circumstances that resulted in early Dutch acknowledgement of Native sovereignty. Finally, the Dutch West India Company's decision to commence permanent settlement and the meaning of its charter are analyzed in detail to allow for the proper interpretation of the land transfers that took place.

Beavers and Axes: Early Dutch Presence in New Netherland, 1609-1629

The story of the Dutch in New Netherland begins in 1609, with Henry Hudson's preliminary exploration of his namesake river under the auspices of Dutch East India

Company.⁹⁸ On this journey, he had a range of encounters with indigenous peoples, some friendly and others hostile.⁹⁹ What was very clear by the time he started toward home was that there was a sizable population of natives all along the river willing to trade with newcomers for their practical wares—knives, axes, adzes, awls, copper kettles, mirrors, glass beads, guns, etc.—and that they had very desirable goods to offer in return—animal skins, most notably, though not exclusively, beaver pelts.¹⁰⁰ This early voyage kindled Dutch interest in the area.

In creating an Atlantic empire, the young Dutch Republic was primarily interested in economic gain and in besting the Spanish crown, its religious and economic oppressor until approximately 1572, through piracy.¹⁰¹ Like the English, the new nation found private enterprise in the form of joint-stock companies the most convenient way to fund colonial enterprises. The Dutch had been operating in this way prior to the beginning of their activities in the Mid-Atlantic, having founded the Dutch East India Company (VOC)¹⁰² in 1602 to eliminate competition for the spice trade between private Dutch interests in Asia.¹⁰³ They established “a regular...presence in the Hudson River valley after 1613.”¹⁰⁴ In those earliest years of Dutch-Indian contact, multiple private interests competed for a monopoly over what

⁹⁸ Jacobs, 19.

⁹⁹ Andrew Lipman describes these early encounters in detail in his book, *The Saltwater Frontier: Indians and the Contest for the American Coast* (New Haven: Yale University Press, 2015), chap. 1. See also Jacobs, 21-22; and Susanah Shaw Romney, *New Netherland Connections: Intimate Networks and Atlantic Ties in Seventeenth-Century America* (Chapel Hill: University of North Carolina Press, 2014), 128-130.

¹⁰⁰ David Massell, “The Fur Trade and Métissage,” lecture, North American Indian History from the University of Vermont, Burlington, VT, February 7, 2017. Other furs traded in the Canadian north, which the Dutch-allied Iroquois were the gatekeepers of, included those of the fox, wolf, mink, marten, and lynx.

¹⁰¹ Jacobs, 20.

¹⁰² The Dutch East India Company's Dutch name is “de Vereenigde Oostindische Compagnie,” which translates to “the United East-Indian Company.” For this reason, the common abbreviation of its name is VOC.

¹⁰³ Jacobs, 20 and 28; and Meuwese, *Brothers*, 24.

¹⁰⁴ Parmenter, 18.

they termed the “Indian trade,” which the States General¹⁰⁵ would grant to the strongest company.¹⁰⁶

The WIC was established in 1621 by the State of Holland, “the commercially and politically dominant province” within the United Provinces of the Netherlands. Jaap Jacobs explains that the WIC “was subdivided into five chambers: Amsterdam, Zeeland, Maze, Noorderkwartier, and Stad en Lande.” Each chamber comprised a group of directors, who were elected for six-year terms from among those shareholders who had invested at least 6,000 guilders. The Heren XIX/Lords Nineteen, a kind of company legislature in which each chamber (and the States General) was represented by a quantity of votes according to size and influence, was “its central administration, which was in charge of general policy.” The Amsterdam chamber managed the affairs of New Netherland, because “most of the voyages to [the region] had been organized by Amsterdam merchants.”¹⁰⁷

Though the idea of the WIC had been in the works since 1606, it had been delayed by the Twelve Year Truce with the Spanish from 1609 to 1621. The approach of the Truce’s expiration brought the dormant plan for the company back to the table. It was modeled after

¹⁰⁵ The “Seventeen Provinces,” comprising present-day Belgium and the Netherlands, rebelled against Spanish rule in 1568, due to Roman Catholic religious and mercantilist economic tyranny, beginning the Eighty Years’ War (1568-1648). The southern provinces of what is now Belgium, then called the Southern/Spanish Netherlands, returned to colonial rule in 1585, following the Siege of Antwerp, which was the center of Spanish government in the Low Countries. The northern ones—Holland, Zeeland, Groningen, Friesland, Utrecht, Overijssel, and Gelderland—forged the military Union of Utrecht in 1579 to support one another in the continuing struggle for independence. In 1581, the northern provinces formed a political confederation, the United Provinces, through the Act of Abjuration. The United Provinces’ governing body became the States General. Each province also retained a States-Provincial body that governed at the provincial level.

¹⁰⁶ Jacobs, 23-27

¹⁰⁷ *Ibid.*, 29. For those who are curious, within the Heren XIX, the Amsterdam chamber held eight votes; the Zeeland chamber had four; the Maze, Noorderkwartier, and Stad en Lande ones each had two; and the States General had one, “ensuring that the government’s interests were represented at the highest level with the Company.” *Loc cit.*

the VOC and was to “control all Dutch activities in West Africa and the Americas.” As Mark Meuwese explains, the WIC’s goals were to

extend the soon to be renewed war against Spain to the Atlantic. It was assumed that this would relieve military pressure from the Republic as Spain would be forced to invest heavily in the defense of its Atlantic possessions [which were the source of much of its wealth in the sixteenth and early-seventeenth centuries]. Second, the expected profits from WIC shipping and trade would bring in much needed revenue for the Dutch state so that it could better finance its war against Spain.¹⁰⁸

With this “noble” conception, it is no surprise that the WIC emerged as the victor in the contest for exclusive rights to the fur trade in New Netherland at its birth in 1621. That year, the States General issued it a charter guaranteeing it a twenty-four year monopoly “on trade, shipping, and colonization in a region that included West Africa south of the Tropic of Cancer, the Americas, all islands in the Atlantic, [and]...all islands in the Pacific east of New Guinea.”¹⁰⁹ In New Netherland, however, due chiefly to difficulties raising capital, the monopoly did not become a fact until 1623, when “private merchants brought back their last ships and their personnel from New Netherland or transferred them to the WIC.”¹¹⁰

As the WIC’s seventeenth-century interests in fur, African slaves, salt, and other trades show, the Dutch were most interested in commerce abroad—to fuel their economy, support their young nation, and fund their military efforts against Spain. Early Dutch colonization of the Mid-Atlantic region is expressive of this inclination: “Settlement,” Patricia Seed declares, “occupied a distinctly minor place in [their] efforts in the New World.”¹¹¹ Accordingly, the first Dutch footholds in the region were seasonal, semi-permanent trading

¹⁰⁸ Meuwese, *Brothers*, 24 and 25.

¹⁰⁹ *Ibid.*, 25.

¹¹⁰ Jacobs, 29-30 and 30.

¹¹¹ Patricia Seed, *Ceremonies of Possession in Europe’s Conquest of the New World, 1492-1640* (Cambridge; New York: Cambridge University Press, 1995), 177.

posts, rather than the permanent agricultural settlements of their English neighbors in southern New England.¹¹² In 1614, with permission from the Mahican Indians,¹¹³ Fort Nassau, a shoddy fortified trading post, was built by the pre-WIC Van Tweehuysen Company¹¹⁴ on Castle Island in the Hudson River to facilitate trade with Mahicans and Mohawks. Though it is considered the first permanent Dutch settlement in North America, Fort Nassau was little more than a trading post with year-round attendants. The fort was abandoned in 1617 due to frequent flooding and was swiftly reclaimed by nature.¹¹⁵

Interest in “planting” a true colony of agricultural settlements was virtually non-existent in the early years of the WIC as well. Though there was what Jacobs has termed a “colonization faction” within the Amsterdam chamber, it was outweighed by “the trade faction,” which thought “that the investment needed to establish an agricultural colony would be far too great.” The preference for “a small colony sufficient to protect the trading interests” underlay early WIC policy.¹¹⁶ The low rates of Dutch emigration did not counteract this disinclination. Unlike the English, who were experiencing a depressed market with high levels of unemployment and poverty, Netherlanders were entering the Dutch Golden Age in the early seventeenth century. When the WIC did become more invested in “true” colonization later, the low numbers of Dutch settlers contributed to the creation of

¹¹² Meuwese, *Brothers*, 231; Siminoff, 36-37; and Buccini, 15.

¹¹³ Meuwese, *Brothers*, 118; and Midtrød, *Memory*, 62.

¹¹⁴ The Fort was probably built by Adriaen Block and his crew, who were exploring and conducting trade under the Van Tweekhuysen Compagnie/Company. See Jacobs, 22-23.

¹¹⁵ “Fort Nassau,” under “Albany Region,” in “A Tour of New Netherland,” the New Netherland Institute, accessed 23 February 2017, <http://www.newnetherlandinstitute.org/history-and-heritage/digital-exhibitions/a-tour-of-new-netherland/albany/fort-nassau/>; and Richter, 89; Meuwese, *Brothers*, 118-121; Trigger, 279; and Dunn, 72-75.

¹¹⁶ Jacobs, 28 and 31.

communities of relatively wide ethnic diversity, as Sephardic Jews, Walloons, French Huguenots, Englishmen, Scotchmen, and others fled from religious persecution and financial death in their homelands.¹¹⁷

In 1624, the WIC established a permanent fort/trading post, called Fort Orange, at the upper end of the Hudson River, “leasing” the land from Indians for the duration of official Bastiaen Jansen Crol’s stay in the area.¹¹⁸ The settlement of Beverwijck (“Beaver-District”), established in 1652 and renamed Albany after the English takeover of the colony, developed around it with permanent Dutch settlement later on.¹¹⁹ In 1626, the WIC purchased Manhattan Island from its indigenous residents and built Fort Amsterdam there, which served as a defensive structure, a permanent trading post, and the capital of New Netherland.¹²⁰ The settlement of New Amsterdam (later, New York) sprouted up around it

¹¹⁷ Joyce D. Goodfriend, *Before the Melting Pot: Society and Culture in Colonial New York City, 1664-1730* (Princeton: Princeton University Press, 1992), 10, 16-17, and chap. 1.

¹¹⁸ Meuwese, *Brothers*, 257; and Contact for the sale of land to Kiliaen van Rensselaer,” deed, 6 August 1630, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 23-24.

¹¹⁹ Cantwell and Wall, 325.

¹²⁰ Jacobs, 31. Note: On the eastern bank of the Delaware River, the WIC also established Fort Nassau (not to be confused with its 1614 predecessor on the Hudson River) in the 1620s. There is uncertainty about the exact year of Fort Nassau’s erection, with 1623 and 1627 given as the earliest and latest dates in sources, respectively. Fort Nassau was located on the southern fringe of New Netherland’s claim boundaries and its location was not ideal for fur trading with Lenapes and Susquehannocks, since “the richest fur-trapping area was on the west side of the [Delaware] river.” There is also disagreement on when the Fort was abandoned. Mark Meuwese believes that it became a semi-permanent trading post after the WIC ordered all settlements to remove to Manhattan Island for safety in 1626. This region is not very important to this thesis, since the concentration of settlement on Manhattan Island after 1626; the Fort’s bad location for trade; the competing Swedish claim to the area from nearby Fort Christina beginning in 1638; and the draw of the northern settlements in the Esopus and Rensselaerswijck regions mostly kept Dutch settlement north of Manhattan Island. See “Fort Nassau,” under “Delaware,” in “A Tour of New Netherland,” the New Netherland Institute, accessed 23 February 2017, <http://www.newnetherlandinstitute.org/history-and-heritage/digital-exhibitions/a-tour-of-new-netherland/delaware/fort-nassau/>; “Albany Region Overview,” under “Albany Region,” in “A Tour of New Netherland,” accessed 23 February 2017, <http://www.newnetherlandinstitute.org/history-and-heritage/digital-exhibitions/a-tour-of-new-netherland/albany/>; “Fort Christina,” under “Delaware,” in “A Tour of New Netherland,” accessed 23 February 2017, <http://www.newnetherlandinstitute.org/history-and-heritage/digital-exhibitions/a-tour-of-new->

and was “incorporated” in 1653 with the establishment of a court.¹²¹ Fort Orange and Fort Amsterdam were early manifestations of a change in Dutch strategy and intentions in New Netherland from a sporadic, mercantile presence to the continuing, occupationally diversified one of settlement: in 1624, the year of the former’s establishment, the WIC sent its first boatload of prospective settlers to the colony.¹²²

Brothers of the Swanneken¹²³: Indian Peoples of the Seventeenth-Century Hudson and Upper Delaware Valleys

The Dutch mainly associated with four peoples in New Netherland. In the upper Hudson Valley, they dealt with the Mohawks and the Mahicans. The Mohawks were the powerful easternmost nation of the Iroquois League of Five Nations, which included, from east to west, the Iroquoian language-speaking Mohawk, Oneida, Onondaga, Cayuga, and Seneca peoples. The Mohawks lived along the Mohawk River and on the upper reaches of the Hudson River.¹²⁴ The Mahicans lived to the southeast of the Mohawks, on the upper half of the Hudson River, and spoke Mahican, an Algonquian language.¹²⁵ In the lower Hudson

[netherland/delaware/fort-christina/](#); and Meuwese, *Brothers*, 275-276. For reference the Esopus region is the rich farming country between present-day Albany and New York City, which was the domain of the Esopus Munsees.

¹²¹ Cantwell and Wall, 325; and Jacobs, 93.

¹²² Meuwese, *Brothers*, 230-231 and Jacobs, 30.

¹²³ Indians referred to the Dutch as “Swanneken,” which meant “People of the Salt Water.” See Reginald McMahon, “The Achter Col Colony on the Hackensack,” *New Jersey History* 89:4 (1971), 233.

¹²⁴ Jon Parmenter, “The Iroquois World, 1534-1634,” map, in *The Edge of the Woods: Iroquoia, 1534-1701*, Jon Parmenter (East Lansing: Michigan State University Press, 2010), 5.

¹²⁵ Robert S. Grumet, “Munsee Country in the Northeast,” map, in *The Munsee Indians: A History*, Robert S. Grumet (Norman: University of Oklahoma Press, 2009), 11; Jon Parmenter, “The Iroquois World, 1534-1634,” map, in *The Edge of the Woods: Iroquoia, 1534-1701*, Jon Parmenter (East Lansing: Michigan State University Press, 2010), 5; William A. Starna, “Map 2. The Core of Mahican Country, 1600-1700. After Huey, ‘Mahicans, the Dutch, and the Schodack Islands,’” map, in *From Homeland to New Land: A History of the Mahican Indians, 1600-1830*, William A. Starna (Lincoln: University of Nebraska Press, 2013), 7; Starna, *Homeland*, 38-43; and Dunn, 46 and 49.

Valley, on western Long Island, and in the upper Delaware Valley, the Dutch dealt with various distinct Munsee bands who were not organized into an overarching polity, as the Iroquois were. These small groups included the Mannhattans, Hackensacks, Canarsees, Raritans, Esopus, and others. These peoples spoke the Munsee dialect of the Delaware language, which is also an Algonquian language.¹²⁶ In this southern area, the Dutch also encountered the powerful Susquehannocks, who lived inland from the upper Delaware River, on the Susquehanna River, and who were Iroquoian-language speakers.¹²⁷ Each of these groups had its own intentions with regard to the newcomers that were inspired by political/military and economic needs.

¹²⁶ Kraft, 9-10; Otto, 4-5; Grumet, *Munsee*, 3 and 9; Robert S. Grumet, "Map 1. The Munsee Homeland," map, and "Map 2. Munsee Country in the Northeast," map, in *The Munsee Indians: A History*, Robert S. Grumet (Norman: University of Oklahoma Press, 2009), 5 and 11; Paul Otto, "Map 1: The Dutch-Munsee Frontier," map, and "Map 2: Munsee Bands in the Early Seventeenth Century," map, in *The Dutch Munsee Encounter in America: The Struggle for Sovereignty in the Hudson Valley*, Paul Otto (New York: Berghahn Books, 2006), 3 and 5.

¹²⁷ Robert S. Grumet, "Map 2. Munsee Country in the Northeast," map, in *The Munsee Indians: A History*, Robert S. Grumet (Norman: University of Oklahoma Press, 2009), 11; Mark Meuwese, "Map 4. New Netherland, 1609-1664," map, in *Brothers in Arms, Partners in Trade: Dutch-Indigenous Alliances in the Atlantic World, 1595-1674*, Mark Meuwese (Leiden: Brill, 2012), 229; and Meuwese, *Brothers*, 275-276 and 281. Note: Beginning in 1626, the Dutch also dealt with a fifth Indian polity, the powerful Pequots of coastal New England, who spoke the Algonquian Mohegan-Pequot language and lived south of Cape Cod in what is now eastern Connecticut. The Pequots gained ascendancy in southern New England after they (and the Narragansetts to the east) survived the 1617-1619 smallpox epidemic, which weakened Ninnimissinuok peoples in present-day Massachusetts. According to Mark Meuwese, in the 1620s, the Pequots secured European goods by supplying the Dutch with large quantities of wampum. The Pequots fulfilled "the increasing Dutch demand for wampum by subjugating neighbouring peoples on both sides of Long Island Sound [and, by 1628, in the middle Connecticut Valley,]" and extracting wampum tributes from them. The Dutch would trade the wampum to upper Hudson Valley peoples who had more access to furs. The Dutch reportedly sent Wouter van Twiller to buy some land from the Pequots and to establish Fort Good Hope on the Connecticut River in 1633 to defend its colonial claims there from the English. But relations between the two groups soured after 1633, beginning with the Dutch insistence on using Fort Good Hope to trade indiscriminately with all local Native groups. The Pequot had wanted exclusive rights to the Dutch trade. By 1638, the Pequot War between the English and the Pequots had dispersed the once consequential people, and with them the Dutch claim to southern New England. See Faren R. Siminoff, "Tribal territories about 1630. Most of the modern towns were established after 1630," map, in *Crossing the Sound: The Rise of Atlantic-American Communities in Seventeenth-Century Eastern Long Island*, Faren R. Siminoff (New York: New York University Press, 2004), before front matter; Siminoff, 26; and Mark P. Meuwese, "The Dutch Connection: New Netherland, the Pequots, and the Puritans in Southern New England, 1620-1638," *Early American Studies* 9:2 (2011): 299, 308-309, 311, 313-323.

In general, these peoples sought trade—access to European goods considered valuable for their rarity and convenience in daily life—and political alliances with the Dutch to strengthen their relative positions in the area. Writing on the “elusive intimacy” that characterized Dutch-indigenous relations in general, Susanah Shaw Romney explains that “Despite the questionable behavior and odd ways of these outsiders, Mohawks, Mahicans, Munsees, and Algonquian Long Islanders made them welcome, often choosing to tolerate their presence...in their own attempts to solidify trading partnerships.”¹²⁸ The Susquehannocks are a case in point. Mark Meuwese writes:

The WIC’s neglect of the South [Delaware] River region was a great disappointment for the Susquehannocks...Since [they] eagerly wanted access to European trade goods, they frequently clashed with the numerous [Munsee-] or Unami-speaking Algonquian communities who controlled the South River Valley. In 1626, a Susquehannock delegation...even visited the newly established WIC headquarters at Manhattan to establish a trade alliance.¹²⁹

Due to “the refusal of the WIC to invest in a permanent presence” in the area, the Susquehannocks ended up allying with the Swedes, who had established a colony on the ill-guarded Dutch-claim border in 1638.¹³⁰ Shortly after the Dutch conquest of New Sweden in 1655, the Susquehannocks and their Munsee allies launched a surprise attack on New Amsterdam, initiating the short Peach War. Meuwese—along with Cynthia J. Van Zandt and others—thinks that “the attack was orchestrated...to prevent their Swedish allies from being

¹²⁸ Romney, 138.

¹²⁹ Meuwese, *Brothers*, 275-276.

¹³⁰ Meuwese, *Brothers*, 277-279. Note: New Sweden was a private venture funded by the New Sweden Company, a private company made up of Swedish and Dutch investors. The latter were mostly “disgruntled former WIC investors,” led by Peter Minuit, the most bitter of them all, while the former were patriotic Swedes trying to bring the declining northern kingdom into “modernity” and global fame. Stuyvesant invaded and reconquered the territory for the Dutch in 1655. See Mark L. Thompson, *The Contest for the Delaware Valley: Allegiance, Identity, and Empire in the Seventeenth Century* (Baton Rouge: Louisiana State University Press, 2013), chap. 2; and Meuwese, *Brothers*, 278. For more on New Sweden, consult Thompson’s excellent book.

defeated.”¹³¹ Though Meuwese is right to say that this was in part due to Susquehannock distrust of the Dutch, who were allied with their Iroquois enemies, the fact that the under-provisioned Swedes, whose supply ships did not even make an annual appearance in the Delaware Bay,¹³² traded with them more regularly may have been a factor in their decision to retaliate.

In a new world of European technology, groups who lacked a European trading partner were potentially vulnerable to attack by better-equipped peoples. Juxtaposing the Franco-Huron-Montagnais-Algonquin alliance with the Dutch-Iroquois one, historian Colin G. Calloway explains that, though “skilled archers...could fire arrows accurately and in rapid succession,” “guns [nevertheless] brought supremacy over unarmed neighbors, and a tribe needed guns to survive.”¹³³ In addition, such groups were at risk of losing economic ground, since they were more disconnected from what had become valued commodities in Indian trade networks and might also have less bargaining power with inland peoples for that reason. Before the 1610s, for example, the Iroquois themselves received small quantities of European goods indirectly through Indian peoples connected to the French. These goods, moreover, “were...already reworked by Indian craftspeople when they arrived in the Five

¹³¹ Meuwese, *Brothers*, 280-281; and Cynthia J. Van Zandt, *Brothers among Nations: The Pursuit of Intercultural Alliances in Early America, 1580-1660* (New York: Oxford University Press, 2008), 181-185.

¹³² To maintain an alliance with the Susquehannocks, the Swedes were forced to purchase trade goods from the English to barter for Susquehannock furs and protection. See Meuwese, *Brothers*, 279-280; and Van Zandt, 182.

¹³³ Colin G. Calloway, *First Peoples: A Documentary Survey of American Indian History*, 4th ed., 2012, (Boston: Bedford/St. Martin's, 1999), 96-97. Calloway notes that “Many ethnohistorians question the degree to which Indian people became immediately dependent on European firearms [due to their unreliability when compared to a trained archer's skill] and are reassessing the long-held belief that Iroquois warfare in [the seventeenth century] became driven by the pelts-for-guns trade. The Iroquois continued to wage wars for traditional reasons—to secure honor, revenge, and captives—even as they fought in a world of new economic threats and opportunities.” *Loc cit*.

Nations,” for better or worse. The Iroquois also held less wealth in wampum at that time, since the French did not have access to it. The “semiregular Dutch presence on the upper Hudson,” Iroquois scholar Daniel K. Richter notes, “made European goods vastly more plentiful...[and] more items now arrived [in Iroquoia] intact.”¹³⁴

Trade also brought social influence and cohesion, both within groups and outside them, because it provided necessary new materials for ritualistic gift-exchanges. Gift-giving was a manifestation of reciprocity, a fundamental tenet of Native societies. Writing on Amerindian diplomacy in the colonial Hudson Valley, Tom Arne Midtrød asserts that “Reciprocal [gift] exchanges permeated all levels of Native society”— marriages, births, burials, religious feasts, and sometimes even ordinary meals.¹³⁵ These exchanges were not simply about egalitarianism or kindness; they represented communal responsibility, which brought people together and ensured the survival of their community. As Midtrød explains,

Refusing to give or share was a fundamentally antisocial act, tantamount to denying the existence or significance of social ties. Spurning proffered gifts...[was a denial] of reciprocal obligations, a threatening gesture in a social order built...on mutual obligations. The obligation to give and the obligation to reciprocate ensured that the flow of exchange never ceased, tying societies together.¹³⁶

In a society that relied on constant exchange to maintain harmony and cohesion, an increase in trade meant that there were more opportunities to build and strengthen relationships.

¹³⁴ Otto, 67; Richter, 76 and 79; Trigger, 279.

¹³⁵ Midtrød, *Memory*, 38. The eastern James Bay Cree, for example, would put offerings of meat into the fire for their deities at feasts and other special occasions, like when an animal that had not been caught in sometime was eaten, and sometimes more frequently. See Adrian Tanner, *Bringing Home Animals: Religious Ideology and Mode of Production of the Mistassini Cree Hunters* (St. John's, Newfoundland: Institute of Social and Economic Research, Memorial University of Newfoundland, 1979), 160-161.

¹³⁶ Midtrød, *Memory*, 38.

Within a group, a sachem¹³⁷ could be more generous with his people, distributing more goods to them if trade was fruitful. This increased his political influence, “perhaps as a way of repaying [his] compatriots for [his] leadership positions, or as a way of exercising control by putting their people under obligation in return for chiefly generosity.” Midtrød argues that this practice of giving and redistributing goods was, in fact, a requirement of the sachemship, and one that was “virtually universal in Native America.”¹³⁸ Outside a group, European goods could be given as tactful “tokens of peace to potential enemies.”¹³⁹ Indeed, “diplomatic gifts” were a well-entrenched part of “the system of giving that existed at all levels of Native society and culture,” without which harmonious foreign relations could not exist.¹⁴⁰ Analyzing the fur trade between English colonists and Indians in the Connecticut Valley, Peter S. Thomas argues that “trade goods, useful in their own right, were also means to an end; and a multiplicity of transactions surrounding distribution of such items provided avenues for intro- and inter-societal integration. From a transactional viewpoint, [they] functioned at multiple levels among segmentary tribes.”¹⁴¹ Matthew Dennis agrees, writing that “for...the Iroquois and other Indians...trade was not the motivation for alliance so much as its by-product; exchange functioned symbolically as well as materially to cement alliances between friends and kinspeople.”¹⁴²

Trade with the newcomers also provided better access to wampum, which was a requisite for enacting diplomacy and holding political meetings between nations, in addition

¹³⁷ The term “sachem” refers to an Indian chief.

¹³⁸ Midtrød, *Memory*, 38.

¹³⁹ Thomas, 360.

¹⁴⁰ Midtrød, *Memory*, 37 and 39.

¹⁴¹ Thomas, 360 and 363.

¹⁴² Dennis, 132.

to having spiritual significance.¹⁴³ Wampum given after making a statement was akin to formally giving one's word, or perhaps signing a document. Midtrød explains that "Wampum served as accreditation for messengers, a pledge of fidelity at treaties and agreements, and as a record or mnemonic device." It could also be used for a host of other purposes, including as ransom for captives, compensation for a murder, tribute by subordinate groups, bribes, and wagers.¹⁴⁴ Writing about Iroquois council meetings, Daniel K. Richter aptly describes the Indian logic underlying wampum's function: "words alone were merely words... 'true' words were always accompanied by presents of symbolically charged or economically valuable items... [and] the gift and the word... [were] inseparable."¹⁴⁵ In time, wampum also came to be valued and used as money by Europeans in New England and New Netherland, since they saw what it meant to indigenous peoples. Cantwell and Wall note that "the Dutch and other Europeans in the northeast[,] who found themselves short of coins[,]...used the shell beads to pay rents and fines, buy bread and other foodstuffs, and put in church collection plates."¹⁴⁶

According to Lois Scozzari, the shells from which wampum was made are found chiefly off Long Island Sound and no further north than Cape Cod. Notwithstanding this, peoples much further north and inland, like the Mahicans and the Iroquois and their tributaries in the Connecticut Valley, used wampum extensively.¹⁴⁷ Scozzari notes that the Dutch arrival in the area initiated the flow of large quantities of the valued shell beads to inland New York. This was part of what has been called the triangle trade: the Dutch traded

¹⁴³ Cantwell, 331.

¹⁴⁴ Midtrød, *Memory*, 36; Scozzari, 60-61; and Meuwese "Dutch," 298-299.

¹⁴⁵ Richter, 47.

¹⁴⁶ Cantwell and Wall, 333. See also Meuwese, "Dutch," 307-308.

¹⁴⁷ Scozzari, 59-60; and Thomas, 363.

European goods to the coastal southern New England Pequots and other groups on the northern shore of Long Island for wampum. Sewant¹⁴⁸ and European goods were then traded to the Iroquois and Mahicans to the northwest for furs, which were in turn sent back to the Netherlands for more trade goods.¹⁴⁹

The Dutch desire for wampum “in very large quantities and in standardized shapes for tribute or trade” altered the rhythms of Native life in the zone of wampum production. Munsee peoples of Long Island and nearby coastal regions “began making [wampum] according to Dutch specifications and with [the] European metal awls” that they had introduced, which were more efficient. Coastal Munsee life in southern New Netherland became organized around wampum manufacture for the Dutch trade. European interest and wampum’s new plenitude due to the new technology also changed its own role within Indian cultures. Previously rare since they were very laborious to manufacture, the beads gained more significance in “Native economic, social, and spiritual life.”¹⁵⁰

From the Mohawks’ and Mahicans’ perspective, the Dutch provided a direct link to the chief region of wampum manufacture. Faren R. Siminoff maintains that the initial trade of European good for Indian furs, in fact, “met with [only] moderate success” and that “prior to 1622, the annual fur shipments to Holland never rose above 1500 pelts.” This had put the New Netherland colony and the Dutch fur trade “on the verge of financial collapse.”

¹⁴⁸ The Dutch called wampum “sewant” (also, “zewant”), the Algonquian name for the shell beads. See Janny Venema, *Beverwijk: A Dutch Village on the American Frontier, 1652-1664* (Albany: SUNY Press, 2003), 157.

¹⁴⁹ Scozzari, 63 and 64; Cantwell and Wall, 331-332; Meuwese, “Dutch,” 308-309; and Venema, 157.

¹⁵⁰ Cantwell and Wall, 332 and 333; and Venema, 157.

After the Dutch were introduced to “the intricacies and use of wampum,” however, trade increased. Unbelievably, annual shipments rose to 10000 pelts before 1630.¹⁵¹

The Mohawks’ desire to be the sole benefiter from this connection, and from the Dutch trade in general, led the Iroquois to attempt to control the flow of furs from the northern interior by waging war on their competitors. Access to Dutch trade and the most valuable commodities that it provided the Iroquois—guns and wampum—led them to wage war on the Mahicans in the 1620s. The war ended in 1628, when the Mohawks finally “[drove the Mahicans]...back to the east side of the [Hudson] River...gaining control of the area around Fort Orange.”¹⁵² Bruce G. Trigger provides the Mohawk perspective on the conflict, writing that,

There was always the danger that if hostilities should break out, the Mohawk would once again find themselves cut off from European goods. Under these circumstances, the Mohawk appear to have decided that their best strategy would be to drive the Mahicans from the Hudson Valley and, by taking control of the river, to compel the Dutch traders, who were few in number, to make an alliance with them on their own terms. In this way the Mohawk could assure that trade with the Dutch would not be interrupted and also prevent [them] from making alliances with potential enemies to the north.¹⁵³

The desire to control trade with the Dutch led the Iroquois to do the same thing with the Hurons in 1649. They defeated both groups and successfully “dispersed and destroyed [the] confederacy” of the once-prosperous Hurons.¹⁵⁴ Further south, historian Amy C. Schutt writes that “Competition related to the rise of the fur trade sparked conflict between conflict

¹⁵¹ Siminoff, 38-39.

¹⁵² Venema, 39.

¹⁵³ Trigger, 278-279.

¹⁵⁴ Calloway, 97 and 98.

between Delaware Valley...[Munsees] and Susquehannocks in the seventeenth century...[though] this hostility does not appear to have been of long duration.”¹⁵⁵

In addition to trade and its numerous social benefits, indigenous nations sought political alliances with European ones in order to strengthen their position in the intricate web of rival alliances that had lined the Northeast for a long time on European arrival. Jason R. Sellers states that, “Native Americans sought to integrate the newcomers into their existing network of social relations and a physical landscape that manifested those relations.”¹⁵⁶ This was attempted through trade itself and the integration of the newcomers into their societies as fictive kin, another recurring theme in Native societies.

“Trade,” Richter asserts, “was a function of diplomacy.”¹⁵⁷ It acted as a cementer of political alliances because it was essentially a gift-exchange, carrying the expectation and obligations of reciprocity to both receivers in the transaction. When economic trade occurred between members of two different nations, Indian or European, a ritual gift-exchange was also occurring that bound not only those individuals but their respective nations together in allegiance. But these were not one-off affairs: relations had to be maintained and renewed. Studying the Munsee and Unami Delaware Indians, historian Amy C. Schutt emphasizes that “trade in goods involved the maintenance of relationships between peoples and included expectations of [pure] gift giving...Trade joined diplomacy to reinforce connections between Algonquians and Europeans.”¹⁵⁸

¹⁵⁵ Schutt, 9 and 51-55.

¹⁵⁶ Jason R. Sellers, “History, Memory, and the Indian Struggle for Autonomy in the Seventeenth-Century Hudson Valley,” *Early American Studies* (summer, 2015): 714.

¹⁵⁷ Richter, 48. See also pages 47-49.

¹⁵⁸ Schutt, 57.

Europeans did not always understand the implications of trade. Not only did they “[distinguish] between commercial and diplomatic exchanges,” two things that did not exist in isolation in Indian societies, but in the case of the Dutch, there was a strong desire for no-strings-attached, heavily profit-driven trade.¹⁵⁹ But in Indian cultures, exchange of goods committed trading partners and peoples to supporting one another in matters beyond business. It was, Paul Otto declares, “a step toward building intertribal alliances,” and indigenous peoples, Schutt agrees, “created both loose and formal alliances with their regular trading partners.”¹⁶⁰ In the end, the Dutch in northern New Netherland found themselves forced to enter into a full-fledged political alliance with the Iroquois to keep them as clients and friendly neighbors.¹⁶¹ Indeed, they did not have any other option. Studying Euro-Indian relations across the eastern seaboard, Cynthia J. Van Zandt argues:

Intercultural alliances in seventeenth-century North America were fundamentally based on an Indian logic rather than a European one. Europeans often struggled against that framework; they usually misunderstood aspects of it, but they were forced time and...again to follow its dictates at least partially, and they did.¹⁶²

Additionally, alliances with Indian nations were not quite the same as unions with European ones. Though they required the “mutual [military] aid and protection” customary in European political alliances, they also surpassed those standards: Indian polities expected their allies to act as mediators in their political conflicts with other nations and to provide materially for them in times of need, expecting little in return until circumstances had

¹⁵⁹ Midtrød, *Memory*, 65; and Dennis, 163 and 175. Also, Richter, 48-49.

¹⁶⁰ Otto, 61; and Schutt, 57.

¹⁶¹ Dennis, 163 and 175.

¹⁶² Van Zandt, 15. See also Midtrød, *Memory*, 75-77.

improved. Alliances, Matthew Dennis stresses, demanded “spiritual and emotional as well as material support.”¹⁶³

The Dutch-Iroquois alliance was no different, and was “based on reciprocity, mutual obligation, and kinship, which the Five Nations demanded.”¹⁶⁴ The Iroquois called on the Dutch to fulfil their duties in these capacities. Below are some demands that they made at a conference in 1659:

8 They say and request that the smith, when they have no money, shall nevertheless repair their goods, regardless of whether they have much or little seawan. [They] Give thereupon one beaver and a string of seawan...

10 They say, when we come from the country, even if the guns are repaired, we have no powder. You must therefore give us some powder and if the enemy should come, you will not care to help us...let us have only 50 or 60 men for assistance. [They] Give thereupon two beavers.

11 He says that he has two sons taken prisoner by the French...They trust that they will yet be released and request that the Dutch will bring them back and that they would do the same for us. Give thereupon two beavers...

13 They...request that we shall go there with 30 men and horses to cut and draw wood for their castles to repair them...Give thereupon a beaver coat and one beaver.

15 They say finally, you need not give us anything in return. They thereupon give one beaver.¹⁶⁵

This excerpt shows the extent of commitment that political allies were expected to show one another. Material assistance was expected from an ally as a matter of course, as was mediation in conflicts—not just in wartime, but to recover hostages and other adjustments in its wake. A generous ritual gift accompanied each request in a show of reciprocity and diplomatic affection. These presents were gathered and pooled by the whole community in advance of diplomatic meetings and, as such, represented not only the word of a sachem but “the

¹⁶³ Dennis, 169-170; and Midtrød, *Memory*, 65.

¹⁶⁴ Dennis, 163.

¹⁶⁵ Conferences with the Mohawks at Fort Orange and Kaghnuwage, 6, 8, 16, and 24 September 1659, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, 1985), 190-191.

consent of the kin and followers who had banded together to produce them.”¹⁶⁶ But the most striking remark is the last one: the Mohawks did not expect gifts in return. Though this may have meant that they did not expect diplomatic gifts in return for the ones that they had just given the Dutch, more likely it meant that they did not expect a superfluity of gifts. Indians expected reciprocity and not an unequal relationship of free favors. They were requesting only what they would themselves do for the Dutch at a moment’s notice. It should be clarified that despite trade’s unique place in Indian societies pricing did indeed concern Indians, just not for economic reasons. Steep prices were the mark of a poor ally, of a relationship that was ungenerous because it was not balanced.¹⁶⁷

Calling Europeans “brothers” and treating them as kin was another means of forging alliances with them, and one that “appears to have been almost universal in Native America,” according to Tom Arne Midtrød.¹⁶⁸ As Andrew Lipman explains, the use of kinship terms in referring to the newcomers “was no mere sentimental affectation but a firm agreement of mutual accountability.”¹⁶⁹ It attempted to assimilate them into a preexisting network of reciprocal support and shared obligation that began with the base unit of Native society, the family, and extended from subgroups/villages within a nation to allied nations.¹⁷⁰ Midtrød declares that “Making outsiders kin was a primary way of making them friends and allies. Once related by marriage and kinship, people belonging to different groups were bound by

¹⁶⁶ Richter, 47 and 48.

¹⁶⁷ Dennis, 175.

¹⁶⁸ Midtrød, *Memory*, 29

¹⁶⁹ Lipman, *Saltwater*, 36. Also Midtrød, *Memory*, 29-31; and Janny Venema, *Beverwijck: A Dutch Village on the American Frontier, 1652-1664* (Albany: SUNY Press, 2003), 164.

¹⁷⁰ Midtrød, *Memory*, 24, 29-31, 39, 62-64, and 65-67; Lipman, *Saltwater*, 36; Van Zandt, 13 and 69-71; Dennis, 132 and 175; and Schutt, 57.

reciprocal obligation to one another.”¹⁷¹ To establish a partnership, the Powhatans of the Chesapeake attempted to integrate the Jamestown colonists as fictive kin, which would ideally lead to the creation of literal kin, as it did with the marriage of Pocahontas and John Rolfe.¹⁷² The formation of fictive kinship ties was also used in an attempt to integrate whole peoples politically, as additions to confederacies. As Matthew Dennis states, “the Five Nations traded in order to acquire the Netherlanders as kinsmen and maintain peace and prosperity in their new world,” but they also sought “to naturalize outsiders in their greater Longhouse.”¹⁷³ The Iroquoian desire to absorb other peoples has imperialistic trappings, but it was also a strategy for preserving peace. There could be no intertribal conflict between peoples who had become one politically, and, to some extent, culturally.¹⁷⁴

Each indigenous people had enemies against which a political alliance was welcome. The Iroquois were enemies of the Mahicans, Susquehannocks, and other groups in the lower Hudson and upper Delaware Valleys, in addition to the Hurons, Eries, Neutrals, Wendats, and other Algonquian Great Lakes peoples to the west. Just as the Huron allied with the French for support against the Iroquois, Sellers notes that “The Iroquois...and the Mohawks in particular, seem to have constituted the primary threat against which Hudson Valley Indians posed themselves and Europeans as allies.”¹⁷⁵ The powerful Iroquois themselves

¹⁷¹ Midtrød, *Memory*, 24.

¹⁷² Van Zandt, 69-71.

¹⁷³ Dennis, 175, 155, and 179; and Rine, 712.

¹⁷⁴ Dennis, 115. Note: The Iroquois nations retained distinct cultural and political identities within the Confederacy. The League was never meant to be a complete amalgamation of peoples.

¹⁷⁵ Sellers, 738.

looked on the Dutch as a potential “sixth nation,” over which they could extend the rafters of the metaphorical longhouse to create an even more powerful military alliance of nations.¹⁷⁶

Later, these same early motivations—trade and the related formation of political alliances—would also encourage Native peoples to sell land to the Dutch.¹⁷⁷ New European settlements nearby were convenient for Native peoples in the early Contact period. They provided access to trade goods, a market for their own goods, and were also seen as helpful in effecting the eventual integration of Europeans as kin and allies in Indian networks. For example, the Dutch bought a tract of land on the Connecticut River from the Pequots in 1633 and built Fort Good Hope on it to protect their southern New England claims from the English. Mark Meuwese rightly notes that “The Pequots did not consider the small number of Dutch traders and soldiers a threat, but rather a guarantee of a constant flow of trade goods.”¹⁷⁸ For the Iroquois, on the other hand, “the establishment of new European settlements...conveniently situated and bound into a larger Iroquois longhouse by ties of friendship, reciprocity, and even kinship was consistent with the vision and historical experience of the Five Nations.”¹⁷⁹

Land could also be used more directly in the name of diplomacy: Siminoff notes that eastern Long Island Natives traditionally exchanged or used land “to cement political ties and concurrent obligations...to fashion...lasting and satisfactory client/protectorate relationship[s.]” Their deed to the English in 1640 was nothing more than another instance

¹⁷⁶ Van Zandt, 13; and Dennis, 110, 115, 152, 154-155, and 175.

¹⁷⁷ Thomas, 363 and 371.

¹⁷⁸ Meuwese, “Dutch,” 311. See also Thomas, 371.

¹⁷⁹ Dennis, 152.

of this type of land use, creating mutual obligation and bringing the English physically close to them for a tighter union.¹⁸⁰ Studying the effects of land sales on Wampanoag sachemships in New England, David Silverman agrees, maintaining that, “acquiring manufactured goods in exchange for land simultaneously strengthened [sachems’] relations with the English, while displaying and circulating the goods allowed them to consolidate and extend influence at home.”¹⁸¹ Finally, land itself could be traded to continue to effect the trade that was the lifeblood of alliances and to acquire European goods themselves. For the Munsees of southern New Netherland, whose beaver populations were quickly exhausted by the fur trade, land replaced the beaver as the primary article of trade, with wampum and food being secondary trade items.¹⁸² Trading land provided the European goods they had come to like and depend on, and also helped retain the Dutch as allies, since it gave Munsees something of value that they could reciprocate with.

The problems would begin to arise when the short-term advantages of alienation of land began to have direct, long-term consequences. A little trading post or even a small village might not be a hindrance nearby, but that was very different from large-scale settlement or a swath of European farms coming increasingly closer to Indian towns, corn fields, and hunting grounds. The kind of proximity that the latter entailed was a breeding ground for neighborly strife, apart from the fact that Indians may not have expected or ever been interested in that

¹⁸⁰ Siminoff, 117-118.

¹⁸¹ David Silverman, “‘Natural inhabitants, time out of Mind’: Sachem Rights and the Struggle for Wampanoag Land in Colonial New England,” *Northeast Anthropology* 70 (2005): 3.

¹⁸² Otto, 97 and 99; and William A. Starna, “American Indian Villages to Dutch Farms: The Settling of Settled Lands in the Hudson Valley,” in *Dutch New York: The Roots of Hudson Valley Culture*, ed. Roger Panetta (New York: Hudson River Museum/Fordham University Press, 2009), 83. Anglo-Indian land sales developed similarly in the Connecticut Valley. See Thomas, 372.

kind of European land use and presence when they sold land to them. The Esopus Munsee scenario is a case in point. The Esopus sold land to the Dutch in the hopes of gaining their trade. They never imagined that the Dutch would make full use of the land in the form of permanent agricultural settlements. When they finally realized it, they attacked the newer agricultural settlements in protest, setting off the string of Esopus Wars, which they ultimately lost. Holly Anne Rine briefly summarizes the conflict:

The Esopus Indians...sold land...to the Dutch, which opened the way for the initial arrival of Dutch settlers in their neighborhood in 1652. Esopus resistance to Dutch agricultural expansion later in the decade indicates that the [they] were interested in Dutch trade rather than Dutch agriculture. A Dutch presence in the area provided them with easier access to Dutch trade on the Hudson, reducing the interference from Mohawks near Fort Orange and other Munsees at New Amsterdam as well as bringing the Dutch into established Esopus trade networks. A Dutch trading post did not hinder Esopus land use for fishing, hunting, and agriculture, but could even strengthen their economic and diplomatic standing in relation to their neighbors. By 1652, however, the WIC intended to use the land for farming and establishing a settlement colony, not trade.¹⁸³

Like other cross-cultural misunderstandings, misalignment in “expectant land-use practices” between the Dutch and Indian created conflict, but that does not mean that efforts to bridge these lacunae were not made. The two groups accommodated one another to the extent that the logic behind their desires and actions was mutually intelligible, and, of course, to the extent that they had something to gain from the bond. The deeds to be discussed in the next chapter are a clear instance of this mutual effort, irrespective of how things turned out for Northeastern indigenous peoples in the end.

English Territoriality and the Beginnings of Permanent Dutch Settlement

¹⁸³ Rine, 714.

As noted earlier, the WIC was not much interested in permanent agricultural settlement in New Netherland. In spite of their trade orientation, the Dutch still claimed New Netherland as a colony, and the WIC had indeed received a charter from the States General. This charter allowed the WIC to use and possess unoccupied land directly or such land as could be purchased from the area's indigenous inhabitants by granting it the authority "to make contracts, leagues and alliances with the princes and natives of the countries therein comprised."¹⁸⁴ The WIC seems to have followed these directions wherever they established a settlement, as the land purchases and the lack of conflict with Native peoples in this early period shows.¹⁸⁵ Much of what the Dutch claimed as New Netherland against the English and French powers on either side of them, however, was only thinly settled by the Dutch, and most of it was Indian land under exaggerated, wishful claim boundaries. As Cantwell and Wall explain, "All the Dutch settlements were surrounded by Indian country—Beverwijck and Rensselaerswijck by Mahican settlements, with Mohawk settlements just to the west; New Amsterdam by Munsee groups; and New Amstel [est. 1655 after the Dutch conquest of New Sweden] by different Algonquian and Iroquoian groups."¹⁸⁶ Not surprisingly, the weak

¹⁸⁴ Charter of the West India Company, 3 June 1621, in *New York State Library Van Rensselaer Bowier Manuscripts, Being the Letters of Kiliaen van Rensselaer, 1630-1643, and Other Documents Relating to the Colony of Rensselaerswyck*, ed. and trans. A. J. F. Van Laer (Albany: University of the State of New York [Press], 1908), (Albany: University of the State of New York [Press], 1908), 91.

¹⁸⁵ Even before the earliest deeds and the mention of Manhattan Island's purchase in 1629 in correspondence records, it seems certain that the Dutch paid Indians for land on which they built their forts and probably sealed the purchases with less formal oral agreements and other rituals, as other Europeans did. The land that Fort Orange, established in 1624, and that preceding semi-permanent trading posts were built on were probably purchased in that manner. See Cantwell and Wall, 319; and Leavenworth, 290 and 291.

¹⁸⁶ Cantwell and Wall, 328. For information on New Amstel, see "New Amstel," under "Delaware," in "A Tour of New Netherland," the New Netherland Institute, accessed 17 February 2017, www.newnetherlandinstitute.org/history-and-heritage/digital-exhibitions/a-tour-of-new-netherland/delaware/new-amstel/.

foothold of the Dutch quickly caught the attention of the English to the east in southern New England, who began to contest Dutch claims.

The English were drawn to the eastern fringe of the Dutch colonial claim. This area comprised the fertile Connecticut Valley of western Massachusetts and Connecticut. The Dutch claim to this land was nominal at best, unsubstantiated by Dutch settlement as it was.¹⁸⁷ The land was and is some of the most fertile in New England and great for subsistence family farming, which was the goal of early-seventeenth-century Puritan communities. It was also right in the path of the English progression westward and up the river from present-day Connecticut as land became expensive and scarce in coastal New England.¹⁸⁸ They were also drawn to Long Island, which they quickly colonized and effectively claimed the eastern portion of after winning the Pequot War in 1638.¹⁸⁹ The victory over the Pequots, Faren R. Siminoff explains, gave the English “a sense of legal entitlement [by conquest in war] to all of Connecticut and to the islands in the Long Island sound, home to many former Pequot tributaries.”¹⁹⁰ Long Island was attractive for its abundance of land, but it was equally important as a source of wampum. The Dutch feared English Plymouth Colony’s usurpation of the area, and rightfully so, since whoever controlled the supply wampum effectively controlled trade in the Northeast. “Access to clam banks” for wampum production, Andrew Lipman concludes, was a “major factor in regional politics.”¹⁹¹

¹⁸⁷ Cantwell and Wall, 321; and Siminoff, 41-47.

¹⁸⁸ Siminoff, 41-47.

¹⁸⁹ See Siminoff, chap. 4, for a good account of how the English “crossed the Sound” and settled eastern Long Island in spite of Dutch and Ninnimissinuok (Long Island East End peoples) claims. To learn more about the Ninnimissinuok, who were Algonquian Mohegan-Pequot-speakers linguistically related to the Pequots, see Siminoff, chap. 1.

¹⁹⁰ Siminoff, 97-98.

¹⁹¹ *Ibid.*, 38-41; and Lipman, *Saltwater*, 111-112.

The English strategy for usurping Dutch-claimed land was to invalidate their claims on theoretical grounds and then to confidently encroach. The English tried to claim the land by “peopling and planting” it and through other “rituals, ceremonies, and symbolic acts of possession.”¹⁹² The most important rationale, however, was the idea of *vacuum domicilium*, which attempted to invalidate first Indian, and later Dutch, title to the land.¹⁹³ Under this theory, the English alleged a right to the land because it was uninhabited and thus unclaimed land. English principles of land use were the logic underwriting this theory. Even though Indian peoples had clear territorial boundaries, erected organized villages, kept land set aside for tillage, and kept swaths of groomed forest as game preserves, the lack of fenced plots and the prevalence of so-called forest “wilderness” gave it the appearance of being “unimproved” by English standards. To them, settlement required “the erection...of permanent structures and fields for agriculture and residential living,” as well as the enclosure of the land with fences. It also required a population of reasonable size. As Faren R. Siminoff notes, though, “English settlers applied this litmus test...not only to indigenous peoples but to all groups...This explains...[their] disregard for Dutch claims to areas in southern New England and their grudging acknowledgement of...[their] claim to the western portion of Long Island and to Manhattan Island.”¹⁹⁴ Sabine Klein agrees, writing that since “the Indians and the Dutch were interested only in trade and not the land...neither...had the right to the territory

¹⁹² Seed, 3 and chap. 1; and Siminoff, 36.

¹⁹³ Sabine Klein, “‘They Have Invaded the Whole River’: Boundary Negotiations in Anglo-Dutch Colonial Discourse,” *Early American Studies* 9:2 (spring, 2011): 343-344.

¹⁹⁴ Siminoff, 36-38; and Seed, 32-33, chap. 1, 170-173, and 176-177.

they claimed...Moreover, because they failed to use the land in a civilized manner, the Dutch presence, like the Indian presence, could be overlooked.”¹⁹⁵

Some of the English also asserted that only Christians could hold legal title to land. Indian peoples, whose animistic religions made them pagan infidels in Christian eyes, could not. This idea was bolstered by the English belief that Indian peoples were nomads and thus barbarians. In reality, Indian peoples in the northeastern woodlands lived in semi-permanent villages, moving every 20 or 30 years to allow the land to lie fallow and regain its fertility. The same practice was used to preserve the game population of hunting reserves. Nevertheless, the connection between non-Christians and barbarianism existed intact regardless of settlement patterns. Indigenous peoples purportedly living in a “state of nature” held only a natural right to their land (and only to as much as they could “properly” use), if any, and that right was inferior to that of the peoples that the Christian god had ordered to multiply and settle the earth, who needed more room for their glorious, divinely ordained expansion.¹⁹⁶

The Dutch defended their claims through opposing theories. “Discovery” of a region before other Christian nations and the use of it to conduct trade, Siminoff explains, “created a sufficient nexus for the assertion of a valid claim against all other Christian nations.”¹⁹⁷ The most significant strategy to this thesis is their recognition of indigenous land rights, which led them to purchase land from indigenous peoples and claim it against the English by formally transferred legal title.¹⁹⁸ The Dutch had more than blatant self-interest in mind when they

¹⁹⁵ Klein, 344.

¹⁹⁶ Jeffrey Glover, *Paper Sovereigns: Anglo-Native Treaties and the Law of Nations, 1604-1664* (Philadelphia: University of Pennsylvania Press, 2014), 192-193 and 206.F

¹⁹⁷ Siminoff, 35-36; and Seed, 154-158, 170-178, and chap. 5.

¹⁹⁸ Siminoff, 110-111.

chose to strike out in this way. According to Meuwese, the Dutch may have felt a moral desire to adopt a fairer colonization strategy than that of the Spanish, which had become infamous in Europe. Though other imperial powers, including the English themselves, also had comparative ethics in mind, this may have been a more personal goal for the Dutch who had a bitterly intertwined history with the Spanish. They may have situated themselves and Amerindian peoples as common victims of Spanish oppression.¹⁹⁹

There is also the powerful reason of palpable Indian sovereignty itself. The Dutch were arguably faced with more powerful Indian nations than the English. The latter landed on the southern New England coast, which had been extensively depopulated by a smallpox epidemic just prior to their arrival. Though peoples like the Pequot and Wampanoag still held considerable influence in the area until it was broken in the Pequot (1637-38) and King Philip's Wars (1675-76), respectively, population loss had weakened them substantially, which is what had led them to seek alliances with the English in the first place.²⁰⁰ Whatever their motives, the Dutch reasoned that Indians, as the land's original inhabitants, were its legal owners, and initiated the practice of purchasing land from Indians through written deeds.²⁰¹

With this legal battle in play, the WIC incorporated permanent settlement into its agenda, seeing that their claims would be subject to violation if they did not establish a presence throughout New Netherland. It "reserve[d] to itself the island of the Manhattes,"

¹⁹⁹ Meuwese, *Brothers*, 233-235.

²⁰⁰ David Massell, "North American Invasions," lecture, North American Indian History from the University of Vermont, Burlington, VT, January 24, 2017; and Calloway, chap. 2.

²⁰¹ Siminoff, 110-111; and Klein, 332.

to parcel out to settlers at will, and it established the patroonship system of colonization through its publication of the *Charter of Freedoms and Exemptions* on June 7, 1629. This system allowed for the establishment of private patroonships by large WIC investors. These were intended to be feudal manors similar to Lord Baltimore's Maryland Colony to the south. The patroonships would allow the Company to people New Netherland more evenly, protecting its claims, since patroons were held "to plant there a colony of 50 souls, upwards of 15 years old, within the space of four years... on pain, in case of wilful neglect, of being deprived of the privileges obtained."²⁰²

The colonization strategy also took some of the responsibility for governing settlers away from the Company, since the patroons had to "furnish [their colonies] with proper instructions in order that they may be ruled and governed conformably to the rule of [Dutch] government." Better still, the patroons would very conveniently provide the additional financial backing for these costly colonies. The WIC would allow them to use their ships to transport settlers and goods, but they would have to pay for the full passage of the former. To transport the necessaries for planting a settlement, patroons would pay,

five per cent cash of the[ir] cost...without including herein, however, cattle and agricultural implements, which the Company is to carry over free, if there is room in its ships, provided that the patroons, at their own expense, fit up places for the cattle and furnish everything necessary for their support.

In return, patroons got to hold valuable lands in "perpetual fief of inheritance," having "only" to pay a one-time property tax of 20 guilders. They were also permitted "to trade

²⁰² Charter of Freedoms and Exemptions, 7 June 1629, in *New York State Library Van Rensselaer Bowier Manuscripts, Being the Letters of Kiliaen van Rensselaer, 1630-1643, and Other Documents Relating to the Colony of Rensselaerswyck*, ed. and trans. A. J. F. Van Laer (Albany: University of the State of New York [Press], 1908), 139.

their goods [and] products of that country, for all sorts of merchandise that may be had there,” though the avaricious WIC discouraged them from pursuing the most lucrative business, the fur trade. Patroons could trade for “anything” except

beavers...and all sorts of peltry, which trade alone the Company reserves to itself. But permission for even this trade is granted [only] at places where the Company has no agent, on the condition that such traders must bring all the peltry they may be able to secure to the island of the Manhattes...[and] may pay to the Company one guilder for each merchantable beaver and otter skin; the cost, insurance and all other expenses to remain at the charge of the patroons or owners.

This last provision proved very problematic since it denied everyone but the Company an opportunity for commercial success (beyond agriculture, of course, which paled in comparison to the fur trade). It was finally annulled with the release of the revised *Charter of Freedoms and Exemptions* in 1640, in which the WIC surrendered its monopoly and “became an administrative institution, fulfilling the role of government.”²⁰³

Though the patroonship system was short-lived, with most of the sub-colonies coming to naught,²⁰⁴ its most important contribution to Dutch-indigenous relations survived

²⁰³ Charter of Freedoms and Exemptions, 7 June 1629, in *New York State Library Van Rensselaer Bowier Manuscripts, Being the Letters of Kiliaen van Rensselaer, 1630-1643, and Other Documents Relating to the Colony of Rensselaerswyck*, ed. and trans. A. J. F. Van Laer (Albany: University of the State of New York [Press], 1908), (Albany: University of the State of New York [Press], 1908), 141, 143, 145, and 147; Cantwell and Wall, 321; and Jacobs, 76. Kiliaen van Rensselaer, patroon of Rensselaerswijck, the longest-lived patroonship in the colony, was one of the many patroons who fought the Company on these market restrictions. See Jacobs, 70-73.

²⁰⁴ Cantwell and Wall, 321; and Jacobs, 70. Swanendael was founded on the Delaware Bay in 1630 by Samuel Godyn and some investors, who thought it would bring profits through whaling. All the settlers were murdered in an Indian attack within a year, and the colony was bought by the WIC in 1635. Michiel Paauw founded Pavonia, in northern New Jersey, across the Hudson from Manhattan, in 1630. It suffered from isolation due to the impassibility of the Palisades. Paauw sold it to the WIC in 1635 for its lack of success. The other attempted ventures did not even make it as far as settlement. The 1640 revised Charter of Freedoms and Exemptions encouraged new attempts at patroonships: Staten Eylandt, founded by Cornelis Melijn in 1641 and dispersed after the Peach War of 1655; Colendonck, founded by Adriaen van der Donck in 1646 and abandoned after his death in 1655; and the Achter Kol patroonship, also founded in 1641 by Meyndert Meyndertsz, and attacked and destroyed by Indians in 1643. This last colony had also suffered from the impediment of the Palisades. The WIC stopped issuing patroonships and bought back struggling Staten Eylandt in 1659. See Jacobs, 70 and 72-73; and McMahan, 222, 225, and 232-240; Evan Haefeli, “New Jersey in 1658:

it. In its charter, the WIC required prospective patroons settling beyond Manhattan Island to seek out the rightful owners of the lands they sought and “to satisfy the Indians of that place for [it].” This requirement was doubtless problematic; it acknowledged Indian title, but simultaneously situated Indian lands within unfounded Dutch colonial claim boundaries. This paradox creates an impression of the WIC as having placed sovereign Indian territory on the rank of a private citizen’s estate while the Company boldly assumed an overarching gubernatorial title to it. Rule VIII enhances this impression: it allowed the patroons to “use all lands, rivers and woods lying contiguous to them, until such time as they are taken possession of by this Company, other patroons, or private persons.” It seems to assume that seemingly unsold land around the WIC was theirs for subsequent development. Rule XXII similarly gave private persons the “rights of hunting, as well by water as by land, in common with others in public woods and rivers” *outside* of their colonies.²⁰⁵

This interpretation assumes, however, that the Company did not buy that land in addition to the patroonship terrain. James Warren Springer, looking at legal aspects of Indians’ land ownership in colonial New England, in fact, maintains that “There is very little to suggest that the colonists regarded the charters as giving them full ownership rights over the land. Indeed, the importance of negotiating with the Indians for any lands that they claimed within the area of the patent was emphasized from the very beginning.” He explains

A Quaker Witness to a Little-Known Corner of New Netherland,” paper presented at the 39th Annual Conference of the New Netherland Institute, From Pavonia to the Garden State: New Jersey’s Dutch Past, New Brunswick, NJ, 22-24 September 2016.

²⁰⁵ Charter of Freedoms and Exemptions, 7 June 1629, in *New York State Library Van Rensselaer Bowier Manuscripts, Being the Letters of Kiliaen van Rensselaer, 1630-1643, and Other Documents Relating to the Colony of Rensselaerswyck*, ed. and trans. A. J. F. Van Laer (Albany: University of the State of New York [Press], 1908), (Albany: University of the State of New York [Press], 1908), 141, 149, and 151.

that English royal charters “neither recognized nor denied [Indian rights in the land],” saying that they perceived it as giving them “the right to exercise political authority over the territory and to demand submission from the Indians in exchange for protection,” a common exchange in the European monarchal world. The land itself either had to be “vacant” or settled “on invitation from the Indians.”²⁰⁶

Though the line between ruling a people and owning their territory is a very fine one that eventually vanishes, Springer’s point about the English colonizers’ expressed need to negotiate for the land holds significant weight and can be applied to the Dutch scenario in early New Netherland. It does not seem logical that the WIC would have bothered to purchase any lands if their claims been exact equivalents of ownership/possession of title. In that vein, it does not make sense that they would purchase a patroonship plot and not the land around it, the unauthorized use of which would have created the trade-stagnating conflict that they wished to avoid. The States General’s 1666 *Charter of the West India Company*, like other European charters, seems to have been something akin to obtaining their government’s blessing to attempt profitable economic activity and settlement where possible, by dealing with indigenous inhabitants directly. It was also something to wave at European rivals with a similar culture and that held no weight before the reality of Native political sovereignty and military might.

To that effect, the WIC’s charter specifically allowed for it “to promote the settlement of fertile and *uninhabited* districts” and “to make contracts, leagues and alliances with the

²⁰⁶ James Warren Springer, “American Indians and the Law of Real Property in Colonial New England,” *The American Journal of Legal History*, 30:1 (Jan., 1986): 32.

princes and natives of the countries therein comprised,” which the lawful transfer of land falls under.²⁰⁷ Though one could still question what “uninhabited” meant to the Dutch, we have seen that it did not mean non-Christian settlement, as it did to some of the English. With a careful reading of the document, it becomes clear that the WIC’s original charter acknowledged indigenous title and that the charter itself was not meant to hollow out or extirpate this title. Indeed, it could do no such thing given the reality of Indian dominance. The later 1629 *Charter of Freedoms and Exemptions*’ stipulation that Indians be paid for prospective patroonship land, however, struck new ground by explicitly recognizing Indian title in writing. Emerging amid English encroachment on Dutch claims, this conspicuous recognition of Indian sovereignty was the progenitor of the Indian deeds analyzed in this study and of the legal middle ground that developed around land sales.

²⁰⁷ Charter of the West India Company, 3 June 1621, in *New York State Library Van Rensselaer Bowier Manuscripts, Being the Letters of Kiliaen van Rensselaer, 1630-1643, and Other Documents Relating to the Colony of Rensselaerswyck*, ed. and trans. A. J. F. Van Laer (Albany: University of the State of New York [Press], 1908), (Albany: University of the State of New York [Press], 1908), 91. Emphasis mine.

CHAPTER III: DUTCH-INDIAN DEEDS, 1630-1664: A FLEXIBLE WORLD

This chapter argues that the existing deeds documenting seventeenth-century sales of Indian land to the Dutch show evidence of a legal middle ground in their language, stipulations, indirect depictions of the ritualistic transfer event, and in the variety of agreements that is discernible when they are analyzed as a free-standing group of documents. The Dutch-Indian deeds portray the Dutch broadly recognizing Indian social and political customs and electing to abide by them to an extent, regardless of the particular balance of political/military power in each region of the colony. The decision to plant a colony in the Hudson Valley and western Long Island areas made flexibility paramount to everyday peace and beneficial military agreements for both parties. Dutch customs could not hold exclusive sway over how land sales were transacted in a multicultural new world. Instead the two parties, Indian and Dutch, had to meet halfway, combining cultural notions and legal practices into a new standard practice. The surviving land agreements contain qualities of both Dutch and Indian land tenures and are unique to the Dutch-Indian colonial frontier.

This *métissage*²⁰⁸ of traditions is a common result of Euro-Indian and cross-cultural contact in general. Analyzing Anglo- and Dutch-indigenous diplomacy side-by-side, Cynthia J. Van Zandt writes:

As people from different cultures worked to live with one another and...use one another for mutual advantage, the associations they formed took on a logic of their own. The reasons for intercultural agreements led European leaders to do things they would not otherwise have done, often with considerable internal dissent and anxiety...it [also] led Native Americans to...try to accommodate the European

²⁰⁸ “*Métissage*” refers to the blending of traditions and culture that commonly occurred on Euro-Indian frontiers of interaction.

newcomers' persistent inability to fulfill their proper role as understood by their Indian partners.²⁰⁹

The Dutch-Indian land deals exhibit precisely this mixture of mutual accommodation, without which alliances and collaboration would not have been possible. Each party tried to nudge the other toward doing what they thought was customary and proper in matters of land use, co-use, lease, and alienation. In order to discern the middle ground at work in the seventeenth-century Dutch-Indian land transactions, the individual land tenures of both cultures will be examined briefly, followed by the analysis of the transactions themselves.

Buying the Land: Dutch Land Tenure and Transplantation to New Netherland

In the Dutch world of credits, debits, and interdependence through agreements, land was an alienable commodity. It could be permanently owned, bought, and sold by individuals, and its ownership changed only through explicit sale to or bestowal on another. Land also “constituted part of an investment portfolio.”²¹⁰ Writing on Dutch-Iroquois relations, Matthew Dennis explains that “New Netherlanders valued land and real property not for the status that it might convey [as their English neighbors did,] but for the commercial opportunities it might promote.”²¹¹ These included using the land for farming or ranching; erecting a tavern, shop, or other trade business on it; leasing it for income; selling it at a profit outright, and even using it “as collateral for credit.”²¹²

But Dutch land tenure also had a communal dimension: Cantwell and Wall note that “At home in the Netherlands, farmers for the most part still practiced the open-field system,

²⁰⁹ Van Zandt, 15.

²¹⁰ Dennis, 152.

²¹¹ *Loc cit.*

²¹² Martha Dickinson Shattuck, “A Civil Society: Court and Community in Beverwijck, New Netherland, 1652-1664,” (PhD diss., Boston University, 1993), 115.

with herders tending livestock that grazed on common land in the warmer months but were sheltered in barns in the winter.” Individual plots were enclosed by dikes or trenches in the Netherlands and by wooden fences in New Netherland, where timber was plentiful. This was done to keep crops from being eaten or otherwise destroyed by the free-ranging livestock.²¹³

The system of land use was similar in New Netherland. Once a New Netherlander had been granted a lot in Beverwijck or at Manhattan they were required to fence it in and build on it “within a short time,” (specifically six weeks in Beverwijck) “on pain of being deprived of [it].”²¹⁴ This rule had a precedent in the Fatherland, Hoorn being an example of a town with the same rule; however, it also had colonial antecedents. For one thing, the WIC granted land to encourage settlement, as has been noted, and it would not tolerate colonists hoarding land without settling or otherwise developing it. Secondly, as the two main centers of Dutch settlement budded, land was limited due to the large size of the typical Company grant, which was about 50 morgens (approximately 100 acres) in New Amsterdam, and the WIC’s finite holdings in each region: New Amsterdam was on an island and Beverwijck was hemmed in by the Hudson River and the Rensselaerswijck patroonship.²¹⁵ Moreover, settlement beyond those bounds could not be attempted until the WIC had purchased more land from Indians. Janny Venema notes that the laws on building and fencing in a timely

²¹³ Cantwell and Wall, 327.

²¹⁴ Venema, 56 and 63.

²¹⁵ *Ibid.*, 56; and Jacobs, 119. In 1652, Petrus Stuyvesant, director general of New Netherland, “declared the area within two hundred and fifty Rijnland rods” of Fort Orange, which included Beverwijck, “under the jurisdiction of the WIC.” To the dismay of Kiliaen van Rensselaer and Brant Aertsz van Slichtenhorst, the director of Rensselaerswijck, the prosperous trade settlement was irrevocably snatched from the patroonship; “years of fruitless litigation” never achieved its recovery. See Jacobs, 74; and Venema, 49-53, who provides a colorful rendition of Stuyvesant’s seizure of the settlement.

manner were enforced because “other people desired to build and scarcely [sic] could find a spot on which a house could conveniently be built.”²¹⁶

If a Dutch colonist followed the rules and fenced their plot in a timely manner, Venema explains that, “The area within the fenced-in space [became] the private domain of the owner,” to do with as s/he pleased. “A fence,” she stresses, also “marked the public domain,” which was owned by either the Company or the patroon, depending on where one lived.²¹⁷ As in the Netherlands, cattle wandered freely in the public domain, in keeping with the open-field tradition. Frequent conflicts with neighboring Indians, who did not fence their fields and accordingly had their crops eaten or spoiled by meandering hogs, attest to this.

The Dutch had long formalized the process of land acquisition with written legal documentation before a district judge to help ensure that the participants in a transfer would not go back on their word and that there was dependable material for a lawsuit if they did. As Martha Dickinson Shattuck, a historian of New Netherlandish law, explains, Dutch society was organized by a legal system that “was based on written instruments which provided evidence for anything that might be called into dispute, or which made legal certain acts.” Beyond that, it was uniquely strict, even among European societies, in that “oral contracts were extremely rare” and normally required at least two witnesses “to be upheld in court.”²¹⁸ “Formal written authorization” was a fundamental component of legality in Dutch society, and it held much more weight than oral contracts or physical acts.²¹⁹

²¹⁶ Venema, 56.

²¹⁷ *Ibid.*, 63.

²¹⁸ Shattuck, 57 and 58; Otto, 96; and Seed, 170-171.

²¹⁹ Seed, 168-173.

In the seventeenth century, the Netherlands operated under Roman-Dutch law, “a jurisprudence that combined the laws and ordinances of the Netherlands, the privileges of custom and usage, canon law,²²⁰ and Roman civil law.”²²¹ This legal system had its origins in the Middle Ages, when the Netherlands were “a group of individual states, each governed by a count or a duke, who received his land from the [Holy Roman] emperor to whom he owed his fealty.” The system had respected the extensive local laws developed over many centuries through negotiation with a town’s lord, which “were jealously guarded by the people.” While such laws were practical for the towns in which they had originated, however, Shattuck notes that “their local nature was of little help in a growing urban society whose commerce extended across provinces and throughout Europe.” Consequently, jurists would often seek recourse to Roman law to decide complex cases.²²²

The fifteenth and sixteenth centuries saw “a series of centralizing ordinances” through which the House of Burgundy (and the Habsburgs who succeeded it in control of the Netherlands)²²³ “regularized the laws and...promoted Roman law as the common law²²⁴ of the Netherlands,” seeking to establish legal uniformity in the region. These ordinances

²²⁰ Canon law is “ecclesiastical law,” or “the usual codified law governing a church.” See “canon law,” Google.com, accessed 2 March 2017, https://www.google.com/webhp?sourceid=chrome-instant&rlz=1C1EJFA_enUS710US710&ion=1&espv=2&ie=UTF-8#q=what+is+canon+law&* and “Canon Law,” Merriam-Webster.com, accessed March 2, 2017. <https://www.merriam-webster.com/dictionary/canon-law>.

²²¹ Shattuck, 23-24.

²²² *Ibid.*, 24-25.

²²³ The House of Burgundy controlled the Netherlands from 1381 to 1482, followed by the House of Habsburg from 1482 to 1581 (and by the Spanish Habsburgs/Spanish Empire specifically beginning in 1556). During both these periods, the region was a part of the Holy Roman Empire. As explained earlier, the northern Netherlands began the struggle for independence in the late-sixteenth century, eventually becoming the Dutch Republic. Though the provinces of the Netherlands were supposed to be independent of one another, the personal unions of the duke and counts in control led to new ordinances having sway over much of the region.

²²⁴ Not to be confused with the common-law tradition. Continental Europe developed civil law, as this brief legal history of the Netherlands demonstrates.

succeeded in codifying Roman law and “assimilated many of the provincial laws.” The transformation culminated in the “the Political Ordinance of April 1, 1580, issued by the States of Holland,” which “enacted thirty-seven articles” regarding “marriage, succession, sales, leases, mortgages, and registration and fees” and finally annulled contradictory provincial laws, which had created confusion and, allegedly, opportunities for fraud. According to Shattuck, “These laws and their subsequent revisions and ordinances, governed the Netherlands in 1621, when the States General chartered the [WIC] as a joint-stock trading company.”²²⁵

New Netherland’s legal system was intended to be a near-replica of the Netherlands’ from the very beginning. The second set of instructions sent to Willem Verhulst, the second director general of the colony, on April 22, 1625, specifically commanded that “In the administration of justice, in matters concerning marriages, the settlement of estates, and contracts, the ordinances and customs of Holland and Zeeland and the common written law qualifying them shall be observed and obeyed.”²²⁶ In addition, the colony was bound by Amsterdam’s “municipal ordinances,” since it was the Amsterdam chamber of the WIC that was in charge of New Netherland.²²⁷ Being a place with its own unique circumstances, such as “the complex relationship with the Indians or the mundane but vexing problem of roaming

²²⁵ Shattuck, 25-26.

²²⁶ “Further Instructions for Director Willem Verhulst and the Council of New Netherland,” 25 April 1625, in *Documents Relating to New Netherland, 1624-1626 in the Henry E. Huntington Library*, ed. and trans. A.J.F. Van Laer (San Marino, CA: Henry E. Huntington Library, 1924), accessed 2 March 2017, <http://www.rootsweb.ancestry.com/~nycoloni/huntdocc.html>; and Shattuck, 26-29. Shattuck painstakingly goes through the first directions regarding law given to Verhulst and all of those following it that continually strove to keep New Netherland law identical to that of the Netherlands. Note how instructions on how to craft a colonial society do not predate Verhulst’s tenure, since the WIC did not actually decide to settle the region until that year, focusing instead on establishing a permanent trade, as has been explained.

²²⁷ Shattuck, 29.

hogs,” New Netherland naturally needed additional laws of its own. These decrees could not contradict Dutch law in the Fatherland and the director general had to run prospective ordinances by the WIC’s Amsterdam chamber “for approval before they were enacted.” Shattuck notes that “in actual practice [orders] were enacted and then sent,” since communication was slow and the impromptu problems of colonial life needed immediate solutions.²²⁸

Though its law was similar, New Netherland’s government diverged from that of its parent society. According to Shattuck, the difference was that New Netherland “had a strong central government dedicated to preserving the rights of the [WIC].” Since the colony was a private venture, the director and Council of New Netherland were appointed by the Company in the Netherlands with no electoral process, towns were not represented in the government, and “the Council alone determined the scope of the local courts,” with New Netherlanders having “no [right of] appeal...beyond the colonial council.”²²⁹ Back home in the Netherlands, the government was very decentralized, and “authority ran from the lower to the higher governing bodies,” with the States General handling only “subjects of war or peace...[and having] supreme control over overseas possessions.” Issues that the States General could not come to a decision on went back down the line to the provincial assemblies and then to the town governments until a solution was found.²³⁰

In New Netherland, land was first purchased from Indian proprietors by the WIC, either in its own name or on behalf of patroons. The newly purchased land was then patented

²²⁸ *Ibid.*, 29-30, 32.

²²⁹ *Ibid.*, 62.

²³⁰ *Ibid.*, 61 and 61-62.

off to colonists by the Director General and Council, or by their patroonship's government, depending on the jurisdiction that they were settling in. Settlers could then buy and sell plots among themselves as they saw fit, transferring them via written deeds. Sometimes, the WIC would also issue a patent to the new owner of the vended plot. Janny Venema notes that in Beverwijk, "the process of buying and selling lots...started at once," leading to many splits of the original lots into smaller subsections.²³¹

Once a Dutch person had made up their mind to sell a lot, "conditions of sale" were sometimes registered stipulating the condition of the property upon transferal and acceptable forms of payment. This was most common with properties that were being sold at auctions. These pre-sale documents were meant to shield all parties involved in a transaction from the sudden pitfalls of vague language. For example, on October 27, 1654, Abraham Staets put his house and lot up for bid at a public auction; his conditions were that

the payment shall be made in whole, good beavers in three installments, the first installment being a just third part within the space of one month from the date of this, precisely, without any exceptions...within which time the aforesaid house and garden shall be able [to be] occupied by the buyer on the aforesaid conditions. The second installment within one year from now; and the third and final installment the year thereafter or precisely within two years; for which payments the buyer shall be obligated according to the terms of auction to furnish sufficient surety to the satisfaction of the seller. Auction fees will be charged to the buyer alone; and in case the winning bidder and buyer as aforesaid is not immediately able to furnish sufficient surety, then the aforesaid house shall be reauctioned at that winning bidder's charges and costs ...and whatever less is comes to be worth, he shall make up the difference and pay himself.²³²

²³¹ Venema, 56. Also, Shattuck, 12.

²³² Conditions for the Sale of the House and Lot of Abraham Staets, 27 October 1654, in *Fort Orange Records, 1654-1679*, ed. and trans. Charles T. Gehring and Janny Venema (Syracuse: Syracuse University Press/The Holland Society of New York, 2009), 14-15.

That same year, Willem Beeckman put his farm up for auction. He also wanted payment in installments of beavers, but he promised to include “two cows and two draft oxen” with his farm for the lucky buyer.²³³

Once a buyer had been found, a contract of sale was signed that transferred the property to the buyer. This contract explicitly described the house and/or lot and whatever appurtenances were (or were not) included with it, and iterated the final payment agreement that the parties had settled on. In 1639, Anthony Jansen and Barent Dircksen signed such an agreement for Jansen’s farm near Fort Amsterdam. In it, they agreed that

First, said Anthony Jansen shall deliver...to Barent Dircksz...who also acknowledges that he has bought and this day received from said Anthony, the land as it is sowed and fenced, the house and barn, together with all that is fastened by earth and nail, except the cherry, peach and all other trees standing on said land, which said Anthony reserved for himself and will remove at a suitable time; one stallion of two years, one ditto of one year, one wagon, one plow and one harrow with wooden teeth.

For all of which Barent Dircksz shall pay to said Anthony Jansen the sum of fifteen hundred and seventy guilders, to be paid in two consecutive years: immediately after the receipt of what is above written he, Barent Dircksz, shall pay to Anthony Jansen, or his order, one just fourth part of the aforesaid money, and six months after the date hereof the second fourth part, and so on one fourth part every half year, until the last payment inclusive.²³⁴

Most importantly, the contract bound the parties and made them legally responsible to one another should something go wrong: “For all of which the parties bind their persons and properties, movable and immovable, present and future, without any exception, under

²³³ Conditions for the Sale of the Farm of Willem Beeckman, 27 August 1654, in *Fort Orange Records, 1654-1679*, ed. and trans. Charles T. Gehring and Janny Venema (Syracuse: Syracuse University Press/The Holland Society of New York, 2009), 15.

²³⁴ Contract of sale from Anthony Jansen to Barent Dircksen of a farm near Fort Amsterdam, 7 May 1639, in *New York Historical Manuscripts: Dutch*, vol. I, *Register of the Provincial Secretary, 1638-1642*, ed. and trans. A. J. F. Van Laer (Baltimore: Genealogical Publishing Co., Inc./The Holland Society of New York, 1974), 143-144.

binding obligation as by law provided.”²³⁵ Though the buyer began to administer the property and treat it as his own once the contract was signed, he did not receive the deed to the property, which conferred full, final ownership, until the contract had been carried to term.

Selling the Land: Indian Land Tenure in the Hudson Valley

There is a limit to what scholars can say about indigenous land tenure. Archeological sites and European sources shed only dim light on it, and the revelations of the latter are contorted by cultural disconnects and biases. Scholars agree that Native peoples were territorial and that there were clear boundaries between neighboring peoples prior to European contact. Charles A. Bishop holds this view, stating that

Early historical examples of territoriality suggest that it may have antedated European intervention...Territoriality existed to protect local resources [rather than land itself] from members of other groups who would have been able, with direct access, to circumvent and/or undermine the position of those with whom they had an alliance.²³⁶

In a similar vein, Tom Arne Midtrød states that “Both Indians and Europeans in the [Hudson] Valley took the existence of Indian territoriality for granted.” Robert S. Grumet agrees, writing that both peoples “cared deeply about territorial integrity and paid close attention to property rights and boundaries.”²³⁷ Midtrød is less confident about the extent to which “territorial boundaries predate European colonization,” however, stressing that most of “the sources dealing with borders and territories derive from the activities of colonial land buyers, who needed exact boundaries...to be secure in their titles.”²³⁸

²³⁵ *Ibid.*, 144.

²³⁶ Bishop, 40-42. Quote on page 42.

²³⁷ Midtrød, *Memory*, 46; and Grumet, *Munsee*, 86.

²³⁸ Midtrød, *Memory*, 46.

Indian territoriality, though, was not rigid in the way that European territoriality was, with strict boundaries, enclosures, or even exclusive access to resources by one polity or individual. It was a fluid dominion in which political boundaries overlapped and neighboring peoples shared hunting grounds. Midtrød expounds upon this, writing that

In precontact times, Indian groups in the Northeast tended to inhabit the land on both sides of drainages and river valleys[, but that] [b]eyond these core territories they utilized large hunting and foraging grounds with permeable boundaries that allowed several groups to make use of them at once.²³⁹

Amy C. Schutt agrees, noting that, in the Delaware Valley, “overlapping rights to a particular piece of land were apparently quite common.”²⁴⁰ Bishop, too, qualifies the concept of territoriality as Indians likely construed it, declaring that

territorial rules [seem to have applied] only to the right to trade and to obtain exchange goods, and not to the right to exploit subsistence necessities...Groups appear to have exploited foods seasonally in predetermined areas, but nothing suggests that others were prevented access.²⁴¹

Overlapping claims among nations, however, should not be conflated with neutral zones or no-man’s lands. Often, one of the groups had a stronger claim to a certain region than its neighbors; in such cases, neighbors might be welcome to use the land but certain products would be reserved for its true owners. The Shinnecocks of eastern Long Island, Midtrød notes, shared hunting rights to the land around the Peconic River with the Yeanococks, but “the pelts and fat of drowned bears,” the skins of deer drowned or killed in the River, and the baby eaglets found in the area were the exclusive privilege of the Shinnecocks.²⁴²

²³⁹ *Loc cit.*

²⁴⁰ Schutt, 33.

²⁴¹ Bishop, 49.

²⁴² Midtrød, *Memory*, 47 and 46-48.

Beyond having a unique conception of territoriality, Indians in the Northeast practiced usufruct, or use-right, ownership.²⁴³ Unlike Europeans, who held land in absolute terms, retaining control over a parcel even when they were not using it, living on it, or anywhere near it; Indian peoples possessed land only for as long as they were using it. This concept is chiefly intra-tribal and applies to the specific pieces of land on which Indians sowed crops or established settlements. Hunting, fishing, and foraging reserves, as we have seen, were managed under the greater inter-tribal logic of territoriality, especially since these lands would not have been under the constant use necessary to retain usufruct ownership: they were not residential lands, and they had to be left untrapped for extended periods to allow for the replenishment of beaver, deer, bear, and other game populations.

Matthew Dennis, studying the Iroquois, explains usufruct land tenure as follows: “for the Iroquois, land could be occupied, used, and shaped, but not really owned. It was shared communally, entrusted to the group as a whole and distributed temporarily according to need and use.”²⁴⁴ Similarly, William A. Starna boldly declares that

Indians lacked entirely a concept of land ownership and did not conceive of anything approaching the jurisdiction and control assumed by European nation-states over their territories on the other side of the Atlantic. For all intents and purposes, the world of these native people was absent metes and bounds. In their place, and in that of other equally Western legal precepts, stood ‘usufruct’...a claim laid and limited to lands on the basis of how they were managed and to what ends...individuals or collectives might use or extract resources from a given territory that they did not or could not hold in perpetuity for an unspecified period of time.²⁴⁵

Janny Venema similarly maintains that

²⁴³ Grumet, *Munsee*, 86 and 96; Dennis, 152; Starna, *Homeland*, 106-107; Venema, 40; Schutt, 32-34; Leavenworth, 282; and many others.

²⁴⁴ Dennis, 152.

²⁴⁵ Starna, “American,” 74-75.

Indians were hardly familiar with [the] European idea of land ownership. They thought of land in terms of *usufruct*, whereby some form of social unit—a clan...or lineage—held a right to use the land undisturbed, and as long as they did so, others recognized this right. People could lay claim not on the land itself, but on the things that were on the land during the various season of the year.²⁴⁶

This correct acknowledgment of usufruct as Indian land tenure is what leads many scholars to assert that Indians signing deeds were transferring only use rights to European settlers, whether exclusive or shared, rather than the land itself.²⁴⁷ As we have seen, this avowal, though very likely true for the earliest deeds contracted by Indians and Europeans, does not hold strong weight beyond them, since the former quickly came to understand European land tenure more closely and to share this knowledge with other tribes.

But the idea of usufruct as Indian land tenure needs other important qualifications. Scholars, including those quoted in the previous paragraph, have a tendency to simplify Indian land use (and Indian society in general), depicting a serene, conflict-free communalism, in which people simply plopped down wherever they liked without any complicated red tape or money involved. This was not the case at all. Indian societies had their own social organization that extended to their land use. As Robert S. Grumet writes,

Usufruct [sic] did not mean that Indians thought land was free like air and water open to anyone wishing to share it...Usufruct rights were available only to people with rights to land who were willing to properly respect local customs and concerns. Land was not free to strangers from foreign places who did not have these rights. Such people could only accept land as a granted gift [or purchase] or seize it outright.²⁴⁸

²⁴⁶ Venema, 40. Also Schutt, 32-34.

²⁴⁷ Midtrød, *Memory*, 72; Schutt, 32-33; Otto, 97; Leavenworth, 281; Silverman, 4 (Otto, Leavenworth, and Silverman acknowledge that this mainly applies to the earliest purchases), among numerous others who mention land transactions between Indians and Europeans in passing.

²⁴⁸ Grumet, *Munsee*, 84

Usufruct rights did not preclude complexity in patterns of ownership or the existence of individual property claims.

What form did this complexity take? Though it varied by region, Indians owned land communally, with the tribe owning the extent of a nation's territory. Bishop has argued that communalism among northeastern Algonquian peoples was "a matter of degree," however, and that "the most egalitarian groups appear to have been those furthest north of the Great Lakes/St. Lawrence waters."²⁴⁹ Social structure correlates with land tenure, since egalitarian societies endowed chiefs with less power, including the right to alienate tribal land. Kathleen J. Bragdon has concluded that "coastal groups living in southern New England in the early seventeenth century...were probably best characterized as chiefdoms of marked social hierarchy and centralized leadership, while riverine communities were perhaps more self-sufficient and less hierarchical."²⁵⁰ The Hudson Valley was such a region, and according to Midtrød "sachems did not necessarily have the authority to cede land without approval [from] their people."²⁵¹ Still, the common thread among Indian societies, however, is that sachems managed the distribution of land.²⁵²

Indian nations were split into multi-settlement subgroups headed by a sachem (and a council of elders) whose duty it was to manage the land, though some of the more hierarchal nations like the Wampanoags of southern New England and the Powhatans of the Chesapeake also had paramount sachems. The latter collected tribute from the local

²⁴⁹ Bishop, 38 and 39.

²⁵⁰ Kathleen J. Bragdon, *Native People of Southern New England, 1500-1650* (Norman: University of Oklahoma Press, 1996), 43. Also, Midtrød, "Native," 87-88.

²⁵¹ Midtrød, "Native," 88.

²⁵² Silverman, 3; and Siminoff, 115.

sachems under their jurisdiction in return for managing foreign affairs and “adjudicating sensitive inter-community disputes.”²⁵³ Paramount sachems were an additional social rung that not all Amerindian societies possessed, however, and that do not seem to have been a feature of Hudson Valley societies. Local sachems in the Hudson and Delaware Valleys, Grumet writes, “allocate[d] use rights for town sites, planting fields, fishing spots, hunting and foraging territories, and other places so long as they were [being] utilized.”²⁵⁴ Siminoff maintains that these allotments could go to “commoners, kinsmen, or loyal followers,” could be given in return for payment, and could be revoked by the sachem and given to someone else.²⁵⁵

According to Midtrød, though, Hudson Valley sachems do not seem to have had “particular prerogative” to allocate land; rather, they were influential in land matters.²⁵⁶ The Dutch-indigenous deeds support Midtrød’s conclusion, since, as he points out, chiefs frequently represented their people in the transactions.²⁵⁷ Another finding that agrees with Midtrød’s view is the fact that not all the sellers in Dutch-Indian land transactions were sachems. Many names appear without that rank attached to them (which the Dutch would not have left out if a person was of what they considered high rank), and sometimes sachems appear alongside them but are specifically listed as witnesses.²⁵⁸ These people were

²⁵³ Silverman, 3; and Van Zandt, 71 and 78-79 (for proof of paramount sachemships in the Powhatan Confederacy).

²⁵⁴ Grumet, *Munsee*, 84.

²⁵⁵ Siminoff, 115.

²⁵⁶ Midtrød, “Native,” 88. Midtrød does not discuss what forms intra-tribal land allocations would have taken within such egalitarian sachemships. A possible conjecture is that the sachems may still have had the duty of allotting un-distributed land but simply did it with more input from their people or from the tribal council.

²⁵⁷ Midtrød, “Native,” 89.

²⁵⁸ *Ibid.*, 90.

presumably “common Indians,” men and women²⁵⁹ who had individual, often kinship-based rights to the land.

This piece of evidence brings us to another important point about Indian land tenure: individual and family landholdings often subdivided Native lands below the level of the sachemship.²⁶⁰ This is especially true of the Hudson Valley. “Native territories in the Hudson Valley,” Midtrød asserts, “were divided into smaller areas of land that were in the possession of individuals who held this land on behalf of their families,” and who seem to have sold it of their own accord, without needing community consent (beyond that of their families, of course).²⁶¹ The deeds show this complexity of ownership: all but one of the transactions involve the Dutch and at least two Indian proprietors.²⁶² A close analysis of the vended territories, especially those that were deeded on the same dates or otherwise near each other in time, shows that the Dutch had to seek out the specific owners and families who held rights to a particular tract to complete a large purchase. For example, a set of deeds executed on October 4, 1663, gave Volckert Janssen and Jan Tomassen possession of Aepjen’s Island

²⁵⁹ Women’s names are often followed by a gender label to differentiate them from the more common male sellers. This may also have been done since gendering in Indian names, if it existed, would not have been obvious to Dutch people who did not have a strong grasp of Indian languages and culture (especially WIC officials back in the Netherlands).

²⁶⁰ Midtrød, “Native,” 90-93; Grumet, *Munsee*, 86; Schutt, 33-34; Starna, “American,” 78; and Siminoff, 115.

²⁶¹ Midtrød, “Native,” 90.

²⁶² The exception is a 1646 deed for land on the South River. The land was sold by a sachem named Megkirehondom; even this sale does not seem to have been an individual choice alone. Megkirehondom signed the deed in the presence of his brother, Ackehooren, also a sachem, who was identified as a witness to the sale. See Indian Deed for Land on the South River, 25 Sept 1646, in *New York Historical Manuscripts: Dutch*, vols. XVIII-XIX, *Delaware Papers (Dutch Period): A Collection of Documents Pertaining to the Regulation of Affairs on the South River of New Netherland, 1648-1664*, ed. and trans. Charles T. Gehring (Baltimore: Genealogical Publishing Co., Inc., 1981), 16-17.

on the Hudson River. Each deed was signed by two different, seemingly unrelated owners, and each one deeded half of the Island.²⁶³ The second deed confirms this:

At the same time, on the date as before [October 4, 1663], there appeared before me, Johannes La Montagne, commissary, in the aforesaid capacity, an Indian and an Indian woman, the Indian named Naspaliasn, or else, Pofponick, and the Indian woman named Paxies, owners of the south end of Aepiens island named Schotack, who declare to have sold...[to] Volckert Janssen and Jan Tomassen, their heirs or assigns, the said south end of the aforesaid island, being the largest half...so that the entire island...belongs to them, grantees, for the sum of f500 [florins] in beavers...²⁶⁴

The deeds also show that kinship-based individual usufruct allotments could be multi-generational and inherited, in a manner somewhat akin to English copyholding, in which tenants held rights—a copyhold—to a plot of manor land for two or three lifetimes (the manor itself being a lord’s permanent freehold). Most of them, for example, mention that would-be inheritors could no longer make claims to the land in question, since it was being sold permanently. Though such a general provision could just be a marker of Dutch convention, there is some evidence to suggest otherwise: the first deed for Staten Island, dated August 10, 1630, specifically charges the Indian sellers with delivering the land “free from all claims...challenges and troubles either against the aforesaid Wissipoack, when he has reached his majority or against other claimants.”²⁶⁵ Though Wissipoack was among the eight sellers themselves, he seems to have had a unique status as someone who was not yet a

²⁶³ Conveyance of a Piece of Land by Wattawit and Pepewitsie to Volckert Janssen and Jan Tomassen, 4 Oct 1663; and Conveyance of a Piece of Land by Naspahan and Paxies to Volckert Janssen and Jan Tomassen, 4 Oct 1663, in *Fort Orange Records, 1654-1679*, ed. Charles T. Gehring and Janny Venema (Syracuse: Holland Society of New York/Syracuse University Press, 2009), 303-304 and 304-305.

²⁶⁴ Conveyance of a Piece of Land by Naspahan and Paxies to Volckert Janssen and Jan Tomassen, 4 Oct 1663, in 304.

²⁶⁵ Purchase of Staten Island from Indians for Michiel Paauw, 10 Aug 1630, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 24-25.

full partner in the land being transferred but whose interests had to be acknowledged by his kinsmen. Faren R. Siminoff agrees that land could be inherited in Indian societies, stating that a sachem “could make...allotment[s] for life or attach hereditary rights to [them].” He even goes as far as to declare that “many...allotments were made in acknowledgement of [an] individual’s or family’s loyalty and continued service to the sachemship.”²⁶⁶

But the most important characteristic of Indian land tenure is its fluidity. Indian land ownership was very complex, operating on many levels simultaneously, but certain levels of ownership receded into the background depending on the occasion. This is especially true of the land deals made with Europeans. The multi-owner transactions directly visible in the deeds are complex in their own right, but often they seem to be condensed versions of a complex of overlapping individual, lineage, and sachemship claims that had to be reconciled to be able to make dealings with the newcomers, who did not own land in this way and who would have been confused by it. Midtrød acknowledges this and states that, “it may be presumed that preceding large land transaction, complex negotiations among individuals and families with land rights took place.”²⁶⁷ This makes much sense and can be compared to the way that Indian communities pooled individual contributions in the days before a diplomatic meeting. Everything seems abstractly communal to a person who has not seen the extensive individual labors that are the foundation of consensus.

²⁶⁶ Siminoff, 115 (both quotes). Midtrød also concedes that this may have been true, though he thinks that it could be a post-Contact phenomenon. See Midtrød, “Native,” 91-92. Bishop has a similar theory. See Bishop, 41-42.

²⁶⁷ Midtrød, “Native,” 95-96 and 96 for the quote.

Dutch-Indian Land Transactions, 1630-1664: Indianized Rituals of Sale and Negotiation

When they arrived in the Hudson Valley, the Dutch collided with an oral culture in which the spoken word had serious meaning but had to be underwritten by subsequent acts of gift-giving. For their part, the Natives encountered a culture in which spoken words held less weight and the written word was the final word. But whatever form official agreements took, both cultures sealed them with exchanges, whether their driving logic was economic, diplomatic, social, or spiritual. The Dutch and the Indians of New Netherland both held leverage in the early seventeenth century; both could take their business and strategic friendships elsewhere. Agreements between such parties can only be reached if there is a moment of alignment between the two groups, since neither can press the other. But any formal agreement is ultimately meaningless—and by extension null and void—if the same web of cultural conventions and legal repercussions does not bound its constituents.

In buying land, the Dutch seem to have realized this from the beginning. The first set of instructions given to Willem Verhulst explicitly commanded that

In case any Indians should be living on...or make any claim...upon any...places that are of use to us, they must not be driven away by force or threats, but by good words be persuaded to leave, or be given something therefor to their satisfaction, or else be allowed to live among us, a contract being made thereof and *signed by them in their manner*, since such contracts upon other occasions may be very useful to the Company.²⁶⁸ [emphasis mine]

In this early excerpt, the Dutch's inexperience with indigenous culture beyond what is related to economic exchange is evident. Though by this point the Dutch were aware that the

²⁶⁸ "Instructions for Willem Verhulst Director of New Netherland," January, 1625, in *Documents Relating to New Netherland, 1624-1626 in the Henry E. Huntington Library*, ed. and trans. A.J.F. Van Laer (San Marino, CA: Henry E. Huntington Library, 1924), accessed 2 March 2017, <http://www.rootsweb.ancestry.com/~nycoloni/huntdocc.html>.

indigenous societies in the area were not literate, they assumed that Indians had their own ways of formalizing contracts and sought to use those conventions to make agreements that were truly binding. Coming from a written tradition, WIC officials back in Amsterdam probably could not imagine closing a deal without a signature, and this is evident in the way they phrased their orders to the Director. Whatever arrangement the WIC may have envisioned for making land deals with Native peoples, these early directions set the tone for the purchases that would be made through New Netherland's existence. It was one of accommodation—of making agreements mutually intelligible for the sake of trade, peace, and validity.

Between 1630 and 1664, the Dutch and local Indians put their marks and signatures to at least 40 deeds for the transfer of land to the newcomers. While these documents might look very European on the surface, a closer look reveals them to be the products of the colonial world, of a cross-cultural frontier. One of the most important differences between European deeds and Indian deeds is that the latter included a transfer of sovereignty with title to the land.²⁶⁹ If a Dutch person bought land in England, it remained under English rule. Land purchased in Indian country, on the other hand, would no longer be subject to Indian law. It would come under Dutch law and become part of New Netherland. This provision is never explicitly stated in the deed texts, but it was a given. Neither the Dutch nor Indians would live under each other's laws or assimilate to each other's societies. They were interested in exchange and alliances, and neither was strong enough to subjugate the other. Besides, to live under one culture's law would have been difficult given the two groups'

²⁶⁹ Midtrød, *Memory*, 78; and Grumet, *Munsee*, 86.

different land-use practices and especially Dutch inflexibility regarding individual ownership and plot size. This exclusively colonial phenomenon can be read as a sign of respect for Indian sovereignty and as an attempt to coexist peacefully in the name of trade. Dutch law and practice would bind Dutch people and vice versa, except when crimes were committed across cultures, in which case the offending Swanneken or Indian would be turned in to the aggrieved society for justice according to their laws.²⁷⁰

While the law of the landowner's society would reign supreme on their plot, the deeds and the negotiations surrounding a sale were a malleable zone of accommodation in which two kinds of land tenure were recognized. The agreements recognized Indian forms of ownership, Indian customs surrounding land transferal, and Indian conventions²⁷¹ related to land. When, after negotiating the price (informally or at an auction), Dutch people signed away title to land among themselves, it was a relatively simple affair. The document was prepared; it was perhaps read aloud for the not-infrequent illiterate party to a transaction; buyer, seller, and official witness affixed signatures and/or marks to it; all parties retained a copy; and the deal was done. The agreement was irrevocable unless there was a clause within it that specifically allowed for a change of heart within an allotted timeframe. The parties to the transaction would not have to meet again unless a payment plan had been arranged or

²⁷⁰ This kind of arrangement is all over the documentary record, having been agreed to many times in the forging of alliances. In the 1660 peace treaty made with the Esopus, it was agreed that "If a Dutch should kill a savage or the savages a Dutchman...a complaint [rather than war] shall be made and the murderers shall be delivered to be punished, as they deserve." See "Treaty of Peace, Concluded with the Esopus Indians on the 15th of July 1660, 16 July 1660, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 222-223.

²⁷¹ "Law" and "convention" are synonymous in this work. Indian societies in the Northeast did not have written legal codes, but their conventions should be considered a legitimate form of law, since their members were held to them.

one of the parties violated the terms of the sale, in which case they would meet as adversaries in court. It was not a colorful event and only the signed document allows it to be described as ceremonial.

This was not the case with the transactions that occurred between Dutch and Indian people. As has been explained, Indians used land as a diplomatic and social tool, allocating it to create intimacy between people and nations, much in the way that gift exchanges of wampum and other goods distributed at home and at diplomatic meetings did. A sale was like a political meeting or treaty signing in that it was an occasion not only for formal gift-giving, but a special opportunity to create intimacy where a new acquaintanceship still stood.

The Dutch-Indian deeds are largely laconic about the event of the sale itself, simply documenting the terms of the agreement and rarely contextualizing it. For example, the 1630 deed to Michiel Paauw for Ahasimus and Aressick simply states that “on [November 22, 1630,]...before us in their own proper persons, came and appeared, Kikitoauw and Afarouw, Virginians, Inhabitants and joint owners of the land...,” who agreed to the sale “for and in consideration of certain parcels of goods.” The last line reads, “Done at Manahattas [Manhattan] in the Fort Amsterdam this 22nd day of Nov., in the year 1630.”²⁷² The 1639 deed for Kekeskick/Yonkers has a similar brevity to it: “This day...appeared before me[,] Cornelis van Tienhoven, Secretary in New Netherland, Tequemet, Rechgawac, Pachamiens, owners of Kekeskick, who...declare...[to] have transferred...[the said parcel]...Done at Fort

²⁷² Patent to Michiel Paauw for Ahasimus and Aressick, 22 Nov 1630, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 28-29.

Amsterdam , the 3rd of August 1639.”²⁷³ The 1633 deed with the Pequot chief, “Wapyquart or Tattoepan,” did not even include such a morsel of detail. Instead, it declared that, “[Jacob van] Curler, and the sachem named Wapyquart or Tattoepan, chief of the Sockenames river, and owner of the Fresh [Connecticut] river of New Netherland...have amicably agreed for the purchase and sale of the tract named Sickajook.”²⁷⁴ Read alone, the deeds imply that the Dutch-Indian land sales were quick, almost coincidental, one-day sign-and-dash affairs.

But land sales between Indians and Dutchmen were no such thing. Though some of the earliest purchases may have may have been spontaneous and relatively quick, a more involved custom was soon established that was unique to the Dutch-indigenous cultural frontier. Historian Janny Venema, reconstructing the development of Beverwijck and Brant van Slichtenhorst’s purchases from the Mahicans on behalf of Kiliaen van Rensselaer, writes that Dutch-Indian land transactions were often accompanied by multi-day rendezvous in which large groups of Indians lodged right inside settlers’ houses, the patroon’s house, or at “Indian houses” built especially for such visits.²⁷⁵

On these occasions, ample feasting, drinking, smoking (a mandatory prelude to any formal occasion in Indian society), and gift-giving apart from what the sale entailed took place at the expense of the Dutch.²⁷⁶ For example, the Mahican chief, Aepjen, and his entourage

²⁷³ Indian deed for Kekeskick (Yonkers), 3 Aug 1639, in in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 55-56.

²⁷⁴ Purchase and Agreement between Jacob van Curler and Sickenames Chief for Land along the Connecticut River, 8 June 1633, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 32-33.

²⁷⁵ Venema, 40.

²⁷⁶ *Loc cit.*

of men, women, and children stayed in the patroon's house for a few days during van Slichtenhorst's separate purchases of the Paponicack Kil/Muitzes Kil, Catskill, and Claverack in 1648 and 1649. During the sale of the latter, 50 Indians reportedly lodged at the patroon's house for three days and had to be fed and entertained. Further presents of victuals also had to be given for the road, so that "the end would also be good."²⁷⁷ The Dutch also had to be ready to host the sellers multiple times preceding and following the sale, which Indians "celebrated with many visits to, and entertainment in, the patroon's house."²⁷⁸ The Indians probably reasoned that they were more than welcome to this kind of hospitality, since they had given the newcomers the right to settle on their land and since they had, presumably, become more than acquaintances to them in granting such a privilege. No deal would be closed (or kept) if the Dutch were not generous hosts or if they tried to hurry their guests out of town. The Dutch, therefore, were compelled to observe Indian customs surrounding formal meetings and gift exchanges between nations, under which a transfer of land fell.

The process of negotiation was another area in which colonial, cross-cultural practices diverged from intra-Dutch ways. Like other European peoples, the Dutch settled terms and prices and then signed contracts that fixed them and legally held their participants to them. In the case of a large piece of land encompassing many individual lots, separate arrangements would be made with each of the owners until the whole desired piece had been purchased. Negotiations with Indian sellers were a lot more complicated due to the nature

²⁷⁷ *Loc cit.*, and Documents of the Court Case of Brant Aertsz van Slichtenhorst against Jan van Rensselaer, 16, quoted in *Beverwijck: A Dutch Village on the American Frontier, 1652-1664*, Janny Venema (Albany: SUNY Press, 2003). These documents are held by the Gelders Archief in Arnhem, the Netherlands, and I could not gain access to them beyond what Venema's astoundingly detailed book provided.

²⁷⁸ Venema, 40.

of Indian land tenure, in which more than a few people could have rights to the same piece of land, and not in the form of neatly subdivided plots within it. The Dutch could not have drafted a separate deed with every single person who had a stake in a piece of land because of the fuzziness of boundaries and the mutability/temporality of individual holdings. Moreover, even the holder of an individual/family plot could not sell it on their own, since they still operated within a greater framework of communal ownership: anyone considering alienating land needed to consult their children, who would be barred from making use of the land in the future, as well as other kinsmen who might be sharing the land at the time or who might have other plans for it.

The Dutch-Indian deed, with its large number of sellers acting “rato caverende” for all others who held an interest in the land being sold, was a deed modified for the Indian sellers as best as possible. Indian land was neither equally owned by all parties, which would have called for one deed that identified all the owners, nor distinctly independently owned, which would have required a separate deed for each tract. The Dutch-Indian was also a custom fit in that it allowed for a range of Indian ownership scenarios. The 1630 deed for land on the Hudson River, for example, explicitly acknowledged one owner’s individual claim to a larger plot that was being sold:

before us appeared and presented themselves in their proper persons, Kottamack, Nawanemit, Abantzeene, Sagiskzva and Kanamoack, owners and proprietors of their respective parcels of land extending up the river, south and north, from the said fort [Orange] to a little south of Moeneminnes Castle, belonging to the aforesaid proprietors jointly and in common, and the land called Semesseeck, belonging to the aforesaid Nawanemit individually...²⁷⁹

²⁷⁹ Certificate of Purchase from the Indians of Land on the West Side of the Hudson River from Smacks Island to Moenemin's Castle and of Tract of Land on the East Side opposite Castle Island and Fort Orange, 13 Aug 1630, in *New York State Library Van Rensselaer Bowier Manuscripts, Being the Letters of Kiliaen van*

While all the proprietors are described as having individual, “respective parcels of land” within the land being sold, they are also called joint owners of the greater tract. Nawanemit, however, seems to have had a claim stronger than what may have been considered typical individual use rights. His specific parcel is singled out as being owned even more “individually.” Simultaneously, he possesses the greater tract in co-ownership, since he is only separated from the group of signatories after the clause describing that relationship.

The Dutch buyers seem to have understood that there was a limit to how well they could understand such a complex system of landownership, for they allowed much of the negotiation to be conducted internally and indirectly by the small subgroup of owners who were explicitly named in the deed. The terms of many of the Indian deeds attest to the process of Dutch recognition of and adjustment to Indian land tenure in the negotiation process. In the earliest Indian deed, dated July 11, 1630, Quesquaeskous, Eesanques, and Siconesius and some unspecified “inhabitants of their village” sold land on the Delaware River to Samuel Godyn “by special authority of their superior and with the consent of the community there.”²⁸⁰ This early simple description of the Indians’ communal hold on the land exposes the Dutch cultural lacuna where Indian land matters are concerned. A nameless “superior” is assumed to be involved and a vague “community” is understood to have agreed to the sale.

Rensselaer, 1630-1643, and Other Documents Relating to the Colony of Rensselaerswyck, ed. and trans. A. J. F. Van Laer (Albany: University of the State of New York [Press], 1908), 166-167.

²⁸⁰ Patent to Samuel Godyn for Land on the Delaware River, 11 July 1630, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 20.

A slightly later deed to Godyn and Samuel Bloemmaert for Cape May dated June 3, 1631, shows a clearer understanding of Indian land tenure on the part of the Dutch: in this transaction, Sawowouwe, Wuoyt, Pemhake, Mekowetick, Techepewoya, Mathamel, Sacoock, Anehoopoen, Janqueno, and Pokahake sold the land “in proportion of their own shares and for all the other owners in regard to their shares of the same land.”²⁸¹ This deed recognizes Indian land tenure’s relativity and its individual dimension within a broader communal possession. Both the named grantors and the other owners that they are representing are described as having more than an amorphous shared hold on it: they have “shares” whose equality is not assumed, though the specifics are still left to the imagination.

A 1636 deed to Jacobus van Corlear is even more interesting. In it, the sellers of the land are differentiated from two named witnesses who are also sachems:

...before us personally appeared Tenkirauw, Ketamau, Ararijkan, Asvachkou, Suarinkehink, Wappintawachkenis, [and] Ehetyl, as owners, in presence of Penhawis Cakapeteyno, as chiefs over the districts and declare, voluntarily and advisedly by special order of the rulers and with the consent of the community there, ...to have transferred...[to] Jacobus van Corlear the middlemost of the three flats belonging to them...²⁸²

This deed returns to the vagueness of the first deed since it does not describe the land as being owned in differentiated portions held by individuals/families. Simultaneously, however, the mention of the two high-ranking witnesses as distinct from the so-called “common Indian” owners (for their names are not followed by political designations) is a

²⁸¹ Patent to Godyn and Bloemmaert for Cape May County, 3 June 1631, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 29.

²⁸² Indian Deed to Jacobus van Corlear for a Flat on Long Island, 16 June 1636, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 44.

sign of Dutch understanding, on some level, that not every Indian in a nation had particular rights to every morgen of its collective territory. Though the clauses by which Indian sellers guaranteed that the community and other co-owners of a parcel had been consulted seem perfunctory looking at the body of deeds, they are a unique stipulation not present in intra-Dutch deeds. It is a stipulation that is the result of two cultures of land tenure coming in contact. Realizing that their system of land transferal could not fully account for the range of ownerships of Indian land, the Dutch stepped back and waited for indirect, internal negotiation to occur within Indian communities and then tried to ensure that everyone really had been consulted by adding an appropriate clause to the standard Indian deed format.

The community- or co-owner-consent clause also acted as a legal safeguard against possible complaints in the future. The Dutch were ultimately relying on Indian signatories to follow proper form, as dictated by Indian culture, in procuring everyone's consent before signing the deeds and needed to counteract the vulnerability inherent in such a process. But there was not merely business savvy at work in this provision. Unanimous Indian consent really was required in order to settle a piece of land in the Dutch way, which required considerable time and capital, without being attacked by angry claimants. In theory, individual deeds with each owner, face-to-face, would have been the ultimate guarantee of peace and unchallenged possession of a tract; however, the nature of Indian land tenure and its esoteric quality to the Dutch mind made such arrangements impractical, inappropriate, and breach-able in their incompatibility. Allowing the potentially numerous Indian owners of a piece of land to internally come to an agreement on selling and permitting that deeds be signed by just a subset of a tract's owners was an accommodation that better insured a

purchase at the end of the day. It must be acknowledged, though, that the system did create the potential for astute Indian brokers to sell land that did not belong to them; but these were risky crimes that often eventually came to light and were settled.

Further proof of Dutch adaptation of the negotiation process to suit Indian land tenure lies in the existence of deeds that acknowledge unfinished negotiations within the community selling the land, even though a deed is supposed to be the product of a finalized transaction. Five of the extant deeds have such arrangements. For example, in 1631, Papsickene, Kemptas, Nancoutamhat, and Sickenosen agreed to sell Kiliaen van Rensselaer additional land on the Hudson River to expand his patroonship. Reading through most of the deed, everything seems finalized until one reaches the end of the deed: after making the sellers give their word to deliver the land to its buyers free of claims, it demands that the sellers “have this sale and transfer approved, ratified and acknowledged as valid by the remaining represented coproprietors.”²⁸³ The deeds for Hoboken, Ahasimus/Aressick, and Cape May County contain similarly-worded clauses.²⁸⁴

The 1663 deed for all of the Navasink Indians’ unsold lands (located in central New Jersey) is the most detailed example of the Dutch allowing for post-deed-signing negotiations, which makes sense for such a large and gainful purchase. Though “chiefs Matanoo,

²⁸³ Certificate of Purchase from the Indians of Land on the West Side of the Hudson River between Beeren Island and Smacks Island, May 1631, in New York State Library Van Rensselaer Bowier Manuscripts, Being the Letters of Kiliaen van Rensselaer, 1630-1643, and Other Documents Relating to the Colony of Rensselaerswyck, ed. and trans. A. J. F. Van Laer (Albany: University of the State of New York [Press], 1908), 181-183.

²⁸⁴ Patent to Michiel Paauw for Hoboken, 12 July 1630; Patent to Michiel Paauw for Ahasimus and Aressick, 22 Nov 1630; and Patent to Godyn and Bloemmaert for Cape May County, 3 June 1631, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 21-22, 28-29, and 29-30.

Barrenach, [and] Mechat, brother to and deputed by Pajpemoor, [all] empowered by Pasachynom, Menarhohondoo, Syacakeska and the aforesaid Pojpemoor,” had signed the deed and, in effect, agreed to the sale, it was not complete. The document states:

The price of the purchase and the mode of payment have been deferred, until the aforesaid chiefs and some other owners of the said unpurchased and not conveyed lands shall have appeared here before the Director-General and Council, to close the bargain completely and then to receive the payment for it. Meanwhile the aforesaid chiefs declare the said lands conveyed...and to have received and accepted in confirmation thereof each a red blanked, to wit[,] Mattano Barrenach Mechat Passachynom Pojpemoor Menarhohond[oo] Syacakeska [and] Piewecherenoes alias Han [who signed as a witness].²⁸⁵

All the signatories and those who had given them power of attorney closed the sale on December 12, even receiving a little gift for their trouble, but the document clearly acknowledged that not everyone whose interests were tied up in the remaining Navasink lands had yet consented to the sale. The deed does, of course, have the tone of a done deal, as do the provisos of the other four deeds. Stuyvesant probably did not expect the remaining proprietors to annul the agreement, and the Navasinks did demand 4000 guilders for the lands a few weeks later.²⁸⁶ The point still stands that the Dutch were effectively yielding to Indian land tenure’s extensive negotiation protocol in purchasing Indian land.

A deed signed by Pamitepiet and Tatankenat on June 5, 1662 is excluded from the count because it does not contain any such explicit clause, but there was a note appended to it that reported that,

²⁸⁵ Agreement by Navasink Indians to Sell Their Lands not Already Sold, 12 Dec 1663, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 268-239.

²⁸⁶ Price Demanded by the Navasink Indians for Their Lands, 26 Dec 1663, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 270. I have not located the final price or another deed for the land, unfortunately.

Today, the 11th of June anno 1664, there appeared before me...an Indian named Sickaneeck or by the Dutch named Teunis, co-owner of the land described above, who acknowledges and declares that on the 5th of June 1662 together with Pamitepiet alias Keesie Weij, he has sold the land described above...and that he was fully satisfied and paid therefor, freeing him from all claims of other Indians...²⁸⁷

Sickaneeck was not a seller on the deed itself. Though the original signers had transferred the land “having authority from the co-owners,”²⁸⁸ it is possible that internal negotiations went on for some time after the sale, since Sickaneeck did not declare his consent until two years later. That Sickaneeck came to seal a transaction that his co-owners had technically sealed for him long ago, and that the Dutch carefully recorded his consent so long after the deed had been signed, shows that the Dutch had a degree of understanding of and respect for the communal aspect of Indian land tenure and the complex negotiations that had to be undertaken in selling a tract. After all, the Dutch could have claimed full irrevocable possession under the careful terms of the original deed. Instead, their record of Sickaneeck’s long-awaited consent shows that the sale could have been dissolved without it—that there was a bi-cultural standard at work. It was not merely an additional surety. Sickaneeck’s actions support this theory. Why would he have made the effort to register his consent so long after the fact if it did not make a difference?

Flexibility with the manner and pace of negotiations worked in favor of the Dutch, who could get a proverbial foot in the door by procuring the consent of those who were already interested in selling land and extracting from them a promise to convince the other

²⁸⁷ Conveyance of Land by the Indians Pamitepiet and Tatankenat to Frans Jansen van Hoesem, 5 June 1662, in *Fort Orange Records, 1654-1679*, ed. Charles T. Gehring and Janny Venema (Syracuse: Holland Society of New York/Syracuse University Press, 2009), 242.

²⁸⁸ *Loc cit.*

owners to sell, too. It also protected Indian sellers, who could effectively charge that the conditions for the sale had not been met and cite documented proof, which would void the transaction. The only alternative to patience and accommodation in closing a land deal was war, its attendant economic downturn for the WIC, and a small chance of winning the right to the land by conquest (particularly small in northern New Netherland, where Indian peoples remained influential until the Dutch surrender). Any settlements erected in conquered or otherwise ill-gotten territory, moreover, were almost guaranteed an existence bedeviled by the constant threat of Indian attack since the land would have been blatantly stolen.

The extant portions of Adriaen van der Donck's petition concerning his 1645 land grant are a testament to this truth. Van der Donck relates that he could not return to his homestead in Saeghkil for nine weeks due to Kieft's continuing war with Munsee groups, some of whom lived near him. He also mentions that "the Indians were reclaiming [the land], saying that it belonged to them, which was bought from the owners with the knowledge and in the presence of the director and councilors of New Netherland." This is clearly an instance of a transaction that was not properly negotiated with all the appropriate parties, or that may have been rushed with insufficient clarification of the sale being given. The petition shows that land bought improperly was land whose settlement could not be consummated. Negotiations had to be conducted in the Indian way so that Indians would emerge with an understanding of what they were doing and so that no one would be left out of the sale of their land, over which they could and would become angry and potentially violent. Van der

Donck was granted another plot to live on, and this after the poor man had devoted time to “establishing there saw mills, a farm and a plantation.”²⁸⁹

The deeds are loud proclamations of the Dutch dependence on Indian internal negotiation and full consent to settle the lands they had purchased from them. A full 18 of the 40 deeds specifically attempt to command the Indian sellers to promise to “free and warrant the...lands against all claims any other Indians might make” and otherwise protect Dutch claims.²⁹⁰ A 1630 deed is more plain in its language, simply asking that the grantors “protect against eviction from the aforesaid land.”²⁹¹ Cases like van der Donck’s seem to have occurred enough to compel the Dutch buyers of land between Wicahaeken and Sickakes to demand in 1658 that “if it should happen that in future time, any of the Dutch, by any Indians, should be damaged because they claim not to have been compensated for the land, they the sellers, do promise to repair and satisfy the damages.”²⁹²

Ultimately, however, there was a limit to the protections that a deed or even a co-owner’s word could provide. Petrus Stuyvesant’s advice to Andries Hudde, who was considering purchasing the Narraticonse Kil from its indigenous owners, was to “take care that the proper procedures be observed in the transfer; and that the same be done, drawn

²⁸⁹ Petition of Adriaen van der Donck Concerning Land Granted Him at Saeghkil in 1645, after 1652 (date unknown), in *New York Historical Manuscripts: Dutch/New Netherland Documents Series*, vol. XI, *Correspondence, 1647-1653*, ed. and trans. Charles T. Gehring (Syracuse: Syracuse University Press, 2000), 204-205. This document was badly burned by fire and only excerpts of it remain legible.

²⁹⁰ Indian Deed for Land Between Wicahaeken and Sickakes, 30 Jan 1658, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 165.

²⁹¹ Certificate of Purchase from the Indians of Land on the West Side of the Hudson River from Smacks Island to Moenemin's Castle and of Tract of Land on the East Side opposite Castle Island and Fort Orange, 13 Aug 1630, in *New York State Library Van Rensselaer Bowier Manuscripts, Being the Letters of Kiliaen van Rensselaer, 1630-1643, and Other Documents Relating to the Colony of Rensselaerswyck*, ed. and trans. A. J. F. Van Laer (Albany: University of the State of New York [Press], 1908), 168.

²⁹² *Ibid.*, 166.

up and signed by as many sachems and witnesses as you are able to secure, and by Christians who are not in the service of the Company.”²⁹³ The more people there were who could remember a transaction, the less likely there was to be conflict, especially since witnesses were the recordkeepers of non-literate societies.²⁹⁴ But more important was his suggestion to follow “proper procedures.” Stuyvesant, living in a colonial world but still a Dutchman in mind, probably did not realize how Indianized the “proper” protocol had become in New Netherland. The reality was that the Dutch had to make a concerted effort to follow Indian conventions—Indian law—as it pertained to the possession of land and its transfer.

Accommodating Two Sets of Land Laws: Unique Stipulations in Dutch-Indian Deeds

The reason that a deed could never guarantee that conflicts over a claim or a price would not arise is because they retained a fundamentally European trait in their texts: they were settled, unalterable agreements, using phrases like “now and forever” and, “now and hereafter to the day of judgment” to convey their finality.²⁹⁵ This trait in European and Euro-Indian deeds is a symbol of a major difference between Indian and European land law. Indians thought of land in much more fluid ways, and this was particularly true of land deals, whether they were intra- or inter-tribe allotments or sales to Europeans. As has been

²⁹³ Letter from Petrus Stuyvesant to Andries Hudde, 13 May 1649, in *New York Historical Manuscripts: Dutch*, vols. XVIII-XIX, *Delaware Papers (Dutch Period): A Collection of Documents Pertaining to the Regulation of Affairs on the South River of New Netherland, 1648-1664*, ed. and trans. Charles T. Gehring (Baltimore: Genealogical Publishing Co., Inc., 1981), 274.

²⁹⁴ Lipman, “Buying,” 17.

²⁹⁵ Quotes respectively from: Indian Deed for Staten Island, 10 July 1657, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 158; and Indian Deed for Land on the South River, 25 Sept 1646, in *New York Historical Manuscripts: Dutch*, vols. XVIII-XIX, *Delaware Papers (Dutch Period): A Collection of Documents Pertaining to the Regulation of Affairs on the South River of New Netherland, 1648-1664*, ed. and trans. Charles T. Gehring (Baltimore: Genealogical Publishing Co., Inc., 1981), 17.

mentioned, Indians probably construed the earliest land deals with Europeans as grants of (exclusive or shared) use-rights or otherwise temporary alienations. This is because Indians viewed land transfers as renewable, continuing agreements requiring regular gifts, much like a European lease. These effective leases, however, were unique in that they had the strategic purpose of forging social and political ties rather than making a profit as a landlord.²⁹⁶

Though Indians soon realized that their new allies considered sales permanent cessions of the land, their land tenure naturally did not undergo any sudden extreme restructuring. Neither did the Dutch radically alter their own notions of landownership after they realized that purchases of Indian land came with unique conditions and strings attached. But the degree of change is key. Though their respective societies' land tenures remained relatively unchanged during the seventeenth century, the Dutch and Indians struck a compromise in the transactional frontier once they became fully aware of their mutually divergent practices. The Dutch, for their part, were not fond of sharing land that was being purchased to subdivide into individual farmsteads. Neither did they want to lease the land from its proprietors, which, in their minds, would make them indefinitely subject to Indian laws and ways. The unique recurring provisions of the Dutch-Indian deeds and Dutch reactions to Indians straying from those terms are evidence of a middle ground in land tenure and laws that was struck to successfully conduct land deals.

After they formally sold a piece of land, Indians often did two things that clashed with Dutch land conventions: they remained on the alienated land and they resold it after some time had elapsed. This was particularly an issue with land that was not in use—that had not

²⁹⁶ Schutt, 34, 36-38, and 40.

been settled by its new owners—and an issue whose roots lay in the Indian notion of usufruct ownership: unused tribal lands were subject to reallocation by the sachem and/or community and to use by the nation. There was no such thing as pure individual absenteeism, in which the land lay unused, with the owner far away and no “challenge” made to their title, in the form of use by someone else. In the case of the newcomers, Indian sellers may have seen the unused tracts as signs that a sale had not been consummated, since use was the ultimate sign of possession in Indian societies. Moreover, the expectation that land deals needed renewal, which made them effective leases, made these lands even more vulnerable to continued Indian use, eventual re-usurpation, and resale.

Naturally, the Dutch were frustrated by what they considered breaches of contract (really, they were misunderstandings about land tenure). For example, in an “[e]xtract of the general letter from New Netherland dated October 30, 1655, signed by Petrus Stuyvesant, Nicasius de Sille, [and] La Montaigne,” the writers complained that, “...the savages...sell as often as there appear purchasers...”²⁹⁷ The renewable, dissolvable nature of Indian land sales also created issues with their English neighbors. In one memorable instance, Governor Eaton accused the Dutch of taking advantage of Indian practices to take the land from under the feet of the English:

that Dauid Prouoost in that parte of Long Isl: hath indeauored to take (as it were) the ground from vnder the feet of the English, purchasing lands which the Indians haue long since passed ouer, & unto which the Engls. for many yeares have had a knowne

²⁹⁷ Dingman Veersteeg, trans., and Martha Dickinson Shattuck, ed., *New Netherland Papers, C. 1650-1660, From the Collected Papers of Hans Bontemantel, Director of the Amsterdam Chamber of the West India Company, Held by the New York Public Library* (Albany: The New Netherland Research Center and the New Netherland Institute, 2011), 27 and 29.

& unquestioned right, & had given a price for the same, till the Indians (Convinced by the English of theyre unrighteousnes) returned his pay.²⁹⁸

This understandable frustration with what was essentially Indian land law also comes through in the language that found its way into some of the deeds to prevent such problems. Three of the existing agreements specifically required Indian sellers to leave the land immediately following the sale. The 1652 deed for Nayeck, Long Island, required that “the Indians, and their descendants remove immediately from the land now occupied by them...and never return to live in the limits of the district at New Amsterdam.”²⁹⁹ The 1658 deed for land between Wichacken and Sickakes demanded that the sellers “depart and remove by the first convenient opportunity, off the lands; and that none of their nation shall come and continue to dwell upon it without knowledge and consent of the Director General and Councillors.”³⁰⁰ In a 1655 grant of land by Sachem Amattehooren to Stuyvesant in calculated retaliation against the Swedes who had settled there without concluding a purchase, Amattehooren retained hunting and fishing rights to the land, but he also pledged not to “plant corn thereupon except with his consent.”³⁰¹ The Dutch may have eventually

²⁹⁸ Governor Eaton to Director General Stuyvesant, 31 May 1648, in *New York Historical Manuscripts: Dutch/New Netherland Documents Series*, vol. XI, *Correspondence, 1647-1653*, ed. and trans. Charles T. Gehring (Syracuse: Syracuse University Press, 2000), 33.

²⁹⁹ Indian Deed for Nayeck, Long Island, 1 Dec 1652, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 130.

³⁰⁰ Indian Deed for land between Wichacken and Sickakes, 30 Jan 1658, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 167.

³⁰¹ Declaration of Amattehooren and Other Indians of the Cession of Lands on the South River to Stuyvesant, 19 Jul 1655; and Declaration of Mattheoorn and Two Other Indians Respecting the Lands on the South River (Delaware River), Dated Fort Nassau, 9 July 1651, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 135-136 and 122-125. Note: The 1655 grant deed appears to be a slightly revised confirmation of the more spontaneous grant contained within the earlier 1651 declaration and also includes payment, even though the land was a gift.

considered continued Indian hunting and fishing on the land acceptable because they did not override Dutch possession or clash with their own use of the land in the way that agricultural and residential usufruct rights did.

Other agreements were not quite as pointed, but they were aimed toward the same “abuses” made by the Indians. The deed for the eastern half of Westchester County made the signatories agree that the buyers could “do with [the land] as they please, without being molested by them, the sellers or any one of them.”³⁰² The treaty made with the Takapousha Indians in 1656 also granted usufruct rights to the Takapousha, namely the right to continue to live in the area, but it specifically reminded them not to bother the English community at Hemsteede, which had lawfully purchased the land earlier: “Inhabitants of Hemsteede...shall enjoy [the land they’ve purchased] without Molestation...of person or estate.”³⁰³ “Molestation” likely included attempting to farm or erect abodes on land that Dutch and English settlers were not farming at given time or that otherwise lay open to use according to Indian land tenure.

The Dutch also tried to combat Indian land law through clauses that attempted to stop them from reselling deeded land. In another grant of Swedish-inhabited land to the Dutch that was solemnized by both handshake and signature, Sachem Wappanghewan was asked to give his word that he would not “transport nor sell to any other Nation the lands

³⁰² Indian Deed for Westchester County, Eastern Half, 14 Jul 1649 in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 117.

³⁰³ Treaty with Takapousha and Long Island Indians, 12 Mar 1656, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 152.

aforesaid.”³⁰⁴ Sachem Amattehooren’s documented grant had also contained the same proviso, in addition to having him guarantee that the lands “were never before sold or conveyed to any nation in the world.”³⁰⁵ This last stipulation was likely added in an effort to avoid unnecessary problems with the English and Swedes, even as the Dutch fought to retain and even expand their foothold in the Northeast.

Indians also tried to combat the Dutch land conventions through informed negotiation with their buyers. The fruits of this concerted bargaining appear in the form of the explicit written enshrining of usufruct rights to the transferred lands in some deeds. The first instance of encoded Indian retention of usufruct rights occurred with the 1639 sale of Queens County on Long Island. The deed explicitly states that the land was ceded “under the express condition, that [the sachem]...may be allowed, with his people and friends, to remain upon the aforesaid land, plant corn, fish, hunt and make a living there as well as he can.”³⁰⁶ Terms like these are unheard of in pure Dutch deeds. Under Dutch land tenure and law, such a sale was hardly a sale at all, in spite of the importance to the Dutch of holding legal title to the land. But on the Dutch-Indian frontier, where two forms of land use and convention were in regular use, Dutch and Indians both had to fold and create a shared land tenure for land transactions on the Dutch-Indian colonial frontier.

³⁰⁴ Declaration of Wappanghezewam, an Indian Sachem, Respecting Governor Printz’s Wishes to Buy his Lands on the Delaware River, 30 July 1651, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 126.

³⁰⁵ Declaration of Amattehooren and Other Indians of the Cession of Lands on the South River to Stuyvesant, 19 Jul 1655, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 135-136.

³⁰⁶ Deed for Land on Long Island (Queens County), 15 Jan 1639, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 54.

The sale of Queens County, however, was also unique in that Sachem Mechowot and his people agreed to “place themselves under the protection of the said Lords, who will grant to them all possible assistance and favor by their representative in this country” and in that the sachem agreed to transfer “all his...patrimonial lands and the jurisdiction thereof.”³⁰⁷ In effect, these Indians were ceding their sovereignty in exchange for an alliance that they expected would bring them protection and that would not interrupt their use of their “patrimonial lands.” It is likely that these Indians, living in southern New Netherland and particularly Long Island, where combined Dutch and English settlement quickly began to close in on the local Indians, saw this sale as a way of preemptively avoiding war and surviving in an increasingly European world. The sale certainly falls under the traditional use of land to cement political alliances and create mutual obligation. But this loss was not incurred from an abject position. Rather, the generous usufruct rights (and military protection) that Mechowot succeeded in exacting from the Dutch shows that they continued to accommodate Indian land tenure even in an area with an increasingly stronger Dutch presence, a marker of the reality of continued indigenous influence and the need to yield to it.

The treaty made with the Takapousha and other Long Island peoples was similar to the deed for Queens County in that sovereignty was exchanged for the right “to live in peace with All the Dutch and English within this Jurisdiction of the New-netherlands.”³⁰⁸ In this case, however, the trade-off occurred specifically with the peoples’ “lands and territories

³⁰⁷ *Loc cit.* (both quotes)

³⁰⁸ Treaty with Takapousha and Long Island Indians, 12 Mar 1656, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 152.

upon Long Iland, soe farr As the Dutch line doth runn,” which suggests that these peoples may have possessed other lands besides those on Long Island. The Dutch also promised these peoples that they would build a trading post nearby for them to have access to trade and that they would keep the peace with them.³⁰⁹ These clauses are expressive of some Indians’ motivations for maintaining a good relationship with the Dutch, which entailed yielding to at least some of their demands. Of course, this was a treaty following the hostilities of the Peach War, which was not the case with the much-earlier Queens County deed. The Susquehannocks and their Munsee allies had successfully ambushed New Amsterdam, and the Indians signing the treaty likely did so feeling at risk of being lumped in with hostile groups by the Dutch and subjected to retaliation. On the other hand, the Dutch had effectively lost this short war and had learned the importance of being diplomatic in the process, as Mark Meuwese has noted.³¹⁰ The treaty’s provisions may have been the result of the two peoples making their best attempts at diplomacy.

One instance of usufruct-right retention was successfully acquired without such a compromise. Sachems Amattehooren, Peminackan, Ackehoorn, and Sinquees retained hunting and fishing rights for themselves and their people when they granted Stuyvesant the land that they were asked not to resell in 1655. Here, the Dutch very clearly accommodated Indian land tenure to acquire the land properly, so that the Indians selling it would defend their claim. Fair, legal acquisition of land was a part of Dutch efforts to dislodge the Swedes from land that they claimed for their colony by invalidating their settlements as built on

³⁰⁹ *Ibid.*, 151-152.

³¹⁰ Meuwese, *Brothers*, chap. 5.

essentially stolen land. But the legality of the claim could not rest exclusively in Dutch law books, or Indian sellers would not defend the claim.

The notion of Indian-backed claims was not a hollow or false one. The Dutch commonly relied on Indians to identify the rightful owner(s) of a given tract of land. There are multiple “declarations” by Indians in the record in which the speakers confirmed or refuted claims to lands that they had owned or whose sale they had witnessed. This occurred at the colonial level, as in Amattehooren’s (spelled “Mattehoorn” in the earlier version of the grant for the same land that includes the declaration) and Wappanghzewan’s hybrid declaration-grants, in which the sachems refuted Swedish claims to their lands on the Delaware River and then presented them to Stuyvesant as a present. Amattehooren and two other sachems claimed that the Swedes had only purchased the land that Fort Christina stood on and none of the other areas that they had settled, while Wappanghzewan declared that Minquaas Kill, where Fort Christina was located, was his property and that the Swedes had only offered payment for it a few days ago. Together, the two declaration-grants invalidated all of New Sweden’s claims and made the WIC/Dutch the true owners of the land.³¹¹

Reliance on Indians to determine ownership also occurred with ordinary settlers’ claims. For example, in 1664, Jan Tomassen and Volckert Janssen called on Queskimiet,

³¹¹ Declaration of Mattehoorn and Two Other Indians Respecting the Lands on the South River (Delaware River), Dated Fort Nassau, 9 July 1651; Declaration of Wappanghzewam, an Indian Sachem, Respecting Governor Printz’s Wishes to Buy his Lands on the Delaware River, 30 July 1651; and Declaration of Amattehooren and Other Indians of the Cession of Lands on the South River to Stuyvesant, 19 Jul 1655; in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 122-125, 125-126, and 135-136.

Aepie, Wickepe, and Kleijn Davidtie to identify the rightful owner of a piece of land at Gojer's Kil. Their declaration reads as follows:

First, they say that it is eighteen years ago that Jacob Janssen Flodder bought the Gojers kil, but no land with it, only a small piece to the north of the aforesaid kil, which was allowed to him to make a garden, for which they, witnesses owners have received only one piece of cloth for rent. The witnesses being asked whether Jacob Janssen Flodder has bought any land at Schotack, unanimously declare no, but that he only has had a small piece of land that they had consented to him for one year to sow oats upon...they declare Jan Tomassen and Volckert Janssen to be the true owners, who have bought the same and paid for it, and nobody else.³¹²

In this brief excerpt, we can see Indian land tenure and convention at work in the variety of land agreements that they reference, two of which were temporary allotments/leases. Indian accommodation of Dutch notions of permanent landownership is also visible, since they did declare Tomassen and Janssen permanent owners by virtue of a formal purchase and significant payment. Most importantly, Dutch respect for their affidavit is present: the men made their declaration at Fort Orange, in the presence of four WIC court magistrates, who transcribed their words. Officials and Indians both signed/marked the document, and it thereby became an official document with which to settle the dispute.

The need to use land in peace following its purchase and to maintain good relations with Indians required that it be purchased with their full consent. For both the WIC and individual Dutch purchasers, Indian comprehension of and agreement with a transaction was paramount to avoid losing a holding through attack or claims that it had not been purchased. Once both parties fully understood what the sales represented to one another, adjustments

³¹² Declaration about Land at the Gojer's Kil by Queskimiet, Aepie, Wickepe, Kleijn Davidtie, 14 May 1664 in *Fort Orange Records, 1654-1679*, ed. Charles T. Gehring and Janny Venema (Syracuse: Holland Society of New York/Syracuse University Press, 2009), 338-339.

in keeping with particularly important tenets of Dutch and Indian land use and law sometimes had to be made to agreements' terms to close a deal. Thus, encoded Indian retention of usufruct rights and Dutch stipulation that Indians cease using the land right away are manifestations of attempts both to reach a mutually satisfactory compromise that would result in a sale and to push for the land conventions of their respective societies to be honored by the other.

Yielding to Indian Land Tenure: Effective Leasing of Indian Land

Though there are only a few documented, legally protected instances of Indians retaining usufruct rights, the complaints of and protections enshrined in some deeds by the Dutch shows that Indians often retained de facto if not de jure usufruct rights. Sometimes, such rights morphed into outright Indian reclamation of purchased lands, particularly in the case of land that had been abandoned or that had never been settled. Under the logic of usufruct, such land reverted to its original proprietors, who would assert ownership through use. Land may also have been reclaimed for lack of further payment, since land agreements were considered to need renewal to remain in effect. The Dutch, of course, did not understand this, since purchases to them entailed one-time payments or else a series of installments. Leases were an entirely different category in their land tenure. But sales and leases blended messily together in Indian land tenure, if they were not one and the same thing. In some cases, the Dutch found themselves forced to abide by Indian convention (even if they did not understand it) by repurchasing lands.

Scholars are well aware that Munsee Indians sold Staten Island three times, twice to the Dutch in 1630 and 1657, and once to the English in 1670.³¹³ Historian Janny Venema has also noted resales by the Mahicans: Papsickene and some other Indians sold land to the Dutch in 1631, the Dutch never settled it, and his heirs resold it in 1661. That same year, Aepjen also resold land that had been included in a deed to van Rensselaer thirty years before.³¹⁴ The second deed for Staten Island futilely asked that the sellers and their descendants agree not to make “any further claims” on the land.³¹⁵ This, of course, was not heeded, since the English were compelled to purchase the land again later, but this is not the whole story.

Cornelius Melyn’s account of the purchase of the Island reveals that the Indians were informally paid for the land again in 1631:

I...caused the Indians to be askt whether they were not well recompenced by [Minuit] for said Island, They gave me for Answer, yet they had sold it to...[him] and were paid for it, but that it was their custome, when a New Governor came to such a place, that there should be a Gratuity given them; thereby to continue the friendship between the Indians and our nation, which I did.³¹⁶

In 1649, Melyn attempted to live on the Island with his family and was asked to repurchase it. Melyn produced the 1630 deed to remind them that it had already been purchased. The

³¹³ Purchase of Staten Island from Indians for Michiel Paauw, 10 Aug 1630; Indian Deed for Staten Island, 10 July 1657; and Final Deed for Staten Island, 13 Apr 1670, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 24-25, 158-159, and 333-336.

³¹⁴ Venema, 41. Note: I have cited Venema’s work here because I did not undertake to map Indian land sales. The clearest instance of resale that I can verify myself is that of Staten Island. I leave other instances to be identified by historians who are proficient in geography and cartography.

³¹⁵ Indian Deed for Staten Island, 10 July 1657, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 158.

³¹⁶ Cornelius Melyn’s Account of the Purchase of Staten Island, 30 Jan 1659, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 184.

Indians did not deny the purchase, but they did say that “they supposed by reason of the war, by killing, burning, and driving [the Dutch] off, [the Island] was become theirs again, and therefore thought that there must be a new bargain made.” Melyn refused to do this, saying that “that which is sold, must remain sold and that the Dutch will not pay twice for any things, which they have once bought.”³¹⁷ He did give them a gift to maintain the old friendship, as he had done in 1631, though. Melyn goes on to explain that the WIC was forced to purchase the land once more in the 1650s after a settler talked to the original proprietors of purchasing it.³¹⁸ Later, there was also a misunderstanding about hunting rights, the Indians saying that they had not ceded them, while Melyn thought that they had. The Indians held their ground, and it was eventually agreed that they would be allowed to hunt the Island in return for 10-12 deer and “some Turkeys” per year.³¹⁹

Looking at Melyn’s account and the Dutch deeds for Staten Island, it is evident that the Dutch were made to yield to the ultimate forms of Indian land tenure: they were effectively leasing Staten Island, doing so in the name of good diplomatic relations with its Indian owners, and compelled to share the use of the land with them. They even did the sharing in the Indian tradition: they had become the true owners, able to exact a tribute in deer and turkeys for the use of their land, but they could not bar their neighbors, the sellers, from utilizing it. Moreover, the Dutch were compelled to assert ownership through usufruct, the Indian way, since vacant land, whether by conquest, abandonment, or neglect, meant that a sale would expire and that a new purchase would eventually need to be negotiated. In return

³¹⁷ *Loc cit.* (both quotes)

³¹⁸ *Loc cit.*

³¹⁹ *Ibid.*, 185.

for this adjustment to Indian land tenure, though, the Dutch received the continued right to use the land in peace (until the agreement had to be renewed, of course) and, in the second deed, used the purchase to cement a military alliance: the sellers promised “that if any other savages or nations should commit insolence, molestation or force against the inhabitants of Staten Island at any time, we shall assist in preventing and resisting them.”³²⁰ This agreement was nothing less than Dutch adoption of the traditional Indian use of land to cement political relationships.

In the story of the de-facto leasing of Staten Island, the strongest iteration of the Dutch-Indian middle ground of land tenures is visible. The Dutch had no option but to buy and use Staten Island in the Indian way, constantly inhabiting it and allowing its Indian owners hunting rights to keep the sale valid. The Indian sellers were obliged to affix their marks to numerous stern written deeds, to participate in odd deed reading and signing rituals, and had to concede to the veracity of this form of sale and its terms even as they resisted them. Additionally, they were only able to retain hunting rights to the land, rather than the more complete use rights that they were accustomed to retaining among themselves. But a middle ground is a compromise. It never entails complete satisfaction for one party. Rather, once such a thing is achieved, the evanescent period of cooperation and accommodation has disappeared, often to be replaced by an unequal relationship.

³²⁰ Indian Deed for Staten Island, 10 July 1657, in *Early American Indian Documents: Treaties and Laws, 1607-1789*, vol. VII, *New York and New Jersey Treaties, 1609-1682*, ed. Alden T. Vaughan (Frederick, MD: University Publications of America, Inc., 1995), 158.

CONCLUSION

When they began to purchase land from their Indian neighbors, the Dutch had sought fairness in the name of peace and commerce; legal title in the face of Swedish and English encroachment; and a bargain on arable land. At first, they thought to have landed the deals of the century, acquiring hundreds of morgens of land at a time for what they considered an excellent price. Indians selling to them also viewed the sales as advantageous, using them to acquire useful, spiritually prized European goods and to bring Dutch trade and political alliance to their people. All this while retaining full use of the land. Both groups soon realized how wrong they were and that their conceptions of land use were quite different.

But Dutch people and their Indian trade partners found mutual advantage in keeping one another satisfied and their peoples united. Both groups resisted each other's land law. Dutch buyers tried to compel Indians not to resell land and to vacate it upon selling it. Indians continued to use and resell deeded lands after a certain amount of time had elapsed. Both groups also cooperated. The Dutch accommodated Indian land tenure through a unique sale ritual complete with gift-giving and celebration and through permissiveness of ongoing negotiation after an agreement had been signed. They also grudgingly allowed sellers to retain hunting, fishing, and sometimes full usufruct rights to ceded lands, and even participated in effective leasing through official repurchases and informal gifts, which kept Indian demands for true repurchases at bay by renewing the agreement. Indians accommodated Dutch ritual, too, signing written documents and listening to recitations of their oddly fixed terms. They also acknowledged the sales when presented with the deeds

and with verbal reminders, which they could have shrugged off, in the name of keeping Dutch frustration at bay. In all likelihood, they also permitted permanence in some alienations of land due to the fact of extensive Dutch settlement in certain areas and to their growing power in the area. Whatever their consequences in the long run, the Dutch-Indian land transactions were a zone in which both Dutch and Indian land laws were in effect. This policy prevented what the Indians would have considered blatant thefts of their land, kept New Netherland a comparatively peaceful place with strong Indian allies, and, most importantly for the WIC running the Colony, kept the fur trade booming.

In the years after Dutch eviction from North America, however, things would begin to change for Indians in New Netherland. Leverage began to dwindle with the disappearance of the Anglo-Dutch rivalry. Still, Indian influence would remain strong for some time as the yet-young English colonies expanded. English leaders like William Penn and New York Governor Edmund Andros would participate in land deals with some of the flexibility and accommodation that characterized the Dutch-Indian transactions. Eventually, however, the middle ground's disappearance would be complete, heralding the era of Indian dispossession by "deed," "treaty," and outright conquest.

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