

“Extravagant Claims” and “Hard Labour:” Perceptions of Property in the Hudson Valley, 1751-1801

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In May 1739 New York's Lieutenant Governor George Clark urged the Lords of Trade in London to make a formal decision on the border between New York and Massachusetts because settlers from Massachusetts had already moved within sixteen miles of the Hudson River near Albany. To Clark's horror, the settlers had brought a surveyor with them to lay out townships and individual farms on land that Clark thought lay in the Van Rensselaers' one million acre New York estate. According to Clark, the Van Rensselaers acquired legal title to the land when they received a grant from the British royal governor of New York in the 1680s that clarified and legitimated an earlier grant they received from Dutch authorities. The New England farmers had so far ignored Clark's demands that they stop settling the region. Their movement into the disputed territory would fuel agrarian riots from the early 1750s through the end of the century.¹

In the second half of the eighteenth century, discontented rural people from New York and New England challenged the land claims of New York landlords. While they argued that the boundaries of the estates in New York remained unclear for decades, they also asserted that they possessed legitimate title to the land, which they purchased from Native Americans, speculators, or another colonial government. Their assertions of ownership of the land undermined the land claims of New York landlords and, thus, challenged the social and political power of these landlords. For their part, New York landlords maintained that they held legal title to the land and produced as proof patents they received from New York governors or the king.

Others in the region impugned the land titles of New York landlords. The Wappinger Indians in Dutchess County and the Stockbridge Indians to the north both refuted the land claims of New York landlords. They insisted that they owned the land because they occupied the region before European colonists. Abraham Yates, an Albany County sheriff in the 1750s who became a prominent lawyer, offered a similar challenge, but he did not wish the land be returned to Native Americans. Instead, he contended that Native Americans had sold land to European settlers and that some of those colonists had fraudulently expanded the boundaries of their purchases far beyond the borders of the original Indian deed. From the 1760s through the late 1790s, Yates questioned the land claims of New York landlords in letters and in newspaper editorials, providing fuel for the landlords' opponents. Discontented rural

people, New Englanders and disgruntled New York tenants, and Native Americans struggled mightily for secure possession of land because they lived in a world where land provided the basis for social and political power. In such a world, instability proved debilitating.

Historians who have examined conflicts over land in the Hudson Valley have often focused on the battles over colonial borders and sometimes overlooked how local people shaped these debates in immediate and dramatic ways.² This essay explores how the participants in these contests changed their perceptions of what legitimated land ownership in order to justify their specific use of the land. Notions of property transcended narrow legalistic concerns because land ownership defined the political and social order in colonial America and continued to be the critical determinate of who held political and social power in America into the nineteenth century. Discontented rural people on one side and New York landlords on the other squared off in battles over land that began forty years before the signing of the Declaration of Independence and continued for at least twenty years after the end of the Revolutionary War. In these battles, both in court and in violent conflicts, the combatants created new perceptions of what constituted property ownership. Independence from the British crown and the political changes of the early republic did not significantly alter the social and economic relationship between landlords and tenants in most of the Hudson Valley. When Anti-Renters rioted against New York landlords in the 1830s and 1840s, they legitimated their position with a fully articulated labor theory of property value initially used by rural rioters in the 1750s and 1760s and developed throughout the second half of the eighteenth century.³ In tracing the relationship between the differing conceptions of land use from the 1750s through the end of the century, this paper argues that the new perceptions of property were based less on titles granted by political officials after the American Revolution and more on occupancy and labor.

New York landlords and their antagonists often debated these controversies over land and titles in courts, with both sides initially arguing over who possessed the legitimate title to the land. The combatants left to lawyers and justices the task of determining which title proved the most valid.⁴ In these court battles, rural rebels often held what they considered "equitable Title" to the land, but they usually lost in court because they "could not be defended in a Course of Law because they were poor and . . . poor Men were always oppressed by the rich." "Poor Men" lost in court because the institution greatly favored their opponents, the New York landlords.⁵ When New York courts declared the titles of rural rebels invalid, these agrarian insurgents infused their perceptions of land ownership with a rudimentary labor theory of land value. For these disgruntled rural people, titles granted by a king or his officials represented only a part of what permitted a person to live on and possess land.⁶ They

increasingly relied on a perception of land possession that rested more on primary occupancy and labor than on titles granted by the king.⁷ Moreover, they asserted that their perception of land ownership offered a more authentic reason for a right of possession than any ownership of any title.⁸

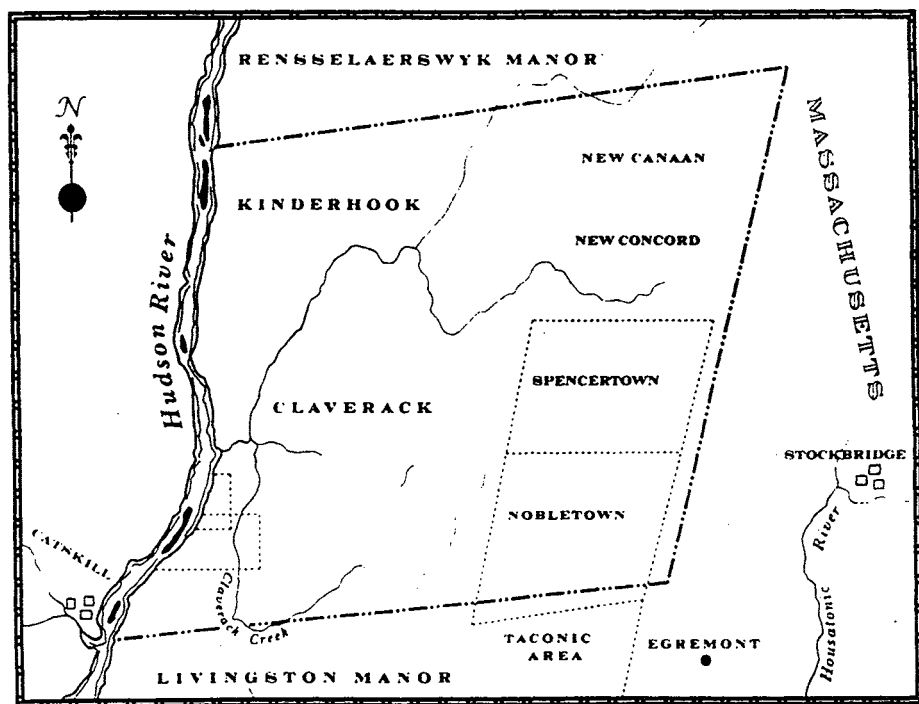
The participants in the conflict over land ownership in the Hudson Valley essentially fought over how they wanted to use the land, and who they thought should control that usage. New York landlords wanted to possess large tracts of land, in many cases tens of thousands of acres, and then rent that land to tenants who produced rent-income. They imposed their particular European paradigm for generating income from the land on Native Americans and on dissident rural people who wanted to use the land differently. Native Americans in the region practiced what Daniel K. Richter described as a “sort of upside-down capitalism, in which their aim was not to accumulate goods, but to be in a position to provide them to others.”⁹ While Native Americans such as the Wappinger and the Stockbridge Indians possessed private property, their possession of the land depended on how they used it and how much land they needed. They also leased land to Anglo-European tenants, offered perpetual leases, asked for modest rents, and stipulated no onerous lease obligations like those generally found in leases given by New York landlords. Further, they leased land they were not using because their claim to land depended on how they used it and how much land they needed to survive.

Between these two perceptions of land use sat insurgent rural people. They wanted to divide the land into individual freehold farms on which they sought to produce enough for their families, and they wanted to be able to give that land to their children. They sought to take land from landlords who did not work or use all, or even much, of their land, and then give it to the people who were working and living on it. In their efforts to gain freehold possession of their farms, rural dissidents resembled people throughout the frontiers of North America who debated and fought over how they thought land should be distributed and used.¹⁰ These differing perceptions of what constituted valid land claims and land use emerged during the ongoing conflicts over land in the Hudson Valley in the second half of the eighteenth century.¹¹

Many of the conflicts over land began as disputes concerning colonial borders, which began in earnest in the late 1730s.¹² The people who took part in that debate agreed that the appropriate boundaries lay somewhere between the Hudson and the Connecticut Rivers, but they rarely agreed on the precise location. Colonial governors who continued to grant land in the disputed territory only heightened existing disagreements because two or three or more people claimed the same territory. New York manor lords watched indignantly as New York and New England farmers—called squatters by New York landlords—moved into the territory west of the Connecticut River and began surveying and settling towns, marking out fifty and one hundred acre plots for

individual farms. Lieutenant Governor George Clark condemned the "New England men who without any purchase pretended to survey" and then settle those lands, noting that "I am not surprized that they have drawn upon themselves bloody and Indian Wars."¹³ Indian wars against the settlers, what many European colonists feared most, represented for Clark one potentially dangerous outcome of New Englanders' attempts to claim the land of others.

In at least three incidences in the 1750s, New Englanders trekked into the disputed region between New York and Massachusetts to mark out towns and farms. In 1751, one group moved to territory around the Taconic Mountains which the Livingstons claimed as part of their estate (see Map 1). What surprised Robert Livingston, Jr., however, was that men of similar social and political standing should disturb him in his "quiet Possession & undoubted Rights" to the land.¹⁴ In January and February 1755, a second committee of settlers and surveyors from Massachusetts traveled from Boston to western Massachusetts (or eastern New York) to survey towns and farms. Robert Livingston, Jr. directed the sheriff of Albany County, Abraham Yates, Jr., to convince the surveying party to return to Massachusetts or to arrest them and throw them in the Albany County jail. Stephen Van Rensselaer, who owned the million acre estate Rensselaerwyck, planned to bring a "good company of Men" and join Yates when he heard of the approaching Massachusetts surveyors and settlers. Both men failed in their attempts to arrest the squatters or to drive them off the



Map 1. Location of the Squatter Towns of Spencertown and Nobletown, 1756-1767.

land.¹⁵ The founders of Spencertown mounted the most serious threat to the land claims of New York manor lords later in 1755 when they organized a town near Claverack, in the lower part of Rensselaerwyck. By May 1757, men from the town met in meetings to parcel out fifty and one-hundred acre lots, while the Livingstons and Van Rensselaers exerted great energy to either evict them or make them their tenants.¹⁶ The disgruntled people of Spencertown and discontented New York tenants who contemporaneously settled Nobletown became thorns in the sides of the Van Rensselaers and the Livingstons, and their towns became the sites of several violent riots between landlords and rural rebels.

At much the same time that New England squatters and settlers moved into eastern New York, some New York tenants challenged their landlords for the land they lived and worked on. They saw that they stood on the same side as New England squatters, against New York landlords, and so they either claimed the land as their own or they petitioned the Massachusetts Bay government for title. In February 1752, Robert Livingston, Jr. ordered one of these tenants, Josiah Loomis, to vacate the house he occupied "before you are Ejected." Livingston demanded that Loomis move off the manor or to a distant part of it, threatening to arrest Loomis if he did not. Loomis, who had lived on Livingston Manor as a tenant for over fifteen years, refused to leave. In August 1753 the Van Deusens, tenants to whom Livingston guaranteed the house in which Loomis lived, sued to evict Loomis from the farm. To prove his ownership of the land and his right to evict his obstreperous tenants, Livingston amassed depositions from people who swore that the Livingston family claimed the land after the first decade of the eighteenth century. Loomis calmly declared the evidence irrelevant because Philip Livingston, the previous lord of Livingston Manor, had given him the land as a gift in the 1740s. A New York court decided against Loomis, but he ignored the judgment and remained on the land.¹⁷

On February 12, 1754, Livingston Manor tenant Michael Hallenbeck, a tenant on the manor for thirty years, joined Loomis against the Livingstons and declared that he too owned his leasehold. Hallenbeck and Loomis knew that their manor lord would not recognize their claims, so they petitioned the Massachusetts Assembly in Boston for titles. Much to the disgust of the Livingstons, the Massachusetts Assembly identified Loomis and Hallenbeck as the rightful owners. Approximately one year later, Joseph Paine, also a tenant who worked in the Livingston's iron works at Anchram for over a decade, announced that he too owned the land he had rented from Robert Livingston, Jr. When Livingston ordered Paine off the land, Paine defiantly girdled over one thousand trees on his leasehold. In the same month, Robert Noble, a Rensselaerwyck tenant, carried the growing rural discontent to that manor and urged fellow tenants Hendrick Brussie, Adam Shefer, Jacobus Van Deusen

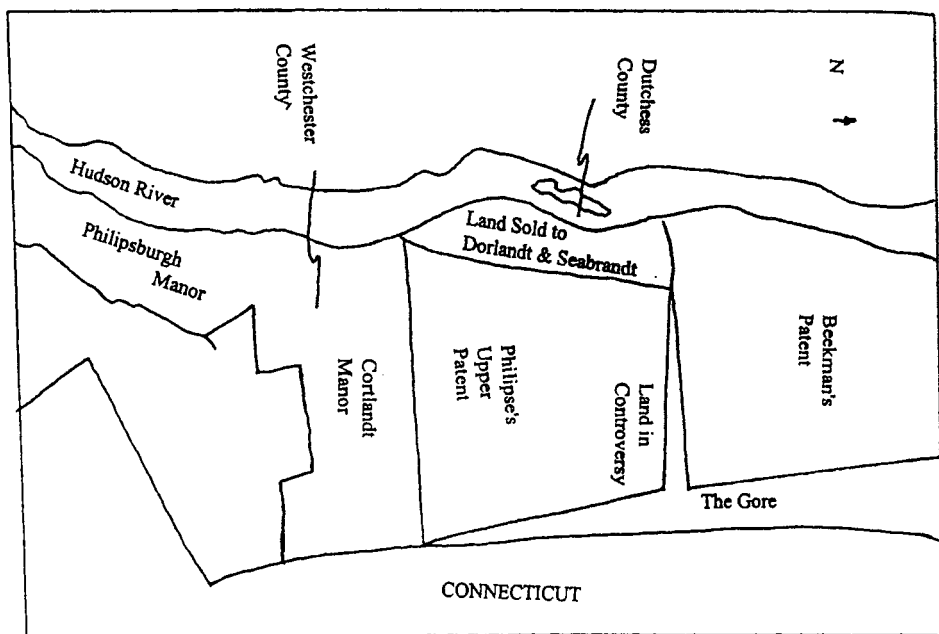
(Robert and Johannis Van Deusen's relative) and others to join his protest against the Livingstons. He assured them that if they joined the battle, they and all the tenants on the manor could gain ownership of the land they labored on for "Nothing." The inhabitants of Spencertown shortly recognized that they shared common enemies and common goals with disgruntled tenants, and joined them in the struggle against New York landlords for the land on which they lived and worked.¹⁸

Tenants and squatters in Dutchess and Westchester Counties in the southern part of the Hudson Valley also challenged the allegedly suspect land claims of New York landlords. By the early 1760s, Beverly Robinson, who operated part of the Philipse Highland Patent in Dutchess County for his in-laws the Philipses, began altering the lease structure from one in which tenants agreed to leases for one or two lives and paid rent in agrarian products to one in which tenants leased land for short periods of time, usually one to three years, and paid cash rent. These resembled the Scottish-style leases landlords in New Jersey compelled their tenants to sign.¹⁹ When tenants resisted Robinson's leases, he tried to have them evicted. They responded by trying to gain permanent possession of their farms. In November 1763, thirteen tenants in Dutchess County who lived on Beverly Robinson's portion of Philipsburgh, petitioned the crown for their lands, arguing that the land which they farmed "is a true or parcell of Land which has not as yet ever been disposed of or granted to any by the King's Letter Patent." According to the petitioners, the Philipses and Beekmans did not even want to use the land because they had "Discouraged people from Building House &c. and planting Orchards," inhibiting the farmers ability to seek the "Tranquility and Liberty which properly Belongs" to them. Although the "Many wholesome Fellow petitioners" maintained that no one owned the land but the King, the Beekmans, Philipses, and particularly Beverly Robinson claimed they had been granted sections of the region as part of the hotly contested Philipse Upper Patent.

In early 1764, twenty-four new signers joined the original thirteen in another petition to the King. The "Many wholesome Fellow petitioners" charged that they were "disinherited and thrown out of possession" of the land to which all held "a good or warrantable title by Lease Deed . . . for 3 lives." The petitioners rejected the shorter leases imposed on them and they singled Robinson out because he refused to give perpetual or life leases to the "Inhabitants who had Lived on it for 30 years: past and had manured and cultivated the" land. In short, the petitioners wanted to hold the land in fee simple and to escape the subservience of tenancy. After repeated attempts to gain property and after as many failures, in 1765 and 1766 these disgruntled farmers joined with other discontented tenants and squatters in Dutchess County in a general uprising of hundreds of rural rioters against propertied New Yorkers over land.²⁰

Some of the farmers Robinson evicted who had signed the petitions held leases from the Wappinger Indians, who concurrently asserted their ownership of some of the land Frederick Philipse and Beverly Robinson claimed. While the situation offers an example of how colonists imposed their European view of landownership on Native Americans and how those colonists denied Indians access to lands regardless of their proof of ownership, the dispute also provides an alternative vision of land use to that of New York landlords.²¹ In the court case, Daniel Nimham, the son of a prominent member of the tribe, and Samuel Munro, Sr., the son of a Scottish immigrant, argued for the Wappingers while John Morin Scott and James Duane served as the legal representatives for the Philipses. Nimham and Munro, like the petitioners of 1763 and 1764, based their position on an interpretation of property ownership that included title, first occupancy, and use of the land. The lawyers for the landlords relied on the titles they received from the Dutch government that the British crown reaffirmed later. Thus, in a legal setting, Nimham pronounced a vision of property possession already recognized by many rural lower sort in the Hudson Valley and opposed the views expressed by Scott and Duane.

The dispute between the Wappinger Indians and the owners of the Philipse Highland patent began in the middle of the 1750s, at about the same time that New York tenants and New England farmers began challenging the claims of the Livingstons and the Van Rensselaers. In 1756, while many Wappinger Indians were fighting for the British against the French and while the remainder of the tribe stayed with the Stockbridge Indians, Beverly Robinson, Roger Morris, and Philip Philipse appropriated most of the Wappingers' territory (see Map 2). Robinson, Morris, and Philipse maintained that they legally owned the land because they held the deed for the territory drafted in 1691 between Lambert Dorlandt and Jean Seabrandt on one side and a group of Wappinger Indians on the other. The deed described a plot of land immediately above the 86,000 acre Cortlandt Manor. Adolph Philipse gained possession of the deed and in 1692 he received a grant for the territory from New York's governor, Benjamin Fletcher (1692-1698). While the original patent of Lambert and Seabrandt was relatively small, Philipse's opponents alleged that Adolph Philipse cut down a tree that marked a corner of the territory and expanded his original 15,000 acre tract to roughly 205,000 acres. He received an official grant for the entire territory from the New York royal governor in 1697. In the early 1760s, Robinson, Morris, and Philipse began issuing eviction notices to those people who held titles or leases to land from the Wappinger Indians. These farmers refused to sign the one-year leases offered by Robinson to become his tenants and some of them petitioned the king for their land in 1763 and 1764. Many of these disgruntled tenants had signed 999 year leases with the Wappinger Indians.²²



Map 2. Territory in Dispute in 1765, Wappinger Indians v. The Philipse.

Samuel Munro implored Nimham to appeal to the governor's council for the land. John Tabor Kempe, the colony's general, responded and investigated the case for the crown. In 1762, Kempe outlined in detail the oppositional claims, noting that Nimham asserted the Wappingers held the land by virtue of a grant held by a relative on his mother's side—she was a Wappinger Indian. The holder of the title, Awansons, sold some of the land in the lowlands near Peekskill to Adolph Philipse in the late seventeenth century. In the 1750s, Philipse's heirs claimed all of the land owned by Awansons, who died before the 1750s and left the land to his sons Tawant (John Van Gelden) and Sancoolakkeking. Van Gelden, a Stockbridge Indian who instigated and participated in several rural riots against the Livingstons north of the Philipse Highland and was Nimham's uncle, obtained most of the land when Sancoolakkeking died. While Nimham's father, Sancoolakkeking, sold some of the land, other parts of the territory were "reserved for the Indians and not sold." Because Kempe thought that the Indian names of places that marked the edges of the territory were "Widely differing," he observed that the descriptions of the land "now claimed by Daniel Nimham seems not to agree with the Description" of the region under investigation.²³ In 1765, based on Kempe's legal opinion, Lieutenant Governor Cadwallader Colden and his council rejected the Wappingers' petition to gain title to the land. Dissatisfied with Colden's denial of their attempt to obtain title to the land, the Wappingers appealed to the King's council for a review, but the King referred the issue

back to New York's governor, by then Henry Moore. The governor and his council—Daniel Horsmanden, William Smith, Jr., John Watts, Oliver DeLancey, Charles Apthorp and Joseph Reed—heard the case in 1767. Roger Morris also sat on the council but he left his seat during the hearing. In front of that council, Nimham represented the Wappingers and Scott and Duane acted for the Philipses, but Samuel Munro neither joined Nimham in court nor testified for the Indians.²⁴ He had been arrested and jailed for his participation in the riots of 1766, and sat there uncharged for over two years.²⁵

The Philipses, through John Morin Scott and James Duane, based their case on the sale between Seabrandt and Lambert and Adolph Philipse. When Nimham debated the extent of the land described in the deed of 1692 and in the governor's grant of 1697, Beverly Robinson produced a different deed between the Wappingers and Adolph Philipse which included all the contested property. In the courtroom Robinson pulled the deed, dated 1702, from his breast pocket and read it. He then secreted it away back in his pocket and neither Robinson nor John Morin Scott entered the deed as evidence. Scott reiterated the importance of the deed when he noted that the Wappingers originally owned the land by virtue of "Prime-Occupancy," and that they continued to own the land unless "there has been a legal alteration of the Same." The only way the Wappingers lost legal claim to the land, according to Scott, was if they sold it, and Scott maintained that the deed Robinson produced in court constituted a legal deed of sale.²⁶ James Duane likewise stressed that the Wappingers had abandoned the land during the French and Indian War, and that they forfeited the lands "to the Crown of Great Britain, and that therefore his Majesty had good right to Grant them by Letters Patent to whomsoever he pleases."²⁷

In his appeal for recognition of the Wappinger's title to the land, Daniel Nimham maintained that the Wappingers were the original occupiers of the territory and that their primary occupancy entitled them to the land. Further, one or two members of the tribe could not sell the tribe's land without the consent of the whole tribe and the Philipses did not possess such a deed. Nimham linked declarations that the Wappingers "Claimed the Lands in Controversy under their Ancestors, in whom was the native's Right," with an attack on the Philipses' 1702 title to the land.²⁸ Nimham additionally protested that no member of the Wappingers had ever sold their land to the Philipses. In response to Nimham's protests, Colden asked an older member of the tribe if he knew the names of the Wappingers listed on Robinson's title from 1702. The Indian knew them but added that they did not have the authority to sell land that belonged to the tribe, and he further attested that he had never heard of the sale between the Wappingers and Adolph Philipse. A sachem for the Wappingers also undermined the authenticity of the Philipse claim by testifying that Adolph Philipse understood that the land belonged to the whole

tribe and that the whole tribe needed to agree to sell property, but the tribe never completed the deal.²⁹

After introducing the importance of prime occupancy on the land to determine possession, Nimham expanded his argument. He asserted that the Wappingers had served as the supervisors of the land for several decades before the Philipses took the Native Americans to court, and their activity entitled them to possess the land permanently. The Wappingers deserved to own the land, Nimham argued, because they had cared for and labored on it, and because they had allowed others to improve the land long before the Philipses claimed the land during the Seven Years' War. While several witnesses testified that the Wappingers had supervised the territory for several decades, Peter Anjuvine, who rioted against the Philipses over the land, concisely attested that "the said Patented Lands had become in a Considerable Measure Settled, before the Indians went into the Wars." Further, "the Tenants who there Settled, (to his Knowledge) either paid their annual acknowledgements to said Indians for the Use of their Farms, or in some more general way, made their agreements with them therefor."³⁰ Adolph Philipse also proved reluctant to improve the land or to give permission to Anglo-Europeans to improve it, suggesting to Nimham that he knew he did not own the land. Indeed, Adolph Philipse had confided to one of his tenants that the "never purchased that Land of the Indians."³¹

Despite this preponderance of evidence, Nimham failed to persuade the governor's council that the Wappingers claimed the territory legitimately. At one point during the trial Cadwallader Colden, evidently exasperated that it had lasted so long and quite sure of his opinion before hearing all the evidence, "told the Indians to go home." A few years earlier, Colden had rejected the Wappingers' petitions for the territory, and in the new case he did not think that the Indians had sufficiently improved their arguments to increase their chances of winning.³² New York Governor Henry Moore and his executive council also felt that the Indians had not made a strong enough case to warrant their outright possession of the land. The governor and his council unanimously agreed that the "Indians now living of the Wappinger Tribe, have no Right, Title, or Claim to the Lands granted as aforesaid by Letters Patent to the said Adolph Philipse." They determined that the Wappingers lost their right to the land when they allegedly sold the property to Adolph Philipse in 1702, basing their decision on the suspect deed Beverly Robinson produced from his coat pocket during the trial. The council dismissed the suit and ordered the Indians to leave the territory or submit themselves to the proprietary whims of the Philipses. That body then ordered that the farmers in the region also become the Philipses' tenants or move.³³

John Morin Scott noticed a more pressing reason to decide favorably for the Philipses. He suggested that admitting Indian possession and occupation

of land as the basis for their effective legal title and that acknowledging those kinds of arguments in court to denounce claims of European colonists “will be of a Dangerous Tendency.” “’Twill open a Door to the greatest Mischiefs,” he continued, “inasmuch as a great part of the Lands in this Province are supposed to lie under much of the same Scituation.”³⁴ If the council recognized the preeminence of first occupancy and current possession of the Wappingers in this case, this would have opened the floodgates for Native Americans throughout New York to demand title to the land and would have seriously damaged European claims to land colonists settled. Furthermore, such recognition would have strengthened the arguments of tenants and squatters who asserted their rights to land by virtue of their occupancy and labor on it. In the decision against the Wappingers, the council reified titles from the crown as the basis of property claims to protect the land holdings of many propertied New Yorkers, and those of landed New Yorkers who sometimes claimed territory without first buying it from the original occupants. Although the council rendered the final decision in 1767, Beverly Robinson anticipated a favorable verdict; in 1764 and 1765, he began either forcing people to sign one-to three-year leases or evicting tenants from the territory if they refused to sign.

Landlords throughout the Hudson River Valley used suits of eviction primarily to remove the most obnoxious tenants from their estates. In Dutchess County, for instance, Beverly Robinson either burned tenants out or ordered sheriffs and posses to throw them off their farms. Suits of eviction, however, satisfied other legal obligations. Landlords used eviction suits to negate a squatter's future attempts to claim the property by right of adverse possession, in which positive title could be awarded to the squatter after approximately twenty years if the landlord or owner failed to acknowledge the squatter's occupancy of the land. A landlord had to prove only once that he possessed the territory on which squatters lived within twenty years of the squatters' occupancy to stake his claim. Landlords easily accomplished that by filing eviction suits. They did not always use these suits to force out unruly people—although they often asked local sheriffs to evict tenants and squatters—but a successful suit did eradicate the squatter's right to possess the land outright after a significant period of occupation.³⁵

Landlords might also choose to evict tenants or squatters from the land to maintain the continuity of their claim. In December 1766, Abraham Yates notified Robert Livingston, Jr., that he had delivered writs to the sheriff of Albany County, Harmanus Schuyler, to evict some of the tenants on Livingston's land in the Saratoga Patent. Yates thought suits of eviction the most expedient method of removing people from the land, but he also thought that if eviction brought “Miscery We must think of Other Means.” He understood that Livingston needed to assert his ownership over some of the lots because if Livingston was “in Possession of Part of the Lots [he was] in Possession of the

Whole.” Regardless of Livingston’s possession of the land, Yates cautioned him that “it is Required that the Party Grieved prove the Actual Possession (that is Improved or Enclosed Possession).” Yates urged Livingston to issue the notices, but only to evict tenants and squatters if they proved “obstreperous.”³⁶ The law as practiced in colonial New York favored long and contiguous possession of land as an argument of right title, though “not that it ever was, or could be the Intention of Law to favor men in taking Possession of Lands to which they had no Title.”³⁷

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The Livingstons, Van Rensselaers, and Philip Schuyler, like other landlords in the Hudson Valley, adhered to a perception of land ownership based on title when other colonists threatened their property holdings.³⁸ While landlords sometimes argued among themselves over land titles, they faced more serious challenges to their claims. In the early 1760s, Abraham Yates, Jr., wrestled with the Van Rensselaers’ land claims when he wrote a history of the Manor of Rensselaerwyck. A cobbler’s son, Yates began his public career as sheriff of Albany County and benefited from Robert Livingston, Jr.’s patronage. But he failed to regain the office in 1760, and fell out of favor with Albany County’s powerful landlords when he began questioning the validity of their land claims.³⁹ In 1762 Yates studied the original grants to Rensselaerwyck and noticed several dissimilarities between the wording of the Indian deeds to the land and the language of the patent the Van Rensselaers received from the Dutch and which the English government reaffirmed. He determined that the Van Rensselaers claimed significantly more land than the plot described in the Indian deeds, remarking that the two “Documents could not have been more Differently Worded if they had intended two Different Places of Land.”⁴⁰

Later in the decade, but before 1771,⁴¹ Yates reasserted his notion that the land claims of the Van Rensselaers were “founded upon suggestions the most notoriously false.” Other manor lords did not escape Yates’ scrutiny because they, like the Van Rensselaers, “wriggl[ed] themselves in and elbow[ed] their antagonists out of their property and jurisdiction.”⁴² In March 1771, Yates noted that many New Yorkers held title from the West India Company, which received its grant to the land in the Hudson Valley from the States General of Holland in 1621. They dispossessed the first European settlers “of the Right of Soil, River, or divest them of the privilege of the Commons, Woods &c.” Yates understood that North America “was a settled Country” and confidently knew that “no Englishman or Dutch man would have judged it right or been satisfied had the Americans . . . first discovered England or Holland that the Sovereignty or Soil should thereby be deemed lost.” Yates knew that the first Dutch settlers had bought land from the Native Americans, but that the people

who received titles to the land from the Dutch West India Company had not. He concluded that the West India Company had no right to grant land patents in the region of Albany because the initial European settlers had either bought the land from Native Americans or had “acquired right by prior Occupancy.” Yates also justified the initial settlers’ rights to the territory by recounting the difficulties they had encountered when they first occupied the land. They had regularly built forts and improved new tracts, and Yates thought their labor and effort to tame the land entitled them to own it. Yates seriously challenged the land claims of the Van Rensselaers and Livingstons because they had obtained their titles to their estates from the Dutch government. They did not buy their land from Native Americans.⁴³

Yates received at least one response to his critique of the manor lord’s claims. Samuel Jones, a Loyalist who nevertheless was a friend and confidant of both George Clinton and Alexander Hamilton and served in New York’s Senate in the 1780s and 1790s, disagreed with Yates’ assertion that Dutch settlers were the original occupants of the land around Albany. Jones countered that he thought they settled the land as subjects “under the Protection of the States General,” and either conquered or purchased the land from Native Americans. Regardless of the validity or strength of the proprietors’ argument, he did not “see what Purpose an Inquiry into these Matters will answer: for I take it our Courts will not now go into an Examination whether the People of Albany were wrongful dispossessed of their Lands or divested of their Privileges by the West India Company.” Jones well understood that the British were not going to give any land back to the Native Americans, or the heirs of those early Dutch settlers.⁴⁴

Abraham Yates’s criticism of the Van Rensselaers’ boundaries illustrates the discrepancies concerning the boundaries of colonial New York and the claims of rural insurgents in the region. The Van Rensselaers and Livingstons claimed that their estates extended to the easternmost border of New York, which they thought was the Connecticut River. The governors and lieutenant governors who issued land grants in New York agreed with that eastern boundary. Based on that defense of New York’s colonial boundaries in the 1760s, New York governors and lieutenant governors granted over 2.1 million acres to New York landlords north of the Massachusetts border and west of the Connecticut River. They simply ignored the King’s demand that they stop issuing titles in the disputed territory. Massachusetts and New Hampshire, on the other hand, had granted all but approximately 180,000 acres of land in the same territory to settlers from their colonies.⁴⁵ John Lydius, of Albany, claimed that he received title from Massachusetts for approximately one million acres in the New Hampshire Grants, and landed New Yorkers fiercely attacked his land claims. Lydius could not, New York’s Lieutenant Governor Cadwallader Colden reasoned, own land to which some New Yorkers already held title.

Colden further warned that while the dispute concerning the boundaries of New York and Massachusetts raged, a “lawless people may take advantage of it, and settle in those parts of the Country without any regard to the authority of any Government.” For his part, Lydius regularly asserted his ownership of the grants by virtue of the titles he received from other colonies.⁴⁶

The size of the territory Lydius claimed and proposed to sell to individual farmers irritated landlords such as Robert R. Livingston, who wanted the area settled by rent-paying tenants. Livingston’s intent to rent and Lydius’s intent to sell the land demonstrates the fundamental debate over land use in the Hudson Valley. How Livingston and Lydius wanted to earn money from the land illustrates the differences in how landlords, speculators such as Lydius, and the people who bought freeholds wanted to use land in the Hudson Valley.

Lydius infuriated his New York antagonists. Cadwallader Colden condemned him for bringing “lawless people” into the region to settle the land, for contesting the “Majesties Governments,” and acting “without any regard to the authority of any Government, under the pretence of Indian purchases.” Robert Livingston, Jr., supported Colden. He remained undeterred in his pursuit of the land, remarking that New Hampshire squatters were urged by Lydius to attack New Yorkers’ legitimate claims. He did not think that Lydius’s buyers “will be so void of Sence as to go & Settle before thay see their way” decided properly by a British court of law. If they inhabited land owned by New Yorkers, or on land a New York court decided that New Yorkers owned, Livingston understood that the “Government will Exert their authority & drive them off[f].”⁴⁸

Lydius’s trouble with New York landlords, like the contemporaneous dispute between the Wappinger Indians and the proprietors of the Philipse Highland Patent, presented an opportunity for the opponents of New York landlords to express their different perceptions of land use and ownership. Although Massachusetts and New Hampshire declared their jurisdiction over the property and subsequently issued Lydius official grants to the land, New York landlords placed little value in deeds Lydius had obtained, probably dishonestly, from Native Americans in 1732. In 1755, an Oneida sachem told Sir William Johnson of Johnson Hall—who served as the liaison between the British government, the colonists and the Five Nations—that Lydius “is a Devil and has stole our Lands, he takes Indians slyly by the Blanket one at a time, and when they are drunk, puts some money into their Bosoms and perswades them to sign deeds.” For his part, Lydius testified that he verified colonial boundaries and the limits of the hunting lands for the Five Nations. He claimed to have “a Conveyance from the Mohawks” during which both parties verified the extent of their territories. He also asserted that he bought the land from the Mohawks and from the Five Nations “lawfull & proper,” and that he held the original title to the land which Godfrey Dellius made in 1696.⁴⁹

New York landlords charged Lydius with trespass and intrusion. They pushed the case to trial in New York in 1763, relying on their court system to declare Lydius' claims crooked. As in the cases pitting New York landlords against squatters, dissident tenants, and Native Americans, ownership revolved around the original nature and authenticity of the titles. Before a New York court, Lydius repeated his assertions that he bought the lands legally, that he held the original title from Godfrey Dillius, and that the governments of Massachusetts and then New Hampshire validated his deeds with patents to the land. Lydius based his suppositions that the land in question lay in Massachusetts on his interpretation of the patent King Charles II issued to his brother James as proprietor of New York and on his interpretation of the settlements over boundaries to the colonies made by first English Governor of New York. John Tabor Kempe, on the other hand, alluded to Lydius's questionable dealings with Native Americans, grounding his argument on the legitimacy of the New York patents and the New Netherlands charter. To make his case of intrusion and trespass against Lydius stronger, Kempe also pointed out that Lydius lived on the land under examination, and that he had surveyed the land for sale and planned to derive profits from it. In July 1764, after "Having considered this Case and examined the Authority relative to it," David Jones wrote the verdict against Lydius. Jones determined that the lands never passed from the ownership of the crown and that, in his opinion, the "Judgement go for the King" and against Lydius.⁵⁰

Thomas Young championed Lydius's fight for land against New York landlords. Young later became a leading member of the Sons of Liberty in Albany in Boston, and helped draft the Pennsylvania Constitution of 1776 and later the Vermont state constitution. In 1764, at the beginning of his remarkable political career, Young, an itinerant doctor, wrote a pamphlet analyzing the conflict between Lydius and New York landlords. He explained his understanding of titles and what he thought entitled people to claim land. He noted that confusion over titles often arose because the governors of the colonies involved issued grants to various people and that those grants often overlapped.⁵¹

Young discussed the importance of conflicting titles and interpreted titles in a way that challenged the perceptions of titles of New York landlords. He wrote that "with respect to *title* in general, it is an uncontroverted point, that it *originates* from *preoccupancy*, or first *discovery*, and in consequence, that all just claim must be denounced therefrom."⁵² Young maintained that given the importance of first occupancy, one need only discover the identity of the first occupant to derive the original and right title holder. He further insisted that "it is a maxim in law, that the possessor's title is ever good till paramounted by a better." Titles from the crown, according to Young, did not constitute a better claim than primary occupancy. Native Americans were the first occupants

of the land and only through deeds or titles obtained from them could someone assert their ownership. New York landlords countered that by his order of 1736 the King made all Native Americans British subjects and that the crown thereby owned all the land in the British colonies, including the land claimed by the Native Americans.⁵³ Young denounced those New Yorkers who, in court, asked to deny the authenticity of Indian titles as threats to the validity and strength of the crown's authority. "Tear *Indian* Title to pieces," Young cried in condemnation, "and tear the country to pieces." He knew, however, that New York manor lords would ignore Indian claims to the land to assure the legitimacy of their own titles.⁵⁴

Young pushed his ideas on property further, infusing his discussion with a rudimentary labor theory of land value. He contended that the improvements made to the land benefited the country by furnishing the poor with the "means of very comfortable living," many of whom would "become burdens to our already languishing commonwealth." Young praised Lydius and the farmers for improving the land and increasing its value. At the same time, he condemned New York landlords who kept "thousands of acres of excellent soil wilderness, waiting till the industry of others round them, raise their lands three, four, or more pounds per acre." Young indicated that Lydius exercised a better claim to the land than New York landlords because he expected to "settle his lands, and to render them both generally and particularly advantageous." For Young, laboring on the land entitled people to possess the land because they increased its values and served the whole colony. "All we ask," he continued, "is, that we may enjoy our undoubted rights, and not have them so cruelly rent out of our hands to give to people, at least no more celebrated for their loyalty or love to their country than we are." Moreover, because New York manor lords offered no more service or no truer loyalty to the king than their lowliest tenant, rural people had an equal right to possess the "*Household Gods* of Englishmen," liberty and property.⁵⁵

* * *

New York landlords strongly challenged in court the claims of people, such as John Lydius, who declared their ownership of disputed property in the region, while rejecting outright the property claims of others who lived west of the Green Mountains but east of the Hudson River. By the late 1760s and early 1770s, a small but staunch group of dissatisfied New Yorkers and New Englanders had settled the territory around Bennington. Like others involved in the ongoing battle, they based their possession of the land on the titles they possessed. The original settlers of the region, which later became Vermont, followed the general tide of people who moved from the western portions of Massachusetts and Connecticut, and from eastern New York, to gain freeholds

and to escape the threat of tenancy.⁵⁶ From the 1770s through the 1790s, representatives of New York on one side and New Hampshire and Vermont on the other fought over land, constantly reiterating the legitimacy of their deeds and often basing their arguments on the title they received to the territory from different colonial authorities. As New York landlords continued to defeat their New Hampshire and Vermont foes in New York courts, the losers began to shift their perception of what constituted land ownership to include a labor theory of property value.⁵⁷

The battle over land in the Green Mountain territory began in the 1770s and continued through the Revolutionary period.⁵⁸ In April 1772, William Tryon, then the Governor of New York, threatened to take the land violently from the squatters in the Green Mountains. He refused to acknowledge their titles and considered their activities “disingenuous and dishonourable.” Vermonters in turn thought these attempts to expel them from their land as “illegal and unconstitutional,” and as violations of the “laws, restrictions, regulations, and oeconomy, both of God, and man.”⁵⁹ In February 1774, the General Assembly of New York understood that there prevailed in what they claimed was Charlotte County, New York a “dangerous and destructive spirit of riot and licentiousness, subversive of all order and good government.” The New York Assembly knew that many of the farmers in the region considered themselves residents of Vermont and not New York. The Assembly ordered Colonel Abraham Ten Broeck, at the time the manager of Rensselaerwyck, to arrest prominent Green Mountain Boys for leading their rebellion.⁶⁰

During the Revolution, the Green Mountain Boys presented an additional danger to New York landlords who became Patriots. In May 1776, Ethan Allen wrote to John Hancock that the Green Mountain Boys would join the Patriot cause only if they could do so “without fear of giving our opponents any advantage in the said Land dispute.” Thomas Chittendon, the acting governor of the territory, queried, “does not that same spirit of freedom now exist among the free citizens of Vermont, which is absolutely necessary to be continued, by the United States of America, in order to carry into execution the declaration of Congress, on the 4th of July, 1776?”⁶¹ Vermonters also determined that the Declaration of Independence guaranteed them self-government and freed them from the rule of both Britain and New York.⁶²

By the summer of 1781, the Continental Congress all but dismissed the possibility of Vermont’s statehood and independence from New York, but Vermonters continued to fight for the land on which they lived and worked. In 1785, those sympathetic to Vermonters determined that a view of property based on labor and occupancy would help their cause. Thereafter, when they talked about titles, they emphasized the significance of working and improving the land. They appealed to the rulers of New York and to the prominent men of Vermont, imploring them to “do Justice to their own dignity & Character

by establishing those unhappy people in the peaceable possessions of the Farms which they have Cultivated by the sweat of their brows.”⁶³ The legislators of New York and the governors of Vermont finally settled the debate in the late 1780s and codified the agreement in 1789 and 1790. The compromise represented both a reaffirmation of the validity of titles derived from a hierarchical authority and an acceptance of more subjective ways of determining property titles and rights, including the idea that labor on the land and primary occupancy entitled the farmer to the property.⁶⁴

Disgruntled rural people in Dutchess County, New York, also petitioned and fought for land during the American Revolution. In September 1779, when the Patriot government of New York considered selling the property of Loyalists to generate revenue for the war against Britain, farmers in Dutchess County petitioned the Patriot government for the land on which they lived and worked.⁶⁵ Simon Calkins, who had petitioned the King for land in the early 1760s and rioted against Beverly Robinson and the Philipses in 1765 and 1766, joined others in a plea for their land in Dutchess County during the Revolution. They had been ejected from their leaseholds by Beverly Robinson in 1765 and 1766 because they refused to sign the shorter leases Robinson imposed first on the tenants of the Wappinger Indians and then on his own tenants. These tenants, spurred by the sale of loyalist land in other parts of the Hudson Valley, wanted to claim their tenancies because they had “settled a wild uncultivated Tract of Land” and “turned it into comfortable Habitations [with an] Expectation of Reaping the Benefit.” They wanted to reap the rewards of “their Labour and Toil in the Decline of Life,” confident that whoever owned the land would enjoy the “Farms which they had made comfortable and some measure profitable by the sweat of their Brows.”⁶⁶

Under the Patriot government of New York headed by the Democratic-Republican Governor George Clinton in the 1780s and 1790s, tenants in the upper Hudson Valley reinvigorated their efforts to gain the land on which they lived and worked. Like their predecessors in the 1750s and the 1760s, who had threatened to support the crown during the Revolution, discontented tenants petitioned for ownership of their leaseholds, basing their pleas on the illegitimacy of the titles of New York landlords and on their labor and occupancy on the land. In February 1784 and twice in January 1789, disgruntled tenants on Livingston Manor and Rensselaerwyck sent petitions to the New York legislature in which they voiced their aspirations for ownership of the land they farmed. They condemned their landlords’ “vague and extravagant claims,” and declared reprehensible the actions of William Tryon, who reaffirmed the Van Rensselaers’ claimed in the early 1770s. While the petitioners traced the origins of their disputes with their landlords back to the 1760s, in the new petitions they appealed for the land they thought they earned through their “many years head Labour.” They argued that “they had honestly acquired” their lands by virtue of their labor for “the support of themselves and Familys.”⁶⁷

* * *

The various petitions and court cases between landed New Yorkers and their opponents reveal differing perceptions of what constituted ownership and legitimate use of land. In the 1750s and the 1760s, New York landlords relied on a perception of property based on paper title. For them, land ownership depended on the derivation of titles from a political leader who protected that system of land distribution, implicitly creating and preserving an inequitable structure of land distribution. In colonial New York, landlords relied on the authority of the crown to substantiate and validate their titles. After the Revolution New York landlords who became patriots depended on the governments they created and controlled to legitimate their titles. They shifted the seat of power from London and the crown to the new United States government, reinforcing the notion that land ownership amounted to a legal privilege protected and guaranteed by political and social rulers. When people threatened their claims, New York landlords successfully pushed the disputes into New York courts and political councils, which they controlled, to guarantee their titles. As a result, antagonists of the landlords expanded their perceptions of what constituted land ownership to include the idea that their labor and occupancy on the land entitled them to own it.

Nevertheless, although tenants and squatters increasingly based property right on occupancy and labor, they by no means wanted to obliterate private property. Rather, they reinterpreted what constituted property ownership and fought for redistribution of land in the Hudson Valley to the Anglo-Europeans who lived and worked on it. In some cases, they succeeded. Many rural rebels in Vermont and New Hampshire and some tenants in Dutchess County obtained land after the Revolutionary War, but many others did not. After the War, thousands of tenants remained on Livingston Manor and on Rensselaerwyck, which dominated the northern portion of New York, and thousands more settled unimproved land owned by these landlords. For many of these tenants, political independence from the British crown did not fulfill their ideas of social and economic independence. They thereby negotiated new perceptions of land ownership, altering the fundamental idea of what constituted property ownership in the new republic. These disgruntled rural people fought for a vision of independence that relied on land ownership from the middle of the eighteenth century, long before the Revolution, and into the 1830s and 1840s, long after the Revolution was over. They grounded rural rebellion in their perception of land possession that included title, labor, and occupancy. After a century of struggle, they finally triumphed in the mid-nineteenth-century New York legal and social community.⁶⁸

Notes

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1. Lieutenant Clark to the Lords of Trade, New York City, 24 May 1739, in E. B. O'Callaghan, *Documents Relative to the Colonial History of the State of New York*, 15 vols. (Albany: Weed, Parsons & Co., Press, 1856), 6: 143-144 [*Docs Rel to Col NY*].

2. For example of this approach see: Dixon Ryan Fox, *Yankees versus Yorkers*, (New York: New York University, 1940); and Sung Bok Kim, *Landlord and Tenant in Colonial New York, 1664-1775* (Chapel Hill: The University of North Carolina Press, 1978). Kim particularly argues that the agrarian rioting in the Hudson Valley through 1766 resulted from the boundary disputes between New York and New England. *Ibid.*, 415 and ch. 7.

3. For a discussion of the anti-rent wars in upstate New York in the 1830s and 1840s, see Reeve J. Huston, "Land and Freedom: The Anti-Rent Wars, Jacksonian Politics, and the Contest over Free Labor in New York, 1785-1865" (Ph.D. Dissertation, Yale Univ., 1994); and Martin Bruegel, "Unrest: Manorial Society and the Market in the Hudson Valley, 1780-1850," *Journal of American History*, 82 (March 1996), 1393-1424.

4. For a discussion of colonial legal historiography, see: Cornelia Hughes Dayton, "Turning Points and the Relevance of Colonial Legal History," 3rd ser., *L William & Mary Quarterly* (1993), 7-17; J. R. Pole, "Reflections in American Law and the American Revolution," *ibid.*, 123-159, in which Pole argues that colonial courts, and particularly juries, played "a crucial and binding role in the integration of the societies which they served" (125). For rebuttals of Pole's position, see: Peter Charles Hoffer, "Customs as Law: A Comment on J. R. Pole's 'Reflections,'" *ibid.*, 160-167; and Bruce Mann, "The Evolutionary Revolution in American law: A Comment on J. R. Pole's 'Reflections,'" *ibid.*, 168-175. For the training of attorneys in colonial New York,

see Milton M. Klein, "From Community to Status: The Development of the Legal Profession in Colonial New York," *New York History*, 60 (1979), 133-156.

5. Moss Kent's testimony for the King in Irving Mark and Oscar Handlin, "A Land Case in Colonial New York, 1765-1767: *The King v. William Prendergast*," *New York University Law Quarterly Review*, 9 (1942), 175. For attempts by New York landlords to fix trials concerning the boundaries of their estates, see: *The King agt, Dirck Swart*, 23 January 1768, Unsorted Lawsuits, P-U, John Tabor Kempe Papers, New York Historical Society [NYHS].

6. The tradition that espouses labor and occupancy on the land as a legitimate part of possession is long, and comprises a fundamental theme of this essay. For the English and British legal roots of that tradition, see: G. E. Aylmer, "The Meaning and Definition of 'Property' in the Seventeenth-Century England," *Past and Present*, 86 (1980), 87-96.

7. For perceptions of property based on labor and occupancy in other colonies, see: Alan Taylor, *Liberty Men and Great Proprietors: The Revolutionary Settlement of the Maine Frontier, 1760-1820* (Chapel Hill: University of North Carolina Press, 1990), 101-103, and Brendan McConville, "*These Daring Disturbers of the Public Peace: Agrarian Unrest and the Struggle for Power in New Jersey, 1700-1776*" (Ithaca: Cornell University Press, 1998). Both Taylor and McConville have evidence of rural rioters who justified their activities and land claims by arguing that they could claim land by virtue of labor. These historians note the rioters' references to John Locke and imply the radicalism of their subjects because they referred to Locke when they rioted. See Locke's labor theory of land value in *Two Treatise of Government*, (originally published in 1698), Peter Laslett, ed., (Cambridge University Press, 1960), 307-320. See also, Elizabeth V. Mensch, "The Colonial Origins of Liberal Property Rights," *Buffalo Review*, 1 (1982), 635-640. The desire for land redistribution to the people who lived and worked on it has another, more radical source than Locke, see: Christopher Hill, *The World Turned Upside Down* (New

York: The Viking Press, 1972); and *Winstanley: "The Law of Freedom" & Other Writings*, Christopher Hill, ed., (New York: Cambridge University Press, 1983), 84 and 168.

8. Elizabeth V. Mensch labeled the two distinct and opposing views of what constituted right title to land in colonial New York "hierarchy" and "voluntarism." See Mensch, "The Colonial Origins of Liberal Property Rights," 635-636. See also, David Schultz, "Political Theory and Legal History: Conflicting Depictions of Property in the American Political Founding," *The American Journal of Legal History*, 37 (1993), 464-495, in which he examines property as a rhetorical concept derived primarily from Locke, and in which he correctly asserts that those historians who adhere to that view understand that the "discourse of property framed the world of property" (481). Schultz approximately offers an additional analysis of legal historians who "seem more interested in how legal institutions or practices were affected by the Revolution or specific socio-economic forces" (481). In the conflicts over property in New York, the antagonists expressed their different and changing perceptions of property in legal proceedings, in petitions, and in public spaces, and generally relied on institutions like courts to legitimate one perspective or another. While the Revolution forced the people involved in the conflict to change who handed out titles—from a king to a representative of the Patriot government—and offered a new language for the debate, the fundamental aspirations, opinions, and social and political standing of the combatants remained fairly static.

9. Daniel K. Richter, *The Ordeal of the Longhouse: The Peoples of the Iroquois in the Era of European Colonization* (Chapel Hill: University of North Carolina Press, 1992), 22.

10. For the differences between how landlords and rural dissidents wanted to use the land, see: Edward Countryman, "'Out of the Bounds of the Law': Northern Land Rioters in the Eighteenth Century," in Alfred F. Young, ed., *The American Revolution: Explorations in the History of American Radicalism* (DeKalb: Northern Illinois University, 1976), 49-56; Countryman, *A People in Revolution: The American Revolution*

and Political Society in New York, 1760-1790 (New York: W. W. Norton & Co., 1989), 25-31. On the theories of competency and on household production and local exchange networks on which farmers depended, see: Allan Kulikoff, *The Agrarian Origins of American Capitalism* (Charlottesville: The University Press of Virginia, 1992), 20-21; and compare his discussion with Daniel Vickers, *Farmers and Fishermen: Two Centuries of Work in Essex County, Massachusetts, 1630-1850* (Chapel Hill: The University of North Carolina Press, 1994), 14-23. For a European perspective on household production and its link to agrarian rioting, see: K. D. M. Snell, *Annals of the Labouring Poor: Social Change and Agrarian England, 1660-1900* (New York: Cambridge University Press, 1985), 334-345; and P. M. Jones, *The Peasantry in the French Revolution* (New York: Cambridge University Press, 1988), ch. 5.

11. Much of the theory of property expressed in this paragraph, and in the paper, was gleaned from Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations*, Edward Cannan, ed. (New York: The Modern Library, 1937), book 4, ch. 7; Mensch, "The Colonial Origins of Liberal Property Rights," 635-735; Alan Taylor, "A Kind of War: The Contest for Land on the New England Frontier, 1750-1820," *William and Mary Quarterly*, 3d ser. XLVI (1989), 4-10; Taylor, *Liberty Men and Great Proprietors*, 24-29; Schultz, "Political Theory and Legal History," 464-495; McConville, "These Daring Disturbers of the Public Peace," ch. 8.

12. The boundary dispute between New York and her neighbors have been well recorded. See Irving Mark, *Agrarian Conflicts in Colonial New York, 1711-1775* (New York: Ira J. Friedman, Inc., 1965), chs. 1 and 2; Philip Schwartz, "'To Conciliate the Jarring Interests'; William Smith, Thomas Hutchinson, and the Massachusetts-New York Boundary, 1771-1773," *The New-York Historical Society Quarterly*, LIX (October 1975): 299-319; Kim, *Landlord and Tenant*, 87-127; Schwartz, *The Jarring Interests: New York's Boundary Makers, 1664-1776*, (Albany: State University of New York Press, 1979), chs. 6 and 7; Cynthia Kierner, *Traders and Gentlemen: The Livingstons*

- of New York, 1675-1790, (Ithaca: Cornell University Press, 1992), 46-86. See also: Lt. Gov. DeLancey to the Lords of Trade, New York City, 15 October 1757, *Docs. Rel. to Col. NY.*, 7: 334; James Duane to Robert Livingston, Jr., ALS, New York City, 24 January 1767, Livingston Family Papers, Roll 8, NYHS, in which Duane, like DeLancey, discusses the discrepancies between the Dutch and the English charters for New Netherlands and New York. For a different perspective see: "A Proclamation by Benning Wentworth, 13 March 1764," *Vermont State Papers; Being a Collection of Record and Documents*, ed., William Slade (Middlebury, Connecticut: J. W. Copeland Printers, 1823), 171-8.
13. Lt. Gov. Clark to the Lords of Trade, New York City, 24 May 1739, *Docs. Rel. to Col. NY.*, 6: 143-144.
14. John Livingston to Robert Livingston, Jr., New York City, 25 November 1751, Livingston Papers, Roll 7; See also William Livingston to Robert Livingston, Jr., New York City, 25 November 1751, Livingston Papers, Roll 7, NYHS.
15. Robert Livingston, Jr. to Abraham Yates, Jr., Manor Livingston, 31 January 1755, Abraham Yates Papers, New York Public Library [NYPL].
16. Spencertown Proprietors Book, 1755-1763, meeting dated 31 May 1757, New York State Library [NYSL].
17. Robert Livingston, Jr. to Josiah Loomis, Manor Livingston, 4 February 1752, Livingston Papers, Roll 7. See also the accompanying affidavits and depositions for *Robert Van Deusen & Johannis Van Deusen ads Josiah Loomis*, 23 August 1753, Livingston Papers, Roll 7, NYHS.
18. Robert Livingston, Jr. to Lt. Gov. DeLancey, 12 February 1754 and 7 February 1755; Joseph Pixley's Affidavit 8 February 1755, William White's Affidavit 8 February 1755, and Abraham Yates's Affidavit 13 February 1755, all in E. B. O'Callaghan, *Documentary History of the State of New York*, 4 vols. (Albany: Weed, Parsons and Company Printers, 1857), 3: 458-465 [DHNY]. See also the "Complaint of Robert Livingston Esq." 16 November 1755, Albany, Livingston Papers, Roll 7; and the affidavits of Peter Livingston, Dirck Swart, Timothy Dannon, Jacob Decker, and James Elliot, dated 21 November 1755, Livingston Papers, Roll 7, NYHS.
19. See the discussion of leases used in New Jersey in the eighteenth century, in McConville, *These Daring Disturbers of the Public Peace*, ch. 1 and 3.
20. "A Petition In a Confirmation of Our Inheritance together with our Associates," 10 November 1763; "Petition to the King," 27 February 1764, both in Misc. "D," NYHS.
21. For how Native Americans perceived property, and how land use figured as a basis of property rights in the conflict over property between Native Americans and European colonists, see: Neal Salisbury, *Manitou and Providence; Indians, Europeans, and the Making of New England, 1500-1643* (New York: Oxford University Press, 1982), 30-35; William Cronon, *Changes in the Land: Indians, Colonists, and the Ecology of New England*, (New York: Hill & Wang, 1983), 62-69; and see Daniel K. Richter, *The Ordeal of the Longhouse*, in which he notes that the Iroquois definition of property "rested on need and use rather than mere possession" (21-22).
22. The brief narrative that follows is drawn from Irving Mark, *Agrarian Conflicts*, 131-134; Oscar Handlin and Irving Mark, "Chief Daniel Nimham v. Robert Morris, Beverly Robinson, and Philip Philipse—An Indian Case in Colonial New York, 1765-1767," *Ethnohistory* II (Summer 1964): 193-246; and Kim, *Landlord and Tenant*, 376-380.
23. John Tabor Kempe's notes to a "Council Held at Fort George in the City of New York," 28 July 1762, John Tabor Kempe, Unsorted Legal Lawsuits, M-O, NYHS. See also Kempe's discussion of the Wappinger case in his "Notes on the Pretensions & Suggestions of the Inhabitants of New Canaan," 20 January 1773, in which he noted that the New York court correctly ruled against the Wappingers because they allied themselves with the Massachusetts Bay government, which had instigated, Kempe thought, much of the bloodshed of the 1760s in the Hudson Valley; in the John Tabor Kempe Papers, Box 6, NYHS.
24. Handlin and Mark, "Nimham v. Morris, Robinson and Philipse," is a printed narrative

of the Wappinger-Philipse controversy and is a reprint of "A geographic, historical Narrative or Summary of the present Controversy between Dan Nimham a native Indian; King or Sachem of the Wappinger Tribe of Indians so called in Behalf of himself and the whole Tribe aforesaid, on the one Part: and Messrs. Roger Morris, Beverly Robinson, and Philip Philipse, all of the City and Province of New York, Heirs and legal Representatives of Col. Frederick Philipse late of said New York." The author remains unknown but indicated who said what, providing a rough transcript of the trial.

25. Handlin and Mark, "Nimham v. Morris, Robinson and Philipse," 216. For Munro's complaints about being kept in jail too long, see: Samuel Munro, Sr., to John Tabor Kempe, ALS, New Goal in New York City, 5 May 1767, John Tabor Kempe Papers, Unsorted Legal MSS., Box 1, NYHS. Munro, Sr., protested Kempe's decision to leave him in jail because he had been in jail for approximately two years. Kempe had evidently filed no charges against Munro. See also, Henry Noble McCracken, *Old Dutchess Forever; The Story of an American County* (New York City: Hasting House, 1956), 284-85.

26. John Morin Scott quoted in Handlin and Mark, "Nimham v. Morris, Robinson and Philipse," 227.

27. James Duane quoted in *ibid.*, 231 and 240.

28. Nimham quoted in *ibid.*, 200.

29. *Ibid.*, 205 and 217-218.

30. See Peter Anjuvine's testimony, *ibid.*, 221. See also David Austin's deposition, and the testimony of Daniel Townsend, *ibid.*, 218-219, and 220. For uncertainty about Adolph Philipse's ownership of the contested territory, see the testimony of Peter Anjuvine, Samuel Castin, George Hughson, John Dupee, Nehemiah Horton and others. Anjuvine testified that the Wappingers "always kept up their Claim, their continual Claim, to the Lands Now is controversy; and that they always denied that they had sold the same," *ibid.*, 217-220, quote on 217.

31. Anjuvine quoted *ibid.*, 217.

32. Cadwallader Colden quoted *ibid.*, 205.

33. Henry Moore quoted in *ibid.*, 242.

34. John Morin Scott quoted in *ibid.*, 240.

35. See John Tabor Kempe's notes on this subject in conjunction with the Lockwood and Peters cases, no date, Unsorted Lawsuits, P-U, John Tabor Kempe Papers, NYHS.

36. Abraham Yates, Jr. to Robert Livingston, Jr., Albany, 4 December 1766, Livingston Papers, Roll 8, NYHS. One of the reasons Yates implored Livingston not to forcibly evict the tenants was because the weather that winter proved terrifically fierce.

37. Legal Notes in the Henry Van Schaack Papers, no date, Box 1, New York State Library. I suspect that Schaack wrote these notes, in which he also discusses adverse possession, in the early 1770s.

38. See example, the Livingston's problems with Martin Hoffman in 1743/4 and with Colonel William Bradstreet in the late 1760s and early 1770s. These episodes are described in: Cadwallader Colden to Robert R. Livingston, New York City, 16 March 1743/4; Philip Livingston to Robert R. Livingston, Manor Livingston, 5 April 1744; and Robert R. Livingston to Robert Livingston, Jr., New York City, 24 March 1771, all in the Robert R. Livingston Papers, 52 Rolls of Microfilm at the New York City Public Library, Roll 1 (Hereafter referred to as the Robert R. Livingston Papers). For a serious attack on the land claims of the Van Rensselaers see: Notes and Depositions for *Beby & Others agt. Rensselaer*, October 1762; and John Tabor Kempe's brief for *Beby & Others agt. Rensselaer*, October 1762, both in Unsorted Legal Lawsuits, V-Z, John Tabor Kempe Papers, NYHS.

39. For Yates see Bielinski, *Abraham Yates, Jr. and the New Political Order in Revolutionary New York*. Stefan Bielinski shared with me a great deal of information he compiled on Yates and on New Yorkers in general. His biography of Yates is one of the few on such an important figure in American radicalism. See also Lynd, "Abraham Yates, History of the Movement for the United States Constitution," 223-245.

40. Abraham Yates, Jr., "Argument in an action at law being a history of the manor of Rensselaerwyck and the rival claims of Albany and Schenectady," 1762, Abraham Yates Papers, Box 4, New York Public Library. John Tabor Kempe also questioned the language of

the Van Rensselaer's titles they received from Native Americans, and he concluded that the original deed to Rensselaerwyck was "vague & wholly uncertain and could be of no Service to Mr Renselaer." See the notes for *Beby & Others agt. Renselaer*, October 1762, Unsorted Lawsuits, V-Z, John Tabor Kempe Papers, NYHS.

41. There is no date on Yates' "Notes on Ancient revolutions of New York," but in the piece he asserts that the Van Rensselaers and the Livingstons based their titles on fraudulent deeds allegedly obtained from Native Americans. He had been an associate and political protégé of Robert Livingston, Jr.'s until the early 1760s but fell out of favor after 1763 or 1764. He more fully articulates his ideas of titles in a letter in March 1771, suggesting that he wrote his "Notes" sometime after 1762 but before 1771. See these pieces in Box 4, Abraham Yates Papers, NYPL.

42. Abraham Yates, Jr., "Notes on Ancient revolutions of New York," (nd), Box 4, Abraham Yates Papers, NYPL.

43. Abraham Yates, Jr. to —, Yates Papers, 19 March 1771, NYPL. In this letter, Yates speculated on "whether they [the European settlers] bought from the natives and whether the Natives abandoned the Place or whether they were conquered but am as yet not able to give an Account thereof."

44. Samuel Jones to Abraham Yates, Jr., New York City, Abraham Yates Papers, Reel 1, NYPL.

45. *Collections of the Vermont Historical Society*, 2 vols., (Montpelier: Printed for the Vermont Historical Society, 1870-1871), 1: 153-157.

46. Cadwallader Colden to the Lords of Trade, New York City, 28 February 1761, *Docs. Rel. to Col. NY.*, 7: 456-457; see also William Smith's rebuttal of Lydius's claims in New Hampshire in *Historical Memoirs from 16 March 1763 to 25 July 1778 of William Smith*, William Sabine, ed., 2 vols. (New York City: Armo Press, 1966) 1: 34, 10 July 1766.

47. Robert R. Livingston to Robert Livingston, Jr., no place, June 1764, Robert R. Livingston Papers, Roll 1. See also the corresponding letter from Abraham Yates to Robert Livingston Jr., 4 December 1766, Livingston Papers, Roll 8, in which Yates told Livingston that he would

have to forcibly evict the squatters who lived on Livingston's portion of the Saratoga Patent, NYHS.

48. Cadwallader Colden to the Lords of Trade, New York City, 28 February 1761, *Docs. Rel. to Col. NY.*, 7: 456; Robert Livingston, Jr. to Abraham Yates, Jr., Manor Livingston, 13 March 1762, Abraham Yates, Jr. Papers, Roll 1, NYPL.

49. Oneida Sachem quoted during an Indian conference in *Docs. Rel. to Col. NY.*, 6: 984; "Affidavits of John H. and Genevieve Lydius," 5 April 1750, *Docs. Rel. to Col. NY.*, 6: 987.

50. John Lydius to John Tabor Kempe, 22 January 1761, in the package containing the notes for *The King agt John Henry Lydius*, 25 April 1763, Sorted Legal MSS, Box 3, John Tabor Kempe Papers, NYHS. See also the "Deposition of Thomas Noble," 30 November 1761, included in *The King agt John Henry Lydius*; David Jones, "Information for Intrusion Special Verdict Found," 31 July 1764, *The King agt John Henry Lydius*, Henry Van Schaack Papers, Box 1, NYSL.

51. Thomas Young, *Some Reflections on the Disputes between New-York and New-Hampshire, and Col. John Henry Lydius of Albany*, (New Haven: Benjamin Moore, 1764), 4-5. On Thomas Young see: Pauline Maier, "Reasons and Revolution: The Radicalism of Dr. Thomas Young," *American Quarterly* 28 (1976), 229-49; David Freeman Hawke, "Dr. Thomas Young—Eternal Fisher in Troubled Waters, Notes for a Biography," *New York Historical Society Quarterly* 54 (1970), 7-29; and Henry Herbert Edes, "Memoir of Dr. Thomas Young, 1731-1777," *Publications of the Colonial Society of Massachusetts, Transactions*, 1906-1909, 11 (Boston: Published by the Society, 1910), 2-54.

52. Young, *Some Reflections*, 3.

53. *Ibid.*, 14.

54. *Ibid.*, 19.

55. *Ibid.*, 14-15.

56. Ira Allen, "Miscellaneous Remarks on the Proceedings of the State of New York against the State of Vermont, &c.," 1777, in *Collections of the Vermont Historical Society*, 1: 119.

57. For a description of Vermont and New Hampshire together against New York, and for

a general overview of the conflict after the 1760s, see the papers in the "Controversy Respecting the New Hampshire Grants," *Doc. Hist. of NY*, 4: 925-1026.

58. For a discussion of Ethan Allen, the Green Mountain Boys, and the property dispute between New York on one side and Vermont and New Hampshire on the other, see Michael A. Bellesiles, *Revolutionary Outlaws: Ethan Allen and the Struggle for Independence on the Early American Frontier* (Charlottesville: University Press of Virginia, 1993), 96-97, 99-103. Bellesiles correctly notes that Allen and other farmers in the region "started out by claiming only the land they lived on," but ultimately "denied New York's rule and prevented the settlement of anyone under a New York patent," 102.

59. "Conventions of the Inhabitants of the New Hampshire Grants in opposition to the Claims of New York with notes and explanations," *Collections of the Vermont Historical Society*, 1:6; "William Tryon's Response to the Debate over Land Claims," Albany, 11 August 1772, *Vermont State Papers*, 29-30; "A Letter to William Tryon of New York from M. Dewey and others of Bennington," 5 June 1772, *Vermont State Papers*, 23-24; Ethan Allen to William Tryon, Bennington, 25 August 1772, *Vermont State Papers*, quote on 31-32.

60. "An Extract from the Votes and Proceedings of the General Assembly of New York," 5 February 1774, *Vermont State Papers*, 37-38; "Laws of the Colony of New York," Broadside, 9 March 1774, New York State Library, Albany, New York; see also a reprint of "An Act for Preventing Tumultuous and riotous Assemblies in the places therein mentioned (Albany and Charlotte Counties, New York)," 9 March 1774, *Vermont State Papers*, 42-43.

61. Members of the Dorset Meeting to John Hancock, May 1776, *Collections of the Vermont Historical Society*, 1: 18-19; "Thomas Chittendon to the honorable president of the council of Massachusetts State," 28 October 1779, *Vermont State Papers*, 114-115; Ira Allen, "Miscellaneous Remarks of the Proceedings of the State of New York against the State of Vermont," in *Collections of the Vermont*

Historical Society, 1: 118-119.

62. "George Clinton's Proclamation," 23 February 1778, *Vermont State Papers*, 82-84; see also notes for the meetings of the Vermont Assembly in Windsor in August 1778, and the notes for the New Hampshire House of Representatives in April and June 1779, both in *Vermont State Papers*, 90-92 and 105. For an example of how New Yorkers understood their the extent and legitimacy of their titles after Vermont and New Hampshire declared themselves independent of New York, see: Egbert Benson to Robert R. Livingston, Redhook, 3 January, 1780; and James Duane to Robert R. Livingston, Manor Livingston, 15 January 1780, both in the Robert R. Livingston Papers, Roll 1, NYHS.

63. Unknown author to Ethan Allen, New York City, 20 August, 1785, Henry Stevens Collection, Roll 1, NYSL.

64. "Vermont and New York Boundary Dispute Papers, 1789-1790," Gerrit Y. Lansing papers, Box 3, NYSL. In the same collection, see: "The following Articles Necessary to be agreed to ratified & Confirmed between the state of New York & the State of Vermont previous to the latter, adopting the Federal Government," and a copy of a letter from Unknown to John Kelly, Albany, 22 December 1790, Gerrit Y. Lansing Papers, Box 3, NYSL.

65. For Dutchess County, New York during the American Revolution, see Staughton Lynd, "Who Should Rule at Home? Dutchess County, New York, in the American Revolution," *William & Mary Quarterly* 18 (1961): 330-359; and Jonathan Clark, "The Problem of Allegiance in Revolutionary Poughkeepsie," in *Saints & Revolutionaries; Essays on Early American History*, ed., David D. Hall, John M. Murrin, and Thad W. Tate (New York: W. W. Norton & Company, 1984), 285-317.

66. "Petition of Simon Calkins and Others," 2 September 1779, quoted in Lynd, "Who Should Rule at Home?," 346.

67. "The Petition of the subscribers Inhabitants of the part of the County Columbia, New York," 9 January 1789, in which the petitioners refer to an earlier petition dated 24 February 1784; "The Petition of Simeon Roulee Robert Meckes and Truman

Powell in behalf of themselves and their Associates," 25 January 1789, both in the MSC. MSS., Columbia County, NYHS. John L. Brooke brought these petitions to my attention.

68. Huston, "Land and Freedom;" and Bruegel, "Unrest: Manorial Society and the Market in the Hudson Valley, 1780-1850," 1393-1424.