



LAW AND LITERATURE IN PENNSYLVANIA:  
A CHANGING LANDSCAPE

By

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## Abstract

This thesis examines themes of American national identity perpetuated in Pennsylvania surrounding private property through historical, literary and legal analysis. Ideals of private property and land ownership are broken into three transitions throughout Pennsylvania history: the American frontier and initial land claiming by settlers, mass-deforestation and the introduction of widespread agriculture, and finally industrialization and the introduction of mining and fracking. Each of these transitions highlights the physical changes to the region and how they were influenced by American ideals of private property, productivity, and profitability.

Throughout this thesis, I analyze both literary and legal texts to examine societal beliefs regarding property and land use. Chapter One, *The Frontier: Early American Settlement and Law*, analyzes James Fenimore Cooper's fictional novel, *The Deerslayer*, as an account of early frontier settlement and mindset. Cooper's depictions of historical and regional European-settler mindset is coupled with analysis of the work of influential frontier political actors, such as Benjamin Franklin. Additionally, early American property rights are analyzed through landmark court decisions, such as *Johnson v. McIntosh*.

Chapter Two, *The Transition from Frontier to Settlement: Deforestation and Agriculture*, examines Conrad Richter's fictional novel, *The Fields*, as an account of shifting American mindset from lawless frontier to established settlement. Richter's text works hand-in-hand with further analysis of land distribution practices in Pennsylvania, such as Ch. 1259 of the PA Statutes at Large. Widespread logging and agriculture are also examined through every-developing ideals of American private property as a means of pushing production.

Finally, Chapter Three, *The Complexities of Extractivism and Subsurface Property Rights: Mining and Fracking*, delves into the complications of property rights as technology is used as a

tool to further land productivity, exploitation, and extractivism. In this chapter, I analyze Mitch Troutman's non-fiction book, *The Bootleg Coal Rebellion: The Pennsylvania Miners who Seized and Industry 1925-1942*, alongside Pennsylvania mineral law, such as the Mining Law of 1872 and the Rule of Capture. I then shift to the state's booming fracking industry, examining Julia Spicher Kasdorf's book of poems, *Shale Play*, alongside Pennsylvania fracking cases, such as *Robinson Township (and Delaware RiverKeeper) V. Commonwealth of Pennsylvania*.

This thesis argues that ideals of individualism, production and profit are consistent themes that have shaped American national identity and have had irreversible consequences on Pennsylvania. The literary analysis of the different texts both compare and contrast with the legal narratives presented, which continually push extraction and production. Though my thesis highlights how property rights have changed overtime, such as with the introduction of mineral vs. estate rights, I argue that property rights continue to perpetuate their intended purpose: individual profit and land use.

## **Introduction**

This thesis analyzes three main points of physical change relating to Pennsylvania's landscape since European settlement. The first change dates to early American settlement and the frontier with the introduction of property rights to a land viewed as uninhabited and lawless. The second shift began after the Revolutionary War as the United States became the governing entity. Upon independence, the government incentivized the clearing of land and the introduction of agriculture across Pennsylvania to further develop the settlements and make land "productive." The final shift I analyze begins during the Second Industrial Revolution with the boom in the mining industry. At this time, property rights were changing and complicated given the privatization and separation of mineral and estate rights. Such changes allowed for the mass-mining, and later fracking industries, to boom in the region and deplete Pennsylvania of many natural resources. With each of these shifts, I analyze how notions of private property changed and how this influenced the physical landscape.

Through my analysis, I look to both Pennsylvania and federal law as well as regional literature to examine notions of property, ownership and a changing landscape. Chapter One, *The Frontier: Early American Settlement and Law*, examines James Fenimore Cooper's novel, *The Deerslayer*. This novel takes place on Otsego Lake, the source of the Susquehanna River, in modern-day upstate New York. Though the action of the novel does not take place in what is currently Pennsylvania, the location along the source of the longest river in Pennsylvania, along with the overarching frontier themes discussed, make it an interesting novel to analyze alongside my critiques of the ideas of early American property law. I use Cooper's work to examine frontier mindset and language while focusing on themes of dispossession, the "discovery" of new land, and the implementation of Western ideas of law. Along with Cooper's novel, in Chapter

One I analyze influential actors in early American politics, such as Benjamin Franklin, to compare their notions of property and land use with those depicted in *The Deerslayer*. Additionally, I analyze the language used in the 1823 Supreme Court case, *Johnson and Graham's Lessee v. McIntosh*, to analyze how similar themes of land use were carried through society and upheld by the courts. I demonstrate how the law shaped American frontier thought and mindset regarding land acquisition and the removal of Native Americans from the land.

In Chapter Two, *The Transition from Frontier to Settlement: Deforestation and Agriculture*, I analyze the second shift in thinking on the Pennsylvania frontier regarding land use and private property rights after the Revolutionary War. In this chapter, I explore Conrad Richter's *The Fields* to analyze the changing frontier mindset. I argue that Richter demonstrates a shifting societal thought from that depicted on Cooper's frontier, which is now focused on land productivity, profit and private property. I chose Richter's texts as he demonstrates how the Pennsylvania landscape was dramatically changed due to logging and the introduction of agriculture while also exploring narratives that challenge the destruction that was occurring due to American settlements. I then dive into different American legal narratives of this time concerning the distribution of property to citizens and the idea of land productivity. I primarily examine Ch. 1259 of the PA Statutes at Large while critiquing the language of the law and how it pushed American ideals of individualism and productivity into societal thinking. Working hand-in-hand with the narratives conveyed in Richter's work, I also examine how American ideals of the time were shifting and contributing to the land use changes seen in Pennsylvania.

Finally, in Chapter Three, *The Complexities of Extractivism and Subsurface Property Rights: Mining and Fracking*, I critique a third transition in Pennsylvania's land use which began during the Second Industrial Revolution with the booming coal industry. In this chapter, I

analyze the changing property rights that followed the separation of mineral and estate rights, and how this dramatically affected Pennsylvania landowners as the privatization of mineral rights further perpetuated the profit-oriented outcome of private property. While first analyzing the mining industry, I look at the federal Mining Law of 1872 as well as the Rule of Capture to critique how natural resources were extracted in a profit-oriented system without regard to the effects on the landscape. I analyze Mitch Troutman's book, *The Bootleg Coal Rebellion: The Pennsylvania Miners who Seized and Industry 1925-1942*, to look at how the mining industry drastically changed Pennsylvania physically as well as the mindset of many property owners. I then discuss Pennsylvania's shift to fracking, another extractivist and profit-oriented industry, and how, despite new legislation in Pennsylvania, this industry closely mirrored the lack of planned longevity and thought seen in the mining industry. Looking at Pennsylvania Act 13 the 2013 case *Robinson Township (and Delaware RiverKeeper) V. Commonwealth of Pennsylvania*, I argue that the law has once again supported profitability and productivity while disregarding the needs of Pennsylvania residents and selling a recurring idea of American energy independence. In conversation with the literary depictions and societal thinking surrounding the fracking industry, I look at Julia Spicher Kasdorf's book of poems, *Shale Play*. Though very different literature from those selected and analyzed in the first two chapters, Kasdorf's poetry utilizes a different, and just as convincing, literary method to tell the story of changing land use.

### *Ecocriticism*

Through my analysis of law and literature, I use ecocriticism to consider how property law has changed American people's connection and view of the environment. Environmental criticism today is still an emergent discourse, yet it has ancient roots in many ways (Buell 2). Though emerging as a distinguished field in literary studies, ecocriticism can be seen in texts

throughout human history. One could argue that the authors I analyze in this paper are ecocritics themselves, documenting discourse and critique of land use and extraction practices. This argument can be made as over time, ecocriticism has changed from a field focused solely on the “natural” to a field that looks beyond the natural environment to the human world as well. Ecocritic Lawrence Buell writes,

The “eco” of practicing eco-critics has been aesthetic, ethical and sociopolitical more than scientific, but environmental criticism has shifted. The conception of “eco” or “environment” has expanded from simply “natural” to also the urban and “built” aspects of the world. (Buell 12)

In examining both the natural as well as the built world, I use an ecocritical lens to discern how the interaction between human and the environment has changed through developing narratives of American national identity.

Ecocriticism is an important field of literary study as it asks us to consider our connection with the natural world as individuals and as a society. Throughout my thesis, I note how different ecocritical perspectives have shaped the way we have interacted with nature and how they will continue to shape our relationships. When thinking about the future of American society, economy and politics, one must continue to consider how we as individuals, communities, a nation, and as a species interact with the rest of the living and built world in order to make positive changes that can help to ensure longevity and sustainability in our built environment. As seen in my analysis, literature can help reflect present notions of human connection with nature.

## *The Importance of the Law*

The use of the law throughout this thesis is key in my critique of changing human-environment interactions. Through analyzing the language of the law, we are able to see how the government has shaped the nation and influenced national identity. In this paper, I focus primarily on property law, which simply put is concerned with the things people own and how they can own them (Feinman 254). Our intuitive understanding of property is absolute ownership over a thing, but in reality property law is about relationships among people with respect to valuable resources (256). Property law is inherently connected to issues regarding the maintenance of the environment and human relationship with the natural world.

I argue that the law and national narratives conveyed through carefully constructed language influence, shape and restrict the public into a certain way of living “off” the land as opposed to “with” the land. As seen with the physical changes that are analyzed in each chapter, Pennsylvania has undergone a series of physical changes that would not have been possible without the support and incentive of the state. Such incentives often put the greater growth and development of American society before the needs of Pennsylvanians, consistently exploiting Pennsylvania land, resources and people. Throughout my argument, the law demonstrates how concepts of American national identity have influenced Pennsylvania into becoming a sort of “sacrifice zone” through industries such as logging, mining and fracking. These industries have created entire communities dependent on their production and have changed Pennsylvanian ideas of property from individual ownership to production and profit driven.

It is important to note how our language limits our ability to discuss American property law without placing Western notions of individual ownership and property on those whose systems differ. Today, Western ideas of property are pervasive in our everyday thought, making it



difficult to create discourse around other systems and human relationships with land. In discussing who owns land and has rights to its contents, one inherently assumes a system of Western ownership, making it complex and difficult to discuss without thinking about Euro-centric systems. These very systems, created in America in the name of freedom, liberty and representation, are the very systems which systematically stripped Indigenous communities of commonly held lands as they were turned to private property, which many Indigenous communities did not want. Nonetheless, the constraints of our language continue to make the use of certain terms inevitable.

## Chapter 1

### *The Frontier: Early American Settlement and Law*

“When the mind reverts to the earliest days of colonial history, the period seems remote and obscure, the thousand changes that thicken along the links of recollections, throwing back the origin of the nation to a day so distant as seemingly to reach the mists of time.”

- *James Fenimore Cooper, “The Deerslayer,” 11*

## **The Frontier**

Early British settlement in North America was ultimately defined by one thing: the acquisition of land as private property. Early American settlers were concerned with discovering, claiming, and owning land, a mindset which pervaded their everyday lives and beliefs as well as the legal systems they created. The influence of British rule and colonization drastically shaped the creation of American law, which began under British rule and later continued by mimicking British law. A handful of British settlers were well-educated and in many cases had exceeded other immigrants in their knowledge of the law of England. Many British immigrants studied at the Inns of Court in London with other would-be barristers (Hoffer 4). The focus on British law and the creation of a new society and order lent to the presence of law and property at the forefront of a new American national identity.

Ideas of wilderness, lawlessness, and lack of human habitation circulated in European North America, shaping how Indigenous peoples were viewed. Many Indigenous communities were nomadic, living and using the land in different ways than understood by Europeans. The narrative that European settlers knew how to use the land better than Indigenous people was prevalent, and contributed to the dangerous ideology that founded the basis of law in the United States.

The Pennsylvania frontier is an example of an American frontier society which was deeply engrossed in early property relations, trades, conquests and conflicts. The Susquehanna River Valley region saw a great deal of settler and Indigenous conflict, especially during the French and Indian War, which shaped the region and contributed to the creation of modern-day property law. Authors, such as James Fenimore Cooper, helped to depict early frontier beliefs through their literature and demonstrate how property rights were initially placed on the land.

His depictions of frontier mindset challenge readers to consider how different elements of the law were present in everyday thinking. In analyzing early American literature, the sentiments regarding property and justice of frontier settlers are evident and contrast interestingly with the language of law.

### **Literary Analysis of Cooper's Deerslayer**

James Fenimore Cooper, once an icon in the American literary canon, was an early American writer with much of his earnings hailing from his readership in Europe. Cooper's critique of American society, materialism, and relations with Native Americans on the frontier made him somewhat controversial in the literary world. To this day, Cooper's works are debated for their stance on frontier life and his opinion Native Americans, leaving critics with conflicting views and questions: Was Cooper "an apologist for white America or a champion of Native Americans? Did he affirm the conquest of the wilderness or was he an early ecologist?" (Smith xiv). Despite his many works, including thirty-two novels and a number of social critiques, Cooper's works cannot be easily defined or decoded, but they do shed light on frontier thought and early settler values and beliefs.

Cooper's novel, *The Deerslayer*, first published in 1841, was the final novel to be written in a five-novel series titled the Leatherstocking Tales. Throughout his time writing the series, Cooper's outlook changed drastically, and critics argue his final novel is the most well-written and thought-out, portraying Indigenous people through a new lens than in the previous books. Though last to be written, *The Deerslayer* chronologically takes place first, depicting the life of young Natty Bumppo, also referred to as Deerslayer, living on the frontier at the start of the French and Indian War in the 1740s. The novel follows the adventures of Deerslayer and his

friend, Hurry Harry, at the early onset of the war. The pair travels Otsego Lake, in modern day upstate New York, and finds the Hutter family, Tom and his daughters Judith and Hetty, as well as their waterfront mansion, Muskrat Castle. The group sets out on a number of missions in which they encounter an Indigenous group, the Mingos, and Hurry Harry and Tom Hutter get captured. Deerslayer, his Native friend Chingachgook, and the two daughters, work together to set the men free, which they eventually do. Despite the success, the men continue fighting and Tom Hutter is killed by the Mingos. Deerslayer, who is supposed to be condemned to death by the Mingos, escapes, and more fighting ensues which in turn kills Hetty. At the end of the fighting, Deerslayer and Chingachgook leave the battle zone and return to Delaware territory. As an action-packed novel, the intensities of the French and Indian War are put on display, and both Western ideology and generalized Indigenous beliefs, though inescapably biasedly portrayed, are demonstrated throughout the events of the novel.

While much of the novel is centered on the action and adventure of Deerslayer and his companions during the war, there is a great deal of social, political, and ecological commentary made throughout the story. The frontier space demonstrates the social and political tensions of the time, which are challenged by Deerslayer. Through interactions between settlers and Indigenous communities as well as the use of a critical, third-person, omniscient narrator, Cooper demonstrates these tensions and questions societal conceptions about the frontier. He uses romantic depictions of the trauma of the frontier and calls into question narratives of early American progress (May 169). In *The Deerslayer*, Cooper uses fictional storytelling to demonstrate commonly held beliefs and ideas of early American settlers and challenges those ideas through the lens of political, ecological and social commentary, in turn opposing early American values and using literature as a means of questioning American legal systems.

### *American Ideas of “Untouched Land”*

Cooper’s critique of the political values of the frontier extend into the realm of ecological transformation brought on by settlers. Along with images of ‘untouched’ forest, Lake Otsego and the Susquehanna play a central role in Cooper’s critique of the way settlers were altering the landscape and bringing about change and destruction. Through the use of settler critique, religious references and the honoring of Indigenous people and practices, Cooper illustrates the ecological destruction taking place on the frontier.

Cooper is primarily concerned with setting the tone of the natural landscape in the first few chapters of the book. In Chapter Two, while giving readers a vivid image of the beauty of the region, he utilizes the description of the environment to critique the ways it was beginning to change. While describing one of the first glimpses of the Lake by Deerslayer, the narrator says,

In a word, the hand of man had never yet defaced or deformed any part of this native scene, which lay bathed in sunlight, a glorious picture of affluent forest grandeur, softened by the balminess of June, and relieved by the beautiful variety afforded by the presence of so broad an expanse of water. (Cooper 29)

Words such as ‘defaced’ and ‘deformed’ are striking in this seemingly beautiful depiction of the natural landscape. Subtly inserted in this description, Cooper’s critique of settler destruction creeps through the early setting of the novel, as he foreshadows the defacement which will be brought about by settlers. Nevertheless, Cooper does not stray far from a European-centered vision of the land, perhaps in hopes to keep his critiques subtle and relatable to his European readership. He displays the familiar imagery of a forest as a shadow of primeval antiquity, an idea portrayed throughout much of human history (Harrison 1). This notion of antiquitous and

untouched forest places the human outside of nature, as a spectator looking in, rather than as part of nature.

Cooper's depictions of the forests are notable as his characters critique how the forest is viewed and used. Deerslayer in particular asks readers to consider how the untouched forest will be used. He says, "If I was King of England, the man that felled one of these trees without good occasion for the timber, should be banished to a deserted and forlorn region, in which no four-footed animal ever trod" (Cooper 31). A foreshadowing of the land clearing and logging that will shortly bestow the land, Deerslayer challenges the destruction of the land by weighing the usefulness of the material. Though not opposed to the use of timber, Deerslayer cautions the useless destruction of the forest. Through this passage, it is made evident that even among early settlers the commodification of the land was at the forefront of their discourse. Deerslayer both appreciates the ability for productivity that comes from the forest while also cautioning against the senseless destruction and clearing of the divine land.

A member of the Episcopal Church, Cooper utilizes religious frameworks and thought as a method of depicting to readers how Western ideals challenged the natural order of the world. He creates a heaven-like portrayal of the landscape, presenting the frontier as an untouched and unchanged creation of God (Vasile 487). As portrayed by Cooper, these notions of providence and holy land are destroyed by humans, specifically the settlers. Again in Chapter Two, Deerslayer says,

"The lake seems made to let us get an insight into the noble forests; and land and water alike stand in the beauty of God's providence! Do you say, Hurry, that there is no man who calls himself lawful owner of all these glories?" (Cooper 30).

This line simultaneously brings together two important ideas with regard to the land: religion and law. Cooper's relation back to divinity and providence provides a Euro-centered vision of nature within the critique. Here, the untouched forest is upheld by God, representing a divine space free from human control. Additionally, Cooper begs the question of ownership and property of such divine land. While previously seen praising the ability of Indigenous communities to live without individual ownership of land, Cooper's critique furthers the question of lawfulness and a notion of rightful ownership of land.

Cooper's critique of a new American civilization continues with the use of religion to contrast with law and property, challenging the process by which land was acquired by settlers on the frontier. Pointing to the process of naming spaces, Cooper demonstrates an aversion towards the notion of claiming property and declaring ownership. Later in the aforementioned chapter, Deerslayer says,

I'm glad it has no name...or, atleast, no paleface name; for their christenings always foretell waste and destruction. No doubt, howsever, the redskins have their modes of knowing it, and the hunters and trappers, too; they are likely to call the place by something reasonable and resembling. (38)

Given the obvious religious connotations to the term, the use of the word 'christenings' in this quote is notable. Cooper is on the edge of arguing a connection between religious beliefs and practices and 'waste and destruction.' Through Deerslayer, Cooper is also commenting on the modes of naming spaces, noting that Indigenous people are likely to call a place something reasonable and resembling, inferring that settlers would not name places reasonably. Additionally, the theme of lack of settler knowledge of the frontier space is continued throughout



the novel with scenes of naive actions and lack of understanding of the woods and lake perpetuated by the settlers and critiqued by the narrator.

### *Law vs. Lawlessness on the Frontier*

From the outset of the novel, Cooper challenges new American ideals and societal beliefs regarding law and property on the frontier. A space generally represented as lawless and violent, Cooper depicts the frontier as a space beyond the law. While acknowledging the lack of written law by Indigenous groups, Cooper does not solely critique Native people, and even at times praises common ways of life and beliefs held by Native communities. Rather, Cooper's critique is more centrally related to the lawlessness of the settlers. Cooper points to two ways in which the frontiersmen live beyond the law: the lack of legal enforcement and oversight from the ruling British, and the lack of moral law by settlers, more specifically a lack of ecological, wartime, and human morals.

Through the comparison of two of his central characters, Deerslayer and Hurry Harry, conflicting settler values regarding law and morals are brought into conversation. Throughout the novel, Deerslayer's character is depicted by Cooper to be the voice of reason, understanding and middle ground between the settlers and Native people. Deerslayer lived most of his early life amongst Native people, specifically the Delawares (16). Though he commonly refers back to his ethnic roots and religion, stating "White he made me, and white I shall live and die" (146), Deerslayer advocates for Indigenous people and works as a liaison between Native groups and the settlers. Deerslayer's character has been referred to by scholars as a sort of American Adam or Adamic myth. He is depicted as this middle ground between Native and settler groups, existing freely in space and in harmony with nature (Noble, 420).

In contrast, Hurry Harry is a character shaped by his quick impulsive actions, his disdainful views of Indigenous people, and his desire to do as he pleases regarding acquiring land and fighting in the war. The narrator says, “Hurry was one of those theorists who believed in the inferiority of all the human race who were not white” (51). Cooper goes so far as to generalize European settlers and the “white hunter” as similar to Hurry, saying, “Hurry had all the prejudices and antipathies of a white hunter, who generally regards the Indian as a sort of natural competitor, and not unfrequently as a natural enemy” (41). Hurry’s short temper and anti-Indigenous sentiment are demonstrated from the very start of the novel in a discussion between Hurry and Deerslayer where Hurry expresses interest in killing any man who should marry his desired wife, Judith Hutter. Hurry says, “Besides, when we live beyond law, we must be our own judges and executioners” (22). Though quickly rebuked by Deerslayer, sentiments of lawlessness are made evident among the initial interactions seen between the two. Deerslayer argues that Hurry’s short temper and ideas of lawlessness, “proves how little [Hurry has] sojourned with the redman” (23). Not only is Cooper critiquing the white settler, he is also praising Indigenous people and their proper conceptions of law and morals. Nevertheless, Cooper mythologizes about the frontier, often playing up the interactions between settlers and Native Americans.

Taking place at the outset of the French and Indian War, British rule is an important element to keep in mind when critiquing Cooper’s concepts of law and property in *The Deerslayer*. The British Empire is referenced throughout the novel and is brought into discussion between Hurry and Deerslayer. Deerslayer says,

I know we live in the woods, Hurry, and are thought to be beyond human laws—and perhaps we are so, in fact whatever it may be right—but there is a law and a lawmaker,

that rule across the whole continent. He that flies in the face of either need not call me a friend. (23)

Cooper brings in the important concept of the ruling power over the colonies to challenge the ideas of lawlessness that were being practiced on the frontier. It is notable that in this quote Deerslayer uses the term “human laws.” Cooper does distinguish between Indigenous and European law and morals throughout the novel, with Deerslayer stating things such as, “Laws don’t all come from the same quarter” (43). Nevertheless, Cooper does not challenge the humanity of Indigenous people. Thus, his use of the term “human laws” here implies that Hurry and other white settlers believe themselves to be free of any moral or human law, placing them below the conceptions of “lawlessness” that were commonly held regarding Indigenous societies at the time.

Cooper continues his critique of the frontier and settlers by distinguishing the different moral values and law that Indigenous groups held compared to that of Europeans. Deerslayer once again opposes Western ideas of land acquisition and war, saying “The world is large enough for us both; and when we meet fairly in battle, why, the lord will order the fate of each of us,” (106). Throughout the action of the novel, Deerslayer often returns to the idea of a fair battle, at times refraining from attack given the unfairness of his weapon compared to that of the Native people they are at war with. He uses words such as “fairly” in the same sentence as the lord, asking readers to reconsider the morality of an unfair battle and acquisition of land occurring on the frontier.

*A Return to Nature After War*

At the end of the novel, Cooper circles back to the natural landscape of the Lake Otsego region, calling back into question the changes and violence inflicted on the land during the war. After fifteen years, Deerslayer returns to the frontier land and reflects on the war. The narrator says,

Here all was unchanged; the river still rushed through its bower of trees; the little rock was wasting away by the slow action of the waves in the course of centuries; the mountains stood in their native dress, dark, rich, and mysterious; while the sheet glistened in its solitude, a beautiful gem of the forest. (Cooper 520).

The return to the land at the end of the novel is significant for a number of reasons, especially given this final reflection on the land. Cooper's syntax highlights the beauty of the region, while calling attention to the slow passage of time. Transitioning from an action packed novel to a reflection on the centuries of "slow action" and "wasting away" of the Native culturally significant sites such as the rock where Deerslayer and Chingachgook previously met, this reflection calls readers to question the violence of the war. While the violence is theoretically over, Cooper hints at the onset of another "more important war" (520). Nevertheless, the land remains mysterious in its solitude and the mountains stand in their native dress.

Cooper's novel, *The Deerslayer*, engages readers with early American frontier thought regarding property while also taking an ecocritical position surrounding land use and the acquisition of land that began on the frontier. Cooper's work tells us about both law and emerging settlement ideals as well as the importance of examining how early settlement influenced the importance of private property, profit and productivity on future American discourse. With his ecocritical tone and use of characters to critique societal norms, Cooper

conveys how frontier thought brought physical change and destruction in early American settlements. As seen throughout the novel, the British legal system and religious institutions had immeasurable impacts on European settlements in North America, and thus influenced future American settlement and ideals surrounding the productivity of land in places such as Pennsylvania. His work had lasting effects on early American literature and culture, and further critiques by his daughter, Susan, continue to contribute to his work and our modern day understanding of early frontier settlement and societal thought.

*Further Frontier Critique by Susan Fenimore Cooper*

In both support and contrast of James Fenimore Cooper's work, his daughter, Susan Fenimore Cooper, born in 1813, traveled with him and kept a journal of her own, which she later incorporated into her book "Rural Hours." (S. Cooper 48). Susan's writings work hand-in-hand with her father's, as she deals with a changing frontier landscape and new ideas of property on a previously "wild" and free land. Susan questions the changing wilderness, discussing the introduction of new plants to the Americas. She writes,

It is remarkable that these troublesome plants have come very generally from the Old World; they do not belong here, but following the footsteps of the white man, they have crossed the ocean with him. A very large proportion of the most common weeds in our fields and gardens, and about our buildings, are strangers to the soil. (S. Cooper 49)

Similarly to Cooper, Susan's use of language and imagery tell a compelling story of a changing "New World." Depicting the traveling plants, Susan builds off of Cooper's descriptions of discovery and adventure by complicating them with the troubles of inhabiting new land. Susan

describes the plants as “strangers to the soil.” This line in particular stands out as it contradicts Cooper’s earlier descriptions of an untouched and natural landscape.

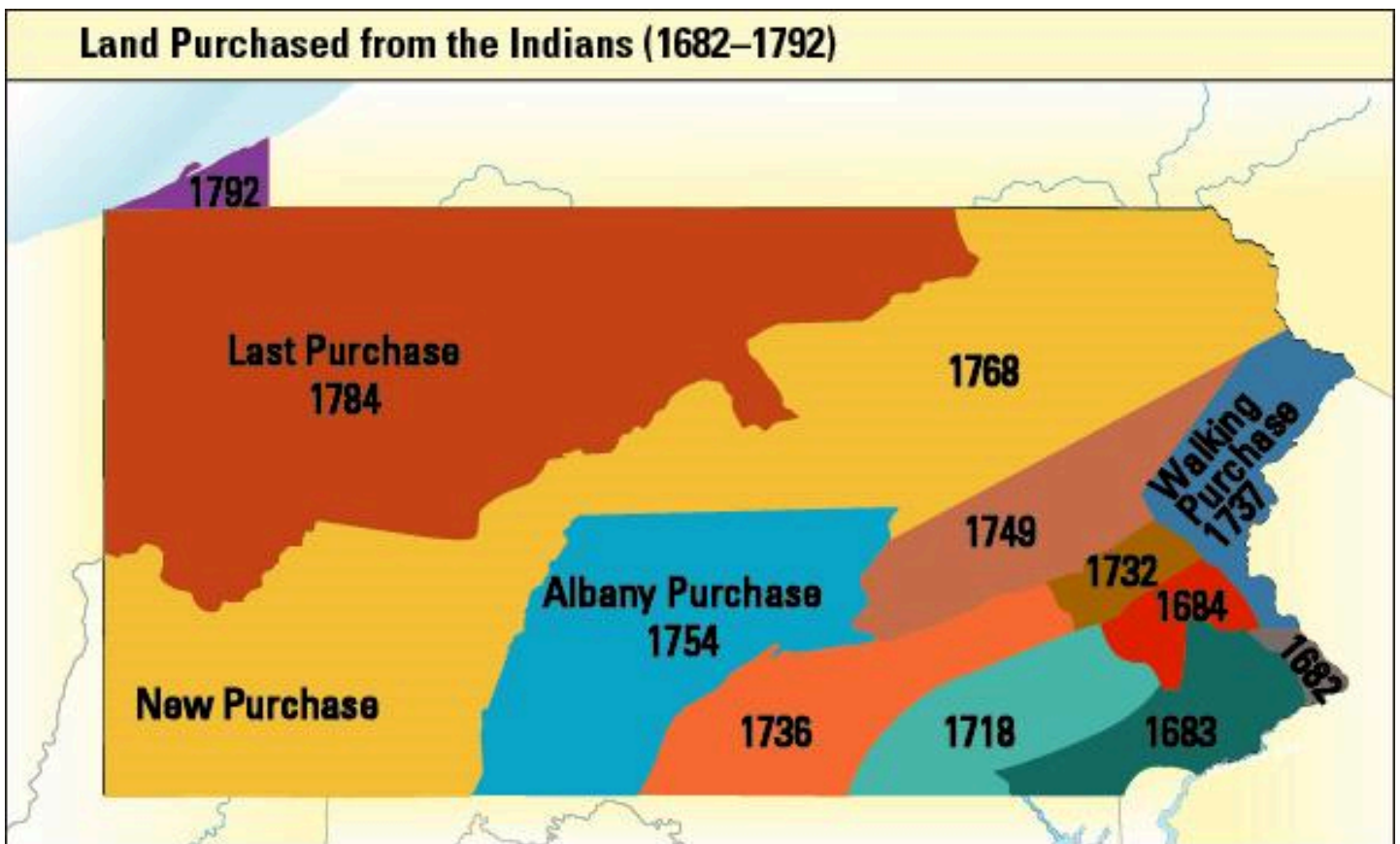
Susan’s text goes on to question the effects of property rights on the natural environment. While in Cooper’s *Deerslayer*, property and individual ownership are just beginning, while Susan writes, she examines the onslaught of effects of this privatization. She writes,

“The preservation of those old pines must depend entirely upon the will of their owner; they are private property; we have no right to ask that they may be spared, but it is impossible to behold their hoary trunks and crested heads without feeling a hope that they may long continue unscathed, to look down upon the village which has sprung up at their feet,” (S. Cooper 57).

The trees are a continued theme from her father’s untouched forests. Though here, Susan is asking the trees to be spared while acknowledging that private property does not allow for such a request. This passage depicts how the shift from natural land to privatized and bordered land has dramatic effects on how one can use such land. The imagery used at this end of the passage with the personification of the tree once again directly builds off of James’ work, as the woods no longer remain lawless, rather now look down upon the new civilizations beneath them. Reading the two authors’ works side-by-side helps to tell a fuller story of early American settlement and the establishment of individual property. Susan’s work, though very different from her father’s, is just as interesting when considering the shift the frontier land underwent throughout the establishment of private property.

## Property Law

As seen in James Fenimore Cooper's fictional tales, early settler beliefs were largely shaped by settler-Indigenous relations and thus were greatly influenced by the attempt to justify the acquisition of land from an occupied space. Such land acquisition was often described through terms such as purchases, but it is important to note how often the land was not traded or purchased, but simply taken. Detailed below is a map of various large land "purchases" of Native American lands (Penn State).



*Figure 1: Land Purchased from the Indians (Penn State)*

This map demonstrates the encroaching movement Westward as settlers continued to push the frontier to Indigenous lands over decades. In addition to considering the different land agreements that took place across modern day Pennsylvania, analyzing legal and political

writings of the time alongside literature can demonstrate the prevailing beliefs of the general Euroamerican public as well as the government regarding property and the desire to acquire more. A number of influential politicians and court cases can demonstrate similar values of early New York and Pennsylvania frontier mindset, such as the beliefs of William Penn and Benjamin Franklin.

### *Benjamin Franklin*

Benjamin Franklin was a key frontiersmen in Pennsylvania and the only Founding Father who signed all three documents that freed America from Britain. Born in 1706, Franklin was a leading politician, journalist and scientist with the majority of his efforts directed to Philadelphia, PA. Franklin, amongst the other Founding Fathers, played a central role in shaping contemporary ideas about American property rights. His work in the political sphere and his writings were influential in shaping American thought regarding the acquisition of land and how it should be used. In 1783 Franklin wrote to Robert Morris, who was known as the “Financier of the Revolution.” Franklin wrote,

All Property, indeed, except the Savage's temporary Cabin, his Bow, his Matchcoat, and other little Acquisitions, absolutely necessary for his Subsistence, seems to me to be the Creature of public Convention. Hence the Public has the Right of Regulating Descents, and all other Conveyances of Property, and even of limiting the Quantity and the Uses of it. (Franklin)

Franklin’s use of the term “savage,” as well as the descriptions of “other little acquisitions” demonstrates the aversion many settlers had for Indigenous people at this time. Similarly to the notions visible in Cooper, this idea that Native Americans were savage, with no laws and no use



for the land, was extensive in frontier thinking. In this writing, Franklin also demonstrates the belief that settlers, or the Public, has the right to design and regulate property law. Barring “natural” property, Franklin argues that private property is a product of collective decisions.

Franklin also demonstrated a commonly held belief that Native American communities had no society and that settlers brought society to a lawless and unstructured land. Evidently, this is not true as Indigenous nations had fully functional societies of their own that extended into a different realm than Western notions of society. At the end of his writing to Robert Morris, Franklin says, “He that does not like civil Society on these Terms, let him retire and live among Savages. He can have no right to the benefits of Society, who will not pay his Club towards the Support of it” (Franklin). Once again, the use, or in this case threat, of the term “savages” is notable in Franklin’s discourse surrounding the requirements to be part of this new frontier society. In order for people to reap the benefits of said society, they must pay their taxes and support the new order. And those who did not were considered outside the realm of society.

Benjamin Franklin’s role as a Founding Father and politician in Pennsylvania greatly contributed to the Pennsylvania frontier thought. Franklin, among other leading figures, directed a narrative that pushed for a new society which othered those who did not participate. Early conceptions of American society and right to land had lasting influence on the greater structure of American society and law. The influence of the discourse surrounding this newly established society and national identity is evident in many early American court cases, such as *Johnson v. McIntosh*.

*Johnson v. McIntosh*

In 1823, the Supreme Court decision, *Johnson and Graham's Lessee v. McIntosh*, written by Chief Justice John Marshall, was decided in a landmark case which ultimately declared that private U.S. citizens could not buy land from Native Americans. This case was a vital turning point for the idea of American property acquisition. In this case, future Supreme Court Justice, Thomas Johnson, bought land from Piankeshaw Native American groups in 1773 and 1775, which was later contested as the defendant, William McIntosh, obtained a land patent to the same land which had been inherited by Johnson's descendants. The court ruled that Johnson's purchase of the land was invalid, claiming the Piankeshaw Native Americans were unable to sell land directly to individuals instead of to the U.S. government. Both sides of the case utilized Western ideas of property to claim the land from the formerly inhabiting Indigenous peoples (Cheyfitz 116). Proving to be an influential case in the formulation of American property law, this case sets the historical background for early American beliefs regarding Indigenous people, property and the acquisition of land by the U.S. government.

One of the key pieces of this case is the notion of Western property that was placed on Indigenous communities and the language used to "other" the inhabiting Native tribes. This case attempted to legitimate this idea of "transformation of land from wilderness to territory and property" (Sands, 253). In an attempt to justify the acquisition of land from Native Americans, Marshall cites a principle of "universal law." Marshall says,

It is supposed to be a principle of universal law, that, if an uninhabited country be discovered by a number of individuals, who acknowledge no connexion with, and owe no allegiance to, any government whatever, the country becomes the property of the discoverers, so far at least as they can use it. (*Johnson*)

This “universally” understood notion that a Western nation’s discovery was a European idea utilized in an attempt to justify the taking of land in the name of discovery, society, and God. Similarly to Cooper’s *Deerslayer*, Marshall uses phrases such as “uninhabited country” to contribute to the notion of lawlessness surrounding Native communities. He cites the lack of central governments to mean the presence of groups of people may be disregarded by the settlers and the taking of land to be justified.

Another key element to this excerpt is the idea that acquisition of property by discoverers relies on their ability to “use it [the land].” This relates back to the commonly held belief that Indigenous peoples did not know how to best utilize the land. Cheyfitz cites the fact that many Indigenous groups were not fixed to one particular territory, and instead lived more nomadically, as a key part to settler beliefs that Indigenous people did not use land correctly. Similar notions are present in Cooper’s texts, with depictions of vast “untouched” space indicating a belief that the land was not being used, or at least not properly by European ideals. Where Cooper challenges this idea lies in his attempts to make connections between Native communities and the settlers, demonstrating that they in fact knew the land better than the settlers and used it differently, the commonly held belief that early American settlers had regarding this misuse of the land was on the basis of lack of understanding as well as an attempt to justify the dispossession of land from Native Americans.

An important aspect of the case is the use of language to attempt to shape a position that encourages ideas of legal acquisition and moral obligation to the dispossession of Indigenous land. Moral conflict and internalized superiority are evident themes in Cooper’s work alongside the legal discourse at the time. In Cheyfitz’s criticism, “Savage Law,” the contradictions that were used to dispossess Indigenous peoples of their land are highlighted. Cheyfitz argues that in

this case, Indigenous groups are admitted to the terms of property in order to “legalize” land sales and the dispossession that occurred. Contradictorily, the Indigenous people were made out to be savages in need of saving and protection, forcing the U.S. government into a position where they were morally required to acquire, govern, and protect the land, bringing civilization into the wilderness (Cheyfitz, 117). The language regarding Indigenous people, customs and “rights” throughout the brief is particularly notable for its contradictions.

But the tribes of Indians inhabiting this country were fierce savages, whose occupation was war, and whose subsistence was drawn chiefly from the forest. To leave them in possession of their country, was to leave the country a wilderness: to govern them as a distinct people, was impossible, because they were as brave and as high spirited as they were fierce, and were ready to repel by arms every attempt on their independence. (*Johnson*).

Marshall uses defining words such as “fierce savages” claiming their occupation to be war. In this same paragraph, he goes on to claim a sort of moral necessity to strip them of “possession of their country” as their governance would leave the land a wilderness. Not only is he here referencing the land as their country, but he goes on to acknowledge the stripping of independence that the Native American communities justly feared. While attempting to make an argument regarding the inability of Indigenous populations to exist on their land, Marshall is demonstrating how these groups were stripped of independence and of the “possession of their country.” The language of moral superiority to take land, particularly in terms of governing the land and nature itself, is a key point that is directly conflicting with the argument of legal selling between Indigenous groups and the government.

Johnson v. McIntosh remains one of the most important cornerstones of federal Indian law, as it made the distinction of Native groups as sovereign nations (Bens). The language, ideas, and law set in motion from this court case contributed greatly to the shaping of colonial society and continues to influence American law at present. It is notable in consideration with texts such as James Fenimore Cooper's *Deerlsayer* as it puts into action the very ideas of lawlessness and the creation of property rights as seen throughout the novel. This case is not only giving historical background to issues discussed in Cooper's world, but it also supports the societal narratives of the time that Cooper conveys. Together, the analysis of this law and literature both explain, as well as in Cooper's critique, early-American frontier thought and conceptions of American society. Early frontier thinking was vital for understanding initial settlement politics and beliefs.

## **Chapter 2**

### *The Transition from Frontier to Settlement: Deforestation and Agriculture*

“She tramped the frozen swamps where the trees leaned this way and that. Their roots stood up like great bent knees. But not a living thing did she scare out from under them. Every place she went, nothing moved. The river stood still with ice. Not even a snowbird did she lay eyes on. The whole wilderness stood empty, deserted and forlorn.”

- *Conrad Richter, “The Fields,” 223*

## **Movement Westward and a Changing Frontier**

Following the expropriation of Native lands and the creation of the American Constitution in 1787, a period of westward pioneering, settlement, development of land ensued. As discussed in Chapter One, initial European settlement in North America brought tremendous changes to the physical landscape as well as the development of a new legal system primarily influenced by the existing British and European legal landscapes. Shifting into an era of settlement and the establishment of the nation, the Pennsylvania and mid-Western frontier continued to expand and changes to the physical landscape were carried out through logging and the introduction of Western agricultural practices. Such changes were made legal through a national mindset which encouraged westward expansion and a desire to acquire and clear land for agricultural use. The new American frontier saw the development of many American laws, which were ever changing as the complexities of Western property law and land use began to emerge in America.

## **Literary Representations of New American Settlements: The Awakening Land**

The American ideals of pioneering westward and land ownership of the 1800s are demonstrated in Conrad Richter's trilogy, *The Awakening Land*. Born in 1890, Richter was raised in Pine Grove, Pennsylvania in Schuylkill County. Richter attended Susquehanna Preparatory School in Selinsgrove, PA, just 20 minutes south of Bucknell University (H. Richter). He grew up surrounded by the descendants of pioneer families who later influenced his work (National Book Foundation). Son of a preacher, Richter spent his first thirty-eight years living in Pennsylvania, working a number of different jobs, including in journalism as well as writing non-fiction for magazines and publishing a number of novels (Carpenter). In 1928, Richter

moved to New Mexico for a period of time, with writing about the Southwest ensuing in his works *Early Americana* (1936), *The Sea of Grass* (1942), and *Tacey Cromwell* (1942). In 1944, he received an Honorary Doctor of Literature degree from Susquehanna University (H. Richter).

Richter was an intellectual who struggled greatly throughout his life, dealing with bouts of depression and insecurity, and used his writing as both an art form and a tool for criticism. As described in his daughter Harvena Richter's book, "Writing to Survive: The Private Notebooks of Conrad Richter," Richter's main concern in both his written and unwritten novels was, "the individual's search for the origins of the self, with the personal and national implications that cluster around it," (H. Richter 4). As seen in his work, Richter conveys criticism surrounding American culture and society, and he is able to do so in a convincing manner due to his detailed study of Early American and dialect words that were used by common people in conversation. Richter wrote and kept multiple thesauruses of words and expressions to record the living speech of the times he was studying, whether that be in the American Southwest or the East (H. Richter 174).

Through his trilogy, *The Awakening Land*, Richter reflects societal thinking about land clearing and agriculture from the end of the 18th century through the 19th century. The trilogy is set in Central Ohio, yet Richter, a Pennsylvanian himself, writes from his knowledge of Pennsylvania pioneers and his upbringing. Richter's trilogy differs and extends beyond Cooper's *Deerslayer* as it builds from the initial "discovery" of the frontier, to demonstrating the shift from this lawless landscape to established, distinguishably American, towns, agricultural economies and notions of individual property.

The first book of the trilogy, *The Trees*, published in 1940, introduces readers to Worth Lockett, a hunter, and his family, more specifically, the central character, Sayward. Though the



narrator speaks from an omniscient point of view, Sayward remains the physical center throughout the novels. Shortly after the Revolutionary War in 1783, the Lockett family, a pretty typical pioneer family, moved from Central Pennsylvania to the Ohio Valley due to a game famine. Due to rapid land clearing and excessive hunting practices by settlers, game famines were not uncommon on the frontier and in Pennsylvania. The series introduces readers to the physical effects of settlers from the very first chapter, "The Vision," where the narrator lays out the migration of Worth and his family out of Pennsylvania. The narrator says,

For a month he had been noticing sign. The oaks, beeches and hazel patches would have slim mast for bears and pigeons this year. Deer paths lay barer than any time he could recollect of fresh droppings. And now the squirrels were leaving the country (Richter, *The Trees*, 3).

Richter identifies how the landscape has become no longer suitable to support the wildlife, and right from the start, he strategically marks the trilogy as a story of migration and famine from poorly managed practices on the Pennsylvania frontier. Though, as later seen, issues of game famine continued westward alongside European settlements.

*The Trees* demonstrates the migration and settlement of land farther west by settlers. Upon moving his family and remaining unwilling to alter his hunter-lifestyle, Worth challenges ideas of settler life as he lives as a nomad who rejects the impending shift to an agricultural economy and society (Flanagan). Living in a make-shift cabin in Ohio, Worth and his family encounter a number of challenges throughout this first novel. The book concludes with a quote about life on the frontier, stating, "That's how life was, death and birth, grub and harvest, rain and clearing, winter and summer. You had to take one with the other, for that's the way it ran," (Richter, *The Trees*, 167). Through their challenges, Richter draws readers to the idea that there

was no changing the frontier mindset. For them, challenges such as land clearing and famine came and went like the seasons. This notion propels Richter into his second novel of the series, *The Fields*.

In the second book of *The Awakening Land*, *The Fields*, published in 1946, Richter demonstrates the drastic and seemingly inevitable shift from woodland to farmland and the hardships and struggles of frontier communities that allowed for this shift to occur. Richter displays the complexities of frontier life through the story of Sayward, who is now a married and educated landowner with eight children. As explained by critic Edwin Gaston, large action scenes are unnecessary to get Richter's main point across, which is to "demonstrate the hard work and slow growth that built the frontier community," (Gaston 75). *The Fields*, pulling readers into the establishment of agricultural economies, towns, religious institutions and American law on the frontier, shows readers a glimpse into the societal attitudes regarding a new American culture. Such culture is dependent on individual property rights.

The final book of the trilogy, *The Town*, published in 1950, follows the life of Sayward's family in a modern and industrialized town. Though each book in his trilogy is interesting when analyzing Richter's writing and discourse on early American society, *The Fields* works most closely with the complexities of frontier life, logging, and the development of the abundant agricultural economy seen across Pennsylvania and the midwest today. It also shows the important societal shift from hunter to farmer, and from woods to fields (Lahood 67). Considering such changes to the landscape is integral for understanding how property and land use rights were established, understood, changed and practiced in Pennsylvania at this time.

*The Fields: The Significance of the Trees*

In *The Fields*, Conrad Richter brings readers into the world of logging and deforestation on the Pennsylvania and Ohio frontier. It is estimated that at the time of its settlement, Pennsylvania was likely 90% forested with an assortment of primarily white pine, eastern hemlock and assorted hardwoods. The push westward from the east coast coupled with increasing demand for lumber pushed the PA forests to deforestation (PA Lumber Museum). In the 1800s and early 1900s, entire towns were centered around the logging industry, such as Williamsport, which witnessed a large-scale boom and bust economy due to logging-induced deforestation. Richter depicts the process of rapid deforestation throughout his trilogy. Though he does acknowledge that, “making a farm out of the wilderness was a backbreaking job,” (Richter, *The Fields*, 254), Richter also highlights how fast-moving, incentivized and even hopeful this process was for settlers. Promised land and a better future, settlers pushed the movement west in hopes of owning more property.

With a focalisation on trees and logging, Richter toys with the personification of trees throughout *The Awakening Land* to show readers the intensity of settlement and land clearing. In this post-war America, Richter depicts a new battle, one between the settlers and the trees (Lahood 68). This battle is clear right from the beginning of *The Fields*, as Richter centralizes the importance of the trees as the “enemy” when building a new American settlement. The narrator says,

The sweetest sound to a human deep in these woods was the hard whack of the axe, cutting or splitting, trimming or hewing, ringing a long ways through the timber till all the trees around knew what was coming to them (Richter, *The Fields*, 176).

Richter's use of language and personification to pull readers into the world of logging is particularly notable here. Stringing together a slew of actions, he gives the ax an air of violent inevitability. Not only does the ax whack on, to the pleasure of the settlers, but the trees "knew what was coming to them." Though Richter writes his trilogy in the years after the deforestation of Pennsylvania and the midwestern frontier, the element of conscious destruction perpetuated by his characters who would not have necessarily known the outcome of western settlement demonstrates the intentionality behind the clearing. Richter helps readers understand the act of mass-deforestation was by no means an accident, rather was normal, encouraged and justified through tactics such as fear mongering and a notion of inevitability of the clearing.

Throughout the novel, the trees remain persistent and strong against the clearing. The battle against the trees in an attempt to clear the land is something the central character, Sayward, encounters everyday, but frustration grows as this progress to clearing is a long and arduous process. In thinking about the trees, the narrator says that this was "their country," (Richter 229), and the intensive shift to settlement and farmland is highlighted by a persistent forest. After seasons of extreme weather that challenged the settlement, the narrator says,

"But the woods didn't look pitiful. No, these last two years the settlers had their tails cut off right behind their ears, but the trees hadn't. The big butts stood around, more lordly and toplofty than ever, shouldering one another, crowding out the sky, keeping the humans down under their thumbs," (Richter 228).

The trees, representing nature here, persist without harm through drought and cold winters. Yet again, Richter utilizes the personification of the trees to demonstrate their power over the humans, even stating that their tight-knit forest of trees is holding humans down under their thumbs. This passage is also interesting given the connection to religion and God, with adjectives

such as “lordly” being used to describe the trees. The idea of the settlers struggling and nature continuing on seemingly unaffected is recurring throughout the novel, as the complexities of settlement and farming life challenge the people greatly.

Richter’s depictions of the trees as something to conquer varies in some ways from Cooper’s descriptions of the forest in *The Deerslayer*. Cooper does not shy from depictions of fear of what lies in the forest, but he also often praises the forests as also being “noble” and “glorious” (Cooper 30). Initial European discovery of the Americas brought about whimsical imagery and a narrative of glory, divinity and purity. After decades of settlement and a shift to establishing American national identity, the narrative around the land and water notably shifts from exploration to domination. Richter’s portrayal of the forests as something that stands in the way of productivity and establishment directly conflicts with Cooper’s imagery of purity and opportunity. Interestingly, both glory and a desire to control the land and make it as productive as possible are reflected in the legal narratives which were established in the foundational idea of American national identity.

#### *Rapid Exploitation of Resources: Game Famines*

In addition to the persistent feeling of uneasiness in the woods and the attempt to clear the land, Richter touches on another important aspect of settlement life that made it so difficult: overhunting. Not only is it challenging to create the settlement and maintain a new crop, but a large issue that arose in regions such as Pennsylvania and Ohio was the rapid increase in hunting and exploitation of vital resources with little management regarding reproduction or sustainability. Chapter Seven of *The Fields*, “The Flesh Pots of Egypt,” demonstrates how damaging the hunting culture of settlers truly was. While the settlers are enduring extreme

weather and low crop yield, Sayward reflects on the fact that there are no longer any animals to hunt in the remaining woods. The narrator says,

Oh, down in her heart she knew what was the matter. It wasn't the drought that had done this. It was the big hunts. It wasn't the Lord, but the humans. The men claimed they would clean the game and vermin from these woods. Well, they could be satisfied now. (Richter 223)

This realization is particularly notable as at this time, overhunting was extremely frequent, even encouraged, and the effects, such as an animal population being unable to reproduce or survive in a certain region, were disregarded. The idea of endless supply was persistent. As later discussed, religion plays a key role in this transition to settlement life, so the acknowledgement of the human effects versus a divine decision to change the physical landscape is important in this passage as well. Despite the continued push for settlement and the creation of towns, property, and progress, Sayward is aware of the human-imposed destruction taking place throughout that process. The passage continues by saying,

They should be glad her pappy wasn't here to curse them. Couldn't they leave enough game to breed for next year, he'd a yell at them. More than once she heard him sneer at men and women back in Pennsylvania for wasting pigeons. They'd knock them down by the thousands from their roost, salt them away in hogshead for trade, and shovel the rest to the hogs. But what made him cruel as death when told it, was the massacre of Pennsylvania's buffalo. (Richter 223)

The greediness of settlers in their movement westward is highlighted throughout this passage, referencing the inability to leave enough animals to breed. Not only does this indicate a lack of knowledge of the systems required to uphold the ecosystem, but it also shows the disregard for

others that existed on the frontier. Richter references Pennsylvania frequently throughout the novel, here bringing up the very important topic of the buffalo extinction. The passage continues on by detailing the violent attacks on the buffalo by settlers, where the only real incentive was to kill them off as opposed to using them as resources. Yet again, Richter intentionally highlights mindset and settler culture in depicting the violent transition from woods to fields and uses language and storytelling to demonstrate how individuals were affected by these practices.

The discourse surrounding the trees and the game throughout *The Fields* is inextricably tied to notions of property rights. Ideas of ownership and one's rightful possession of land and resources contributed to the creation of American property and incentivized settlers to acquire more land and resources.

### *Religion on the Frontier*

Through the use of religion and the new church built in the Ohio settlement in *The Fields*, Richter highlights how religion also played a significant role in the narrative of land clearing and westward settlement. Following Sayward and her discovery of the new church, readers get another glimpse of tactics by which the woods were demonized by settlers. The narrator says about Sayward,

All her life had she lived in the woods, yet still she wasn't of the woods and still the woods were against her. Oh, it had evil things in the woods that were older than the oldest man. The woods shut you in and fought you while you lived, and sucked up your flesh and blood with its roots after you died. Even the Indians had places in the woods they shunned, where they were 'feared to go. (Richter, *The Fields*, 188)

The trees, and more specifically in this case, the woods, are yet again personified and vilified, in this instance to demonstrate the fear that existed among many settlers of possible danger and evil activity. Though the narrator points out in this quote that all her life Sayward lived in the woods, the woods are nonetheless “against her.” The narrator continues by arguing that even the Native Americans, those who knew the land and its forests the best, avoided certain areas of the woods. In an attempt to demonstrate how nature was vilified, Richter demonstrates the deliberate tactics and religious discourse used to justify the clearing and deforestation that rapidly swept the frontier at this time. The passage continues when the narrator says,

The words she heard from the preacher today were like the first light of an open place ahead breaking through the trees (Richter, *The Fields*, 568).

Where religion served as a guiding light for early American settlers as seen in Cooper’s work, religion began to shape American settlements given the comforting and community-oriented feeling it gave many people. In this passage, once again, the forest represents a dark and dangerous space where only the words of the preacher can shed light and instill ideas of hope and community in the future. This metaphor of light breaking through the dark and dangerous woods demonstrates the justification and incentive of landscape disruption and destruction taking place through the early years of American settlement. The church brought many people together and was often one of the first institutions in new towns.

Throughout the novel, the church continues to represent this guiding, good and vital light ensuring the safety and community-aspect of the settlement. Direct biblical allusions are made to compare the hardships of the settlement to different religious stories. Again in Chapter Seven, “The Flesh Pots of Egypt,” the story of Genesis Chapter Forty-Two is used to compare with the famine and unsuitable climate the settlers are facing. When a group of men head south to



Kentucky in search of food, Sayward's twelve year old son, Resolve, is set to travel with them. Sayward greatly fears the dangers that lie ahead of this travel, but, "She reckoned she knew now how Jacob felt when he let the boy Benjamin go down into Egypt with the men" (Richter 222). As a mother who has lost multiple children and has no choice but to allow another to step in front of the face of danger, Sayward turns to religion to find comfort while living this dangerous life on the frontier. Despite her continued questioning of the church, Sayward's thoughts demonstrate how important religious institutions were to settlers in not only justifying their actions and new lifestyles, but in searching for solace and safety.

#### *Law in Richter's Settlement*

Richter demonstrates to readers the emerging presence of law in American settlements, specifically with the use of Sayward's husband, Portius, who is a lawyer. This is a significant shift from Cooper's *Deerslayer*, as despite the consistent references to law on the early frontier, here, Richter helps law come to life with discussion of the actual practice and installation of legal practices on these settlements. The frontier is no longer "lawless" as seen in Cooper, instead it is incredibly law-oriented.

When considering the shift from forest to field, the use of lawyers was very important. Richter highlights the general notion of lawyers through Portius' descriptions as being noble and powerful. The narrator says, "Oh, anybody could tell he was a lawyer now by the noble look he put on his face and by the powerful way he put questions to catch and trap his witness," (Richter 257). Additionally, the law, and lawyers, are frequently described as fair and just (Richter 243). These small comments made throughout the novel amount to a general positive description of lawyers and the emergence of the legal profession in settlements and eventually towns. They also

support early settlement desires to instill Western forms of government on a seemingly “lawless” landscape.

Richter also includes a number of references to legal documents throughout the text which contextualize to readers the legal discourse surrounding property at the time. In Chapter 12 of *The Fields*, Richter includes a notice of a town being built close by, Tateville (Appendix 1). Portius returns to Tateville throughout the novel to “take care of his law business” (Richter 233). These moments of legal discourse highlight the shift from forest to settlement, then from settlement to town. This is an important distinction in the progress of the frontier, and demonstrates the shifts that took place over time. Thinking back to Cooper’s depictions of settlement in *Deerslayer*, the early American frontier was distinguishably shaped by living “beyond law,” (Cooper 22). American independence and incentives to inhabit and make land more “productive” fostered a new set of laws on the frontier, further shaping American society and culture beyond what was once viewed as a lawless frontier.

At the end of the novel, Richter once again highlights the distinction between settlement and town. After the years of hard physical labor and land clearing, the settlement begins to shift. The narrator says about Sayward, “She noticed they didn’t say settlement any more. They said town” (Richter 329). Closing the novel with the distinction of a new town not only sets Richter up for the last book in his trilogy, *The Town*, but clearly distinguishes the transition from lawless frontier community to established town and productive farmland, thus marking the end of the settlement period in this region. As frontier life comes to an end, the emergence and the construction of American towns brings about new and complicated issues relating to land use, property rights and law.

The depictions of the frontier and settlement depicted in Conrad Richter's trilogy, *The Awakening Land*, differs in many ways from the frontier life and mindset seen in Cooper's trilogy, *The Leatherstocking Tales*. The two texts analyzed vary in date, as *The Deerslayer* takes place at the outset of the French and Indian war in the 1740s and *The Fields* takes place in the years following the Revolutionary War. Though very different times to be a settler on the frontier, these events were not that far in date. This goes to show how much frontier and early American ideas had changed over a short period of time. While Cooper stresses the idea of the search and discovery of new land, Richter brings readers into the world of development, both physically as well as metaphorically through the development of American national identity. Both authors discuss land transformation and a changing landscape, but Richter begins to demonstrate how the privatization of land has dramatically changed the surrounding environment through processes such as logging and agriculture. Richter's carefully selected language and narrative surrounding these land use shifts show readers how the land has changed and how such change was incentivized by the law.

### **Physical Landscape Changes**

As seen throughout Richter's texts, land clearing was common practice by settlers in Pennsylvania and along the frontier given the establishment of new towns and introduction of Western agriculture. While Richter discusses the effects of land clearing, he does not discuss the logging industry itself, which emerged in the 19th century (Linehan 20). The logging industry was notably large in Pennsylvania as manufacturing industries expanded and the demand for wood products increased (20). It is estimated that by 1840, 95% of energy needs were met by wood (Swanger 339). As highlighted earlier in this chapter, increasing regional and national

demand for lumber ended up pushing the Pennsylvania forests to deforestation. Land clearing and agriculture have had notable and irreversible impacts on the Pennsylvania landscape and Richter only begins to show us how the introduction of these unregulated practices changed Pennsylvania from a landscape of abundance to a region marked by private property and dependent on the control of nature and the use of natural resources.

### *The Logging Industry and Agriculture*

In the 1800s, many people experienced the negative effects of the deforestation of Pennsylvania. As seen in *The Awakening Land*, rapid deforestation alongside hunting cleared the land of a lot of natural biodiversity. Additionally, deforestation often led to flooding and a lack of soil fertility (Linehan 20). Fire was often used to clear land for grazing and many settlers also took to hunting to drive game away from farm animals (20). Despite the negative effects, Pennsylvanians were disincentivized from considering reforestation, as many counties and towns discouraged people from owning large tracts of undeveloped land, such as forests, and thus they charged high taxes for such land. On the other hand, farms and “developed properties” were charged lower taxes (Linehan 20). This supports the commonly held societal belief surrounding the importance and desirability of productive land expressed in Richter’s work. By 1895, an estimated 36% of the state’s original 90% forest coverage remained (Swanger 339).

The logging on the frontier not only had physical effects on the land, but also began to shape how the land was viewed and managed by settlers. As people were encouraged by the government to clear land for settlement and agriculture, notions surrounding the desire for usefulness and abundance of land were common across settlers. Thus, the narrative of the law, which strove for productivity, was played out in society. Settlers perpetuated these notions by

buying large estates and turning vast swaths of land into farmland. In 1886 the Pennsylvania Forestry Association (PFA) was created to combat deforestation and promote conservation efforts. Members concentrated their efforts in Pennsylvania, but believed to be part of a greater national forestry movement (Linehan 22). Nonetheless, members of the forest conservation efforts were concerned with the lack of timber available for future use, and so their efforts to reforest focused on sustainable use of the state's timber resources (22). Though the reforestation efforts were fairly successful, the incentives were once again centered on dependence on the resources and the majority of the state's old growth forest was already gone. Additionally, much of the Pennsylvania landscape had already been turned to farmland.

The introduction of Western agricultural practices has vastly changed the Pennsylvania landscape, not only in its direct connection to deforestation, but also in the sustainability of the practices used given that settlers introduced new European crops and land management techniques. As private property was increasing across Pennsylvania, as well as across the greater United States, small-scale farms were widespread and little regulations existed surrounding the actual practices used.

As seen throughout Richter's critique in *The Awakening Land* of the land management practices, industries such as logging and agriculture were dependent on the continued spread Westward of settlers and incentivization by the government. The rapid growth of these industries and their poorly-managed and unsustainable practices were not made out of necessity, rather were supported and encouraged by the government and the law to push expansion, economic growth and production at rapid speed. Richter demonstrates how frontier societies conceptualized property rights and land productivity which emulated similar narratives pushed through the law at this time.

## **American Legal Narratives Surrounding Property from 1776-1900**

American Independence in 1776 marked a transitional point in the creation of American nationalism and legal narrative. At the outset of the Industrial Revolution, American independence and the ratification of the Constitution in 1788 took place during a crucial moment in Earth's history. Faced with rapid technological advancements and growth, the newly independent nation placed the American narrative of growth and production into legal action, seizing opportunities for certain people to obtain land and exploit its resources through logging and agriculture while unaccompanied and unrestricted. The shift from frontier life to the establishment of American towns and local governments marks the beginning of the American legal system that exists and continues to influence society today. As one of the original thirteen colonies, Pennsylvania and its land was at the forefront of the movement towards private property and mass-land exploitation. With the introduction of Western agricultural practices to the land and environmentally harmful practices such as the logging industry, the Pennsylvania landscape underwent a new series of landscape changes. These changes shifted Pennsylvania from its initial frontier settlements and "lawless" landscape to a deforested and primarily agricultural society shaped and governed by the law.

### *Distribution of Property in Pennsylvania*

In 1787, Pennsylvania saw the shift from proprietorship of the heirs of William Penn to the new state and "Commonwealth of Pennsylvania." This term, chosen by the Pennsylvania writers of the Constitution, focused on the greater good of the Pennsylvanian people. With this shift, the state of Pennsylvania became the owner of all of the unsold land within the state. But the state was not prepared to assume ownership of this land, and thus continued to roll out land

issuances to settlers. In the Statutes at Large of Pennsylvania, early land distribution laws are laid out. The Statutes at Large contain the laws of the Pennsylvania Province and Commonwealth dating from 1682 to 1809. Ch. 1259 of the PA Statutes at Large, passed in 1784, is titled “An Act for Opening the Land Office for Granting and Disposing of the Unappropriated Lands within this State.” This act opened the door to land settlement in the northwestern section of Pennsylvania (Henderson 133). The act discusses permits and legalities of obtaining ownership of land in Pennsylvania, referencing different regions, different costs of land, and exchanges between settlers and Native Americans.

Along with outlining land purchases and exchanges, the act also discusses the idea of “land improvement.” Land improvement has had many meanings throughout history and in different societies, but in the context of American westward expansion, land improvement meant the process of making land able to produce goods. Many Europeans continued to settle in America alongside a period of rapid technological advancements. This allowed for many settlers to advance westward and turn vast landscapes into crop-yielding productive land. As settlers moving west cleared, drained, irrigated and fenced in land, they built a vital part of American stock (Vandenbroucke). Thus, increased productive land was desirable for the government and the foundation of American society. Federal and state governments incentivized this transition to productive land, as seen in Ch. 1259 of the PA Statutes at Large. The act reads,

And be it further enacted by the authority aforesaid, That every applicant for lands shall produce to the secretary of the land office a particular description of the lands applied for with a certificate from two justices of the peace of the proper county, specifying whether the said lands be improved or not, and if improved how long since the said improvement was made, that interest may be charged accordingly (316).

Such language utilized colloquially and in laws contributed to the mindset of growth, expansion and productivity on the frontier demonstrated by Richter. The term “improvement” generally carries a positive connotation, yet the process of land clearing and the introduction of globalized agricultural practices had profound effects on the environment, as later discussed. As seen with the game famines along the frontier, these production-incentivized actions of early Americans, as encouraged by lawmakers, implemented and set forth an American narrative of destruction and consumption.

While increased settlement and land improvement were supported by many, some settlers were opposed to such rapid land inhabitation and spread of settlers. Samuel Maclay, a politician of Northumberland, opposed opening up lands beyond the Allegheny. He argued that the sparsely settled land between that region and the Susquehanna should first become more densely populated. He also feared the state’s ability to protect settlers that far west, making the point that the state would have to provide a standing army for their defense (Henderson 135). Nonetheless, many frontiersmen sought the rapid expansion and accumulation of property with less fear surrounding the possible negative consequences, both politically and environmentally, that such rapid expansion would entail. It is evident that not all early American settlers shared the same opinions, and by no means does my central argument attempt to disregard the multitude of views and opinions that contributed to American settlement and political thought. Rather, my argument aims to highlight general consistent trends of individualistic American ideals and how environmental destruction was thus baked into these practices which have forever shaped American identity and national narratives.



## *National Change and Expansion*

President Thomas Jefferson was a major influence on the narrative surrounding land ownership and his belief that private property held by settlers would help with the political and economic stabilization of America. Though he believed in the gradual emancipation of slaves, his scheme did not account for Native Americans or African Americans (Sturges 45). Thus, the push westward in the name of freedom and a right to the land was inherently stunted.

As economic and political incentives continued to persist, the American Civil War brought about continued legislation regarding the obtaining and exploitation of land. Amidst the American Civil War and once free from the constraints of the south, President Lincoln instated the United States Department of Agriculture (USDA) in 1862 (Phillips). Shortly after the creation of the USDA, the Homestead Act of 1862 was passed, which demonstrated yet another act of the American narrative guiding the law. This act gave 160 acres of land to settlers willing to cultivate the land for at least five years (Anderson). Leading up to this point, land outside of the thirteen colonies was previously considered government owned land. Though a number of acts created formal systems by which land was transferred from the government to the people, such as the Land Ordinance of 1785 (Appendix 2) and the Northwest Ordinance of 1787 (Appendix 3), the Homestead Act allowed for millions of acres of public land to be transferred into private ownership. As seen on the frontier, the shift to privately owned land and rapid advancement westward entailed many irreversible environmental changes, as highlighted by Richter, as landowners were encouraged to clear and make their land productive.

These acts encouraged the push westward for a number of reasons, including the land mismanagement in the existing colonies. Though the government had plenty of other incentives for expanding American territory and settlement, many settlers, as seen in Richter's trilogy, were

seeking new and untouched land free from exploitation. As technology continued to develop overtime, even more rapid westward settlement became easier with reliable means of transportation, such as the railroad (Ewig). Acts such as the Pacific Railroad Acts encouraged further exploration and development in lands previously untouched by American settlers. Though railroads existed in the East, the transcontinental railroad opened up never before seen avenues for settlement. As innovation and technology continued to grow and expand, Pennsylvania continued to see a changing landscape through the Second Industrial Revolution.

## Chapter 3

### *The Complexities of Extractivism and Subsurface Property Rights: Mining and Fracking*

“Drilling has slowed down now, but the infrastructure—  
compressor sites and pipelines—that’s the new game on our hill.

How can they call this *The Pennsylvania Wilds*?

If you get lost up here now, you ought to be ashamed.”

- *Shale Play*, “President of the Okome Conservation Club Returns from Reconstructive Surgery”

## **The Second Industrial Revolution & Mineral Rights**

The Second American Industrial Revolution, or the Technological Revolution, upheld and pushed established legal and political narratives of American growth and independence. Through new technological advancements and the introduction of mass-mining, another idea of American independence was produced: energy independence. Similar to settlement and land productivity efforts on the frontier, the Industrial Revolution pushed forth ideas of American self-sufficiency and abundance. In this chapter, I argue that the mining, and later fracking, industries played a key role in the American narrative of productivity sold and executed in Pennsylvania at the cost of environmental and human well-being.

These short-term extractivist industries were strategically executed to benefit American goals of expansion and efficiency directly related to foundational ideals of American national identity as seen in the previous chapters. Extractivism simply put means the removal of a resource from the Earth, but as a mentality, it can be defined “by taking too much, too destructively, and too quickly, with too often a wanton disregard for giving back, or even considering the arguably necessary establishment of balance with ‘nature’ via sustainable reciprocal relations” (Kröger 240). Replacing the logging and agricultural economies seen in Pennsylvania, mineral extractivism marks a third shift in Pennsylvania land use and notions of property rights.

### *A New Era: Pennsylvania Mining and Anthracite Coal*

During the Second Industrial Revolution, Pennsylvania underwent yet another land use shift, this time from a primarily agricultural society to a primarily mining and extractivist-based industrial society. The United States was transformed by the Golden Age of Coal between 1860

and 1920. In northeastern Pennsylvania, anthracite coal reigned over the economy as the Anthracite Era lasted from 1835 to 1940 (Currà 11). The Anthracite Coal Region spans across six counties and three distinct areas in PA: the Wyoming Valley, which includes Scranton and Wilkes-Barre, the Lehigh fields, and the Southern Region, which stretches across four counties including Schuylkill and Northumberland Counties (Troutman 8). Anthracite coal became a necessity of commerce between 1810 and 1910, as America strategically became less reliant on Europe for goods such as iron and steel, shifting the American agrarian society to an industrial society (Currà 5). Anthracite specifically played a crucial role in early American industrialization by providing fuel for the iron industry as well as serving as the primary heating and cooking fuel in the Northeast after the transition from wood (11). The Industrial Revolution marked yet another point of American development which forever altered the Pennsylvania landscape and land use.

For decades, anthracite coal boomed in northeastern Pennsylvania with production increasing at rapid rates and national dependence on the product growing. The anthracite coal companies and railroads were the largest employers in northeastern Pennsylvania, sustaining the majority of its 750,000 residents (24). It is estimated that more than one billion tons of anthracite coal was mined in PA from 1800-1920 (citation). Despite the temporary economic prosperity it brought to the region, the mines were an incredibly dangerous place for men and boys, many of which were killed on the job. Nonetheless, the industry remained booming for decades as miners formed unions and fought for better working conditions.

Additionally, such-large scale mining operations across Pennsylvania had everlasting effects on the physical environment ranging from ground and surface water contamination, loss of biodiversity, and in some cases the entire abandonment of certain previously habitable spaces.

The former town of Centralia, located in Columbia County, remains a reminder of the possible dangers and environmental impacts of the mining industry. In May of 1962, the system of coal mines underneath Centralia caught on fire while the town's dump was being burned. By August, the fire had reached a network of mine tunnels beneath the town filling the tunnels with carbon monoxide, creating sinkholes in the ground, killing trees and wildlife, and sending cracks through the highways above (Perkins 298). Federal agencies spent over \$3.3 million to control the fire, but by 1983 it was determined that it would take another \$663 million to extinguish the mine fires and ensure safety for those living above. Thus, the government bought the town and relocated its citizens (298). Today, Centralia still burns and rests nearly empty, barring the few people who decided to stay, and the town has been reclaimed by nature, covered in trees and wildlife (Appendix 4). The environmental harms caused by mining across Pennsylvania are undeniable, such as the effects of acid mine drainage, and the communities that the mining industries were said to serve are the same communities that will continue to bear the burden of the environmental damages caused by decades of mineral extraction and waste mismanagement.

#### *Mineral Rights and Changing Property Law*

Along with the physical changes to the landscape, the mining industry created long lasting impacts on American property rights as it sparked the introduction of mineral rights. In the federal Mining Law of 1872, mineral rights were distinguished from surface rights, allowing for the purchase of mineral rights beneath occupied property. The statute reads,

All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States

and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining-districts, so far as the same are applicable and not inconsistent with the laws of the United States.

The language used in this statute is reflective of U.S. legal narratives surrounding exploration and ownership. With the declaration of new aspects of subsurface land being “free and open to exploration and purchase,” the story of American development and acquisition is once again perpetuated. Another notable aspect of this law is the recognition of lands “both surveyed and unsurveyed.” Allowing for surveyed and already purchased land to now have subsurface ownership rights complicates individual property ownership, as will be seen with many cases of purchase and leasing of mineral rights for mining, and later fracking, across Pennsylvania. Additionally, it opens mineral rights as both a public and private land matter, as mining could take place on public land or private property.

To this day, debate continues regarding the intentions and effects of the Mining Law of 1872. As some scholars acknowledge, this law is often seen as “one of the most reviled federal land laws, regularly drawing attacks as anachronistic, corporate welfare, a relic of pioneer days, and a source of major environmental problems” (Morriss 745). But, other scholars argue in favor of the law recognizing the institutional structure that gives agency to land owners to address the opportunity costs of their land use (746). Regardless of the views on the law, the impacts it has on American society, landscape and the environment are undeniable. The Mining Law of 1872 marks a turning point in Pennsylvania property rights and regional thought regarding the “usefulness” or “productivity” of land.

In addition to the Mining Law of 1872, Pennsylvania law follows the Rule of Capture law. Rule of Capture is an integral part of oil and gas law that addresses whether oil and gas is real property, meaning part of or attached to the land, or personal property (Kramer 899). Today, the Rule of Capture law remains in Pennsylvania, despite the complexities of modern day extractivism. As further discussed in this chapter, fracking has taken hold of Pennsylvania, and as decided in *Briggs v. Southwestern Energy Prod.* in 2020, fracking developers may rely on pressure differentials to drain the oil and gas from underneath another person's property. Understandably, the Rule of Capture continues to be contested.

### **Literary Depictions of the Coal Region in Pennsylvania**

The Golden Age of Coal produced many American literary texts reflecting the troubles and dangers faced by those in the mines. One relatively new text that stands at the forefront of the history of the anthracite coal region is Mitch Troutman's *The Bootleg Coal Rebellion: The Pennsylvania Miners who Seized an Industry 1925-1942*. Published in 2022, this book tells the story of Depression-era Pennsylvania miners who fought to form a union in order to protect their livelihoods and collective autonomy. In his book, Troutman tells the true stories of miners through their own words alongside photographs, creating a compelling narrative of the struggles of Pennsylvania American miners.

#### *The Mining Industry Feels the Effects of Black Tuesday*

Troutman delves into the Anthracite Crisis and the slow collapse of the coal industry. He highlights Black Tuesday, the stock market crash in October of 1929, as the beginning of unemployment in the coal industry and a point of downturn in coal production. He says, "The



fate of the coal industry never lied in the region,” (Troutman 54). Instead, he argues that Wall Street, and notable investors such as JP Morgan, controlled the shares in all of the coal-rail corporations, and thus the stock market crash hit the coal region hard. Troutman uses both historical knowledge and data alongside compelling stories of miners throughout the Great Depression to convey how difficult it was in the Pennsylvania coal region at this time. When describing the initial fall of the industry, Troutman shows readers how dependent many people were on the industry continuing to succeed economically. He, fairly explicitly, describes how many miners turned to suicide once the jobs began to disappear. Troutman says,

In one ghastly display, a Mahanoy City man dressed himself in nice clothes and hung himself from the single tree on the otherwise barren coal bank, directly above the entrance to the Primrose—the mine he had worked at. His body, hanging four feet above the ground, was visible from the paved highway passing out of town . . . (Troutman 56)

This passage is particularly striking as it demonstrates the intensity of an industry crash in a region that was almost entirely dependent on mining. Additionally, Troutman creates intense imagery of a changed Pennsylvania region. The single remaining tree beside the barren coal bank represents two major Pennsylvania industries, logging and mining, both left desolate.

Additionally, in this passage the man is visible from a paved highway that passes through town, creating the sense that the industrialisation does not remain in this small Pennsylvania community, but instead demonstrates how rapid industrialisation is making its way through small communities. For the greater movement towards industrialization, the towns are merely a stop along the road, not a destination. Finally, this passage demonstrates that in the name of growth, productivity and expansion, working men were nevertheless led to take their own lives due to the pressure of the oncoming Depression. This is just one example Troutman shares of men cracking

under the pressure of a crashing coal industry, unable to provide for their families. As seen through his grim depictions, the coal region was reliant on a system that made constant land productivity and extraction the only means of sustaining local economies.

*The Search for Relief in the Mountains and a Right to Mine*

Alongside industry-wide worker efforts for equalization, the Bootleg Coal Rebellion was born from the skyrocketing unemployment in the 1930s in communities entirely dependent on the coal industry. As the government attempted to downplay the effects of the stock market crash so as to not scare away investors, mining communities saw little relief in the face of mass unemployment, so instead, they mined and sold the coal themselves (57). Troutman raises important questions that many miners had:

They had asked themselves whether a deed gave companies a right to cut off work while people starved in the very towns they had built? Who was more important: shareholders or families that had given generations to the mines and risked their lives making the operators wealthy? (59)

With these questions, Troutman conveys to readers how mining corporations were built on and reliant on investors, leaving the infrastructure and livelihoods they created in their periphery. This demonstrates how, once again, land productivity and profit was the most important thing in building American society, with the wellbeing of the people and the landscape coming second to production.

Troutman conveys the tenacity of Pennsylvania bootleg miners by displaying the awful working conditions they endured in order to keep their communities afloat. The conditions of bootleg mining included oftentimes improper equipment, unrestricted use of explosives, and

contact with “damp” or deadly gasses (68). Additionally, little incentive was left to prioritize diligence over production rates as workers did not have set income and relied on producing and selling coal themselves. Additionally, many women and children aided in the bootlegging efforts as bootlegging was an untraditional job encompassing many different tasks (63). Troutman says,

Although hundreds of coal holes dotted the mountains, bootlegging was not centralized. No one controlled or promoted it. It simply became a commonsense way to survive. It was even rumored that local relief agencies were telling families to go dig up their own relief in the mountains. (62)

Despite the steady collapse of the coal industry, Troutman reveals how families had no choice but to search for their relief in the mountains. This quote expresses how, unsurprisingly, a region dependent on the productivity of the land was left to keep digging. Mining communities were reliant on the land, and thus in the face of unemployment continued to search in the land.

Using first-hand accounts, Troutman’s text also highlights how bootleggers believed they had a right to mine on corporations privately owned land. Though many bootleggers were mining on their own property, many were also illegally mining on company property after the operations closed down. Troutman points to commonly held beliefs that the corporations were corrupt, stealing land, or not paying taxes on their land (77). Troutman cites one man, Joe Padelsky, and his belief that the bootleggers had a right to mine illegally. Padelsky said,

They had to let the people make a living or there would have been a civil war. Reading bought that ground for four dollars an acre... How in the hell? Four dollars an acre! ... It was the people’s ground. That’s the way we figured. We were digging our own coal. We owned the land! Land of the free! (77)

Padelsky's quote supports a recurring theme of American freedom and independence that is continually challenged by systems of private property. Through various speakers, Troutman highlights how many believed that despite the companies that paid little money for large swaths of mineral rights, the American people continue to push for the American individual. Private property inherently closes off the individual from the community, and as highlighted by Troutman, the individuals revert to the idea of ownership when faced with the reality of private property. Rather than challenging the idea of private property and mass-land ownership, bootleggers fought for their own right to own land and minerals. Padelsky's quote stands out as particularly contradictory as he highlights how his community was oppressed by the constraints of land ownership and ends his remarks with the statement "Land of the free!" As seen throughout the book, American ideals of ownership and productivity remain at the center of discourse surrounding property rights.

### *Modern-Day Reflections on Pennsylvania's Mined Terrain*

In addition to first-hand accounts and stories of miners, many Americans have taken to poetry to express feelings around the coal region and its effects on the natural environment. Jonathan Holden's "Driving Through Coal Country in Pennsylvania," published in 1990 in a book titled *Working Classics: Poems on Industrial Life*, reflects the experience of an American driving through the Pennsylvania coal region. Holden, born in New Jersey, is an English Professor and Poet-in-Residence at Kansas State University (Kansas State). His poem reads,

sometimes you come on a whole  
valley that's one gray excavation.  
Each valley saddens me.  
Its like seeing someone you know  
but can hardly recognize anymore,  
scarred up, shaved, sick

from a long operation,  
only the operation's still going on,  
and there are no doctors-  
just dump trucks in the distance  
raising dust. (Holden 104)

Upon driving through Pennsylvania, Holden shares sentiments of landscape changes in this short poem. He creates a sense of familiarity with the landscape, then compares the Pennsylvania coal valley to this familiar person who is sick and recovering from an operation. Except, Holden states that this patient is not recovering, rather the operation is continuing without any doctors. The landscape lays open and grim with no good solution in sight. The final lines, "and there are no doctors- just dump trucks in the distance raising dust," are particularly notable. Here, Holden observes not only the lack of care for the land, but the continued disruption and "raising dust."

Holden's poem, which promotes feelings of sadness and longing for a landscape that once was, directly contrasts with American ideals supported in the law. While politicians pushed for land productivity, Holden asks the readers to stop and consider what happens when the land is no longer under operation. Instead of viewing the land as a machine, he views it as a living being, one whose life was sucked out from inside it and left sick. In a world, and nation, consistently focused on production and growth, it is important to read poetry such as Holden's to contrast given its humanistic and ecocentric narrative. Such narratives can help readers to familiarize themselves with an issue or landscape, as if it were in their own backyard, and refrain from recreating the same problems, or worse, in the future.

## **Pennsylvania Transition to Fracking**

As the coal industry came to its slowing halt, hydraulic horizontal fracturing, or *fracking*, emerged as a new economic opportunity across Pennsylvania. The modern fracking process, which combines hydraulic fracturing with horizontal drilling, was developed by Mitchell Energy and Development in the Barnett Shale area of Texas. The fracking process allows companies to reach gas over a mile beneath the surface by forcing five to nine million gallons of water, propping agents such as sand or ceramic beads, and as much as 100,000 gallons of gasses and chemicals into the ground (Brasch 4). After the vertical drilling, the companies create a horizontal borehole through which they fracture the shale. Spanning from the 1980s to the early 2000s, the majority of fracking took place in Texas. It was not until 2004 that Range Resources began drilling and fracking in Marcellus Shale, beginning in the Appalachian area of Virginia (Warner 478). Thus began the process of fracking in Pennsylvania.

### *Natural Gas and Fracking Regulations*

Regulations concerning fracking and the natural gas industry have taken many shapes over the years. Natural gas regulations began in the late 1800s at the state level with focuses on transportation and production process, but Federal regulations on natural gas began in 1938 with the Natural Gas Act (Warner 478). This act allowed the Federal Power Commission (FPC) to set rates on gas prices and govern interstate pipeline construction. But, as the 1970s saw movement towards deregulation, the Federal Energy Regulatory Commission began incentivizing companies to invest in new gas reserves by deregulating wellhead pricing (478). By 2005, the Energy Policy Act gave states the permission to regulate the oil and gas industry as opposed to the federal government (480). This posed many challenges as the geography of natural gas areas

spans over state lines, and issues such as the disposal of waste across state boundaries, as well as land, water and noise pollution associated with fracking arose given the differing state regulations (481).

As in the U.S. surface estates are often separate from mineral estates, the shale boom occurred in Pennsylvania first as a land rush to get property owners to sign leases allowing companies to frack on their land (Murtazashvili 25). Many land owners came to find out that previous mineral rights were still intact, meaning that corporations could drill under their property without their consent. This led to land rights disputes and public disapproval with property rights. Nevertheless, many people remained in support of the fracking industry.

To many Americans, shale gas was seen as more than a commodity, and instead began to represent a recurring American ideal of independence. Fracking was framed as a means of reaching American energy independence, and as described by scholar and NYU professor Colin Jerolmack, “Conservatives have often portrayed shale gas as a patriotic weapon that will finally enable the US to achieve the elusive goal of energy independence,” (Jerolmack 256). This thinking closely mirrors similar notions of American energy independence pushed with mining during the Industrial Revolution, as the U.S. sought independence from European imports. Though, as seen with the mining industry, such extractive and short-term industries cannot sustain long-term economic viability.

As Pennsylvania began experiencing major increases in fracking in the 2000s, oil and gas regulations began to ease and change to support the industry and build the economy. Pennsylvania Act 13, passed in 2012, was an amendment to the state Oil and Gas Act laws to preempt local control of shale oil and gas production (Robertson 44). This act imposed model uniform zoning ordinance standards across the state meaning localities must permit gas and oil

drilling. This was approved as a solution to governance challenges in part due to the fact that Pennsylvania has over 2,500 municipal governments, which would be particularly difficult for businesses to operate within varying regulatory frameworks (Murtazashvili 27). Opposed to the state-wide standards, *Robinson Township (and Delaware RiverKeeper) V. Commonwealth of Pennsylvania* is a 2013 case that sought to allow for local decisions regarding the oil and gas permitting as opposed to state-wide legislation. Citing the Pennsylvania constitution's Environmental Rights Amendment, passed in 1971, which is one of the most comprehensive environmental statements in any state's constitution, the plaintiffs argued that Act 13 was "unconstitutional in its entirety," (Robinson). In support of the Environmental Rights Amendment, the court writes,

As we have explained, Pennsylvania has a notable history of what appears retrospectively to have been a shortsighted exploitation of its bounteous environment, affecting its minerals, its water, its air, its flora and fauna, and its people. The lessons learned from that history led directly to the Environmental Rights Amendment, a measure which received overwhelming support from legislators and voters alike. When coal was "King," there was no Environmental Rights Amendment to constrain exploitation of the resource, to protect the people and the environment, or to impose the sort of specific duty as trustee upon the Commonwealth as is found in the Amendment. Pennsylvania's very real and mixed past is visible today to anyone traveling across Pennsylvania's spectacular, rolling, varied terrain. The forests may not be primordial, but they have returned and are beautiful nonetheless; the mountains and valleys remain; the riverways remain, too, not as pure as when William Penn first laid eyes upon his colonial charter, but cleaner and better than



they were in a relatively recent past, when citizenry was less attuned to the environmental effects of the exploitation of subsurface natural resources. (Robinson 69)

This excerpt is particularly striking as even the Supreme Court of Pennsylvania acknowledges the complicated history of the state's shortsighted exploitation. The court references how people were not protected by something such as the Environmental Rights Amendment when "coal was King," yet, despite the amendment, similar harmful, shortsighted and profit-driven exploitation has ravaged Pennsylvania with fracking. What is also interesting about the court's analysis of Pennsylvania landscape and history is the use of language that continues to perpetuate colonial narratives of purity and untouched land. The court states how the riverways remain, yet "not as pure as when William Penn first laid eyes upon his colonial charter." Though written in 2013, the idea of purity, unsettled land, and colonial charters remains interestingly still prevalent in modern day legal discussions.

In the end, the court agreed with the plaintiffs, finding Pennsylvania Act 13 unconstitutional. While fracking continued at rapid increasing rates nonetheless, this finding began to set a new precedent in Pennsylvania's environmental politics. Though a small step backtracking an egregious movement towards environmental destruction and a blatant disregard of PA citizens proposed in Pennsylvania Act 13, this finding and the language used to describe the complicated past of Pennsylvania's landscape are part of the movement towards environmental protection within the law.

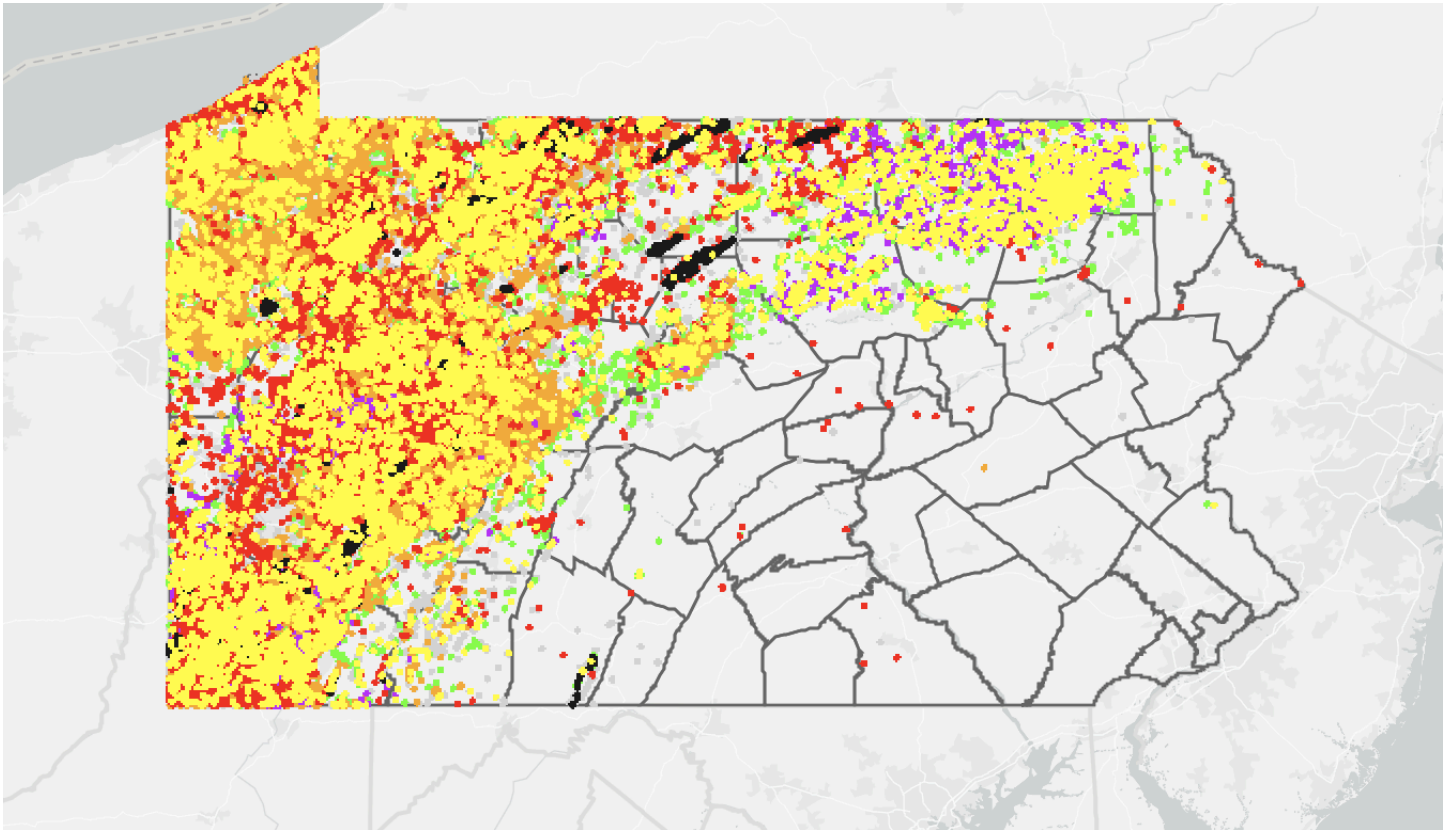
Around this same time in 2012, Pennsylvania saw the beginning of a steady decline in the fracking industry. The price of fracking, which was always an expensive process that relied on high oil and gas prices, began catching up with the production rates, causing a decline in its once promised economic feasibility. New wells faced an average production decline of 60 percent in

their first year, which led to companies desperately drilling more wells. As production costs outweighed profit, many companies suspended their operations, with as many as seventy five thousand workers in the oil and gas industry being laid off between 2015-2016 (Jerolmack 255). By the COVID-19 pandemic in 2020, the industry was brought to a standstill with the crash in demand for oil and gas.

The crash of the once booming fracking industry replicates yet another cycle of boom and bust economies across the U.S. and specifically in Pennsylvania. As analyzed by Jerolmack, “there is little evidence that shale gas development brought lasting improvement to local economies; most income and employment gains were modest and temporary. More than feeling angry, many locals seemed resigned to the reality that they were experiencing the lumber bust and deindustrialization all over again” (256). Mirroring past boom-bust cycles seen in the U.S. the fracking industry demonstrated how, once again, American ideals of individualism often reigned above the prioritization of a greater community. Many individuals supported and chose short term monetary incentive, while state governments and the law failed to uphold collectivist policies, doing too little, too late.

### *Environmental Degradation and the Remains of the Fracking Industry*

Today, Pennsylvania remains littered with the remains of the fracking industry as well as continued fracking operations. The information seen on the following GIS map was published by the Pennsylvania Department of Environmental Protection (DEP) and modified/mapped by “Fractracker Alliance.” This map displays the data available on the state’s oil and gas wells up until January 29, 2024.



*Figure 2: Fracktracker Alliance Map*

The yellow points mark violations issued to oil and gas operators in PA flagged in the Pennsylvania DEP Compliance Reports beginning on January 1, 2008. In this time frame, Fracktracker pinpointed 67,917 (known) violations, with an additional 7,533 violations lacking specific well locations. Despite efforts made to encourage local citizen agency in fracking decisions, fracking ran, and continues to run, its harmful course across Pennsylvania. Supported by legal institutions and lobbying alongside a nation built and reliant on fossil fuels and dependent on low oil and gas prices, Pennsylvania's landscape was once again compromised by a system set up to reap monetary benefits over citizen health and well-being in a short-sighted and money-hungry industry.

## **Literary Depictions of Marcellus Shale Region: Shale Play**

In a book of poems titled *Shale Play*, written by author Julia Spicher Kasdorf with photos by Steven Rubin, stories of those affected by fracking in Pennsylvania as well as West Virginia are told through the means of poetry. Written over the course of five years from 2012 to 2017, the book shows different elements and perspectives on the booming fracking industry. Both Kasdorf and Rubin have personal connections to the Pennsylvania landscape affected by the fracking industry, as Kasdorf grew up in Westmoreland County and Rubin has family roots in Pennsylvania. Personally connected to the land and the communities in question, they share with readers real experiences and struggles in the fracking regions through their writing as well as the powerful images which span many pages. Select powerful images from the book can be found in the appendix 5-7 with the image descriptions provided.

The title of the book, *Shale Play*, derives from the commonly used term “shale play” or “shale gas play.” As defined by the U.S. Department of Energy, shale play is a “a set of discovered, undiscovered or possible natural gas accumulations that exhibit similar geological characteristics. Shale plays are located within basins, which are large-scale geologic depressions, often hundreds of miles across, which also may contain other oil and natural gas resources” (Energy.gov). The idea of “discovered,” “undiscovered” or “possible” natural gas accumulations is particularly interesting considering the invasive nature of hydraulic fracking.

Kasdorf’s literary approach varies greatly from that of Cooper and Richter as she uses poetry as a means of telling true present day stories. While both Cooper and Richter created stories based on their knowledge and the history of a region, Kasdorf creates no fictional world, only conveying the real stories of others more similarly to the work on bootleg mining of

Troutman. Though these authors take different literary approaches and ecocritical lenses, they all tell the story of a changing landscape.

The foreword, written by Barbara Hurd, a local to Chester County, PA, introduces readers to the premise of *Shale Play*, highlighting how the book helps readers to see firsthand how land use changes over time. Hurd says, “By documenting these particular places in this particular time, the artists investigate how shifts from agriculture, lumbering, and coal mining to fracking affect not just people but also the water, air, and forests that have long sustained them. Living as if there is no past can be as shortsighted as living as if there is no future” (Hurd xi). Hurd asks readers to consider the importance of this shift in land use while reading the poems, specifically highlighting how the region has been historically influenced by the agriculture, lumbering and coal mining industries before fracking. An important consideration to the story of fracking, Hurd reminds readers of the impacts of history on a region and its land use.

Following the foreword, the authors equip readers with further information before reading the poems through the preface. In the preface, the authors inform readers on how they define shale play, listing the following definitions:

Commercially exploited region - geographic and geologic, above and below earth’s surface containing natural gas accumulated in sedimentary rock; men who drive remote country roads to knock on doors of farmhouses and trailer homes eager to press lease contracts into the hands of property owners; negotiations in Harrisburg where a state legislature, flush with campaign contributions from oil and gas companies, struggles to formulate regulations and fair tax codes for unconventional drilling more than a decade after the boom began; complaints at public meetings and of township supervisors and

zoning boards; human voices, some work weary and others delighted with unexpected wealth.

These definitions set the premise for the poems and why they express important stories that deserve to be shared. The authors also demonstrate how these issues are incredibly multi-disciplinary, discussing everything from geology, to economics, to personal stories, and even to government negotiations and zoning board meetings. The poems in this book are wide-ranging in form and style, thus hitting many different and important elements of the fracking boom in Pennsylvania. Through this narrative style, the stories of many people, markedly concerned citizens, are shared. Four themes carried throughout the selected poems on fracking will be discussed in my analysis of this book: Private property and landscape, changing land use, environmental and ecological effects, and issues of legal standing.

### *Private Property and Landscape*

*Shale Play* opens up with a poem titled “September Melon, Seismic Testing.” This poem begins with the description of a ripe september melon. The text goes on to deal with issues of land leasing for fracking and first-hand accounts of how landowners were not respected in the fracking process. The issues concerning subsurface rights demonstrate how property continues to perpetuate ideals of economic profit. The entirety of the poem is as follows:

Larger than my head, it rests heavy in one hand  
as I lift it to my ear and knock for the thud

that says the center will be red and dense, wet  
and sweet, studded with shiny black seeds

a gift this late in the season. Where we live,  
among boulders and trees, thumper trucks gain

uneven purchase, so a rig, driven by one man,  
traces a grid through the woods, grabs trees

with a metal claw, holds them until a blade saws  
then tosses them aside. An auger drills shot holes

and sets the blast with radio-controlled detonators  
thirty feet down. On Sunday morning, they blasted

when everyone else was at church, the professor says,  
Certain the men trespassed on his unleased land.

A seventy-year-old woman stands up in a public meeting  
to tell how she showed the gas men a map of her farm,

said blast anywhere but here and here. They agreed.  
But wouldn't you know it, they blew up the two

spots where she's buried her husband and horse.  
Another landowner begged for a day to move

his bee boxes. The gasmen refused. What happened?  
I asked, imagining the furious hum and spray

From gilded hives when the earth shook.  
The man shrugged, not the point of his story. (3)

The poem opens with a personal account of the fruit being grown on the very land that is experiencing the dramatic effects of fracking. This, along with the title of the poem, personalizes the narrative of the people and the landscape affected by fracking as more than just statistics, rather as real people and spaces individually affected. The poem continues on by referencing the process by which the land is cleared for fracking. Emulating recurring themes of deforestation across Pennsylvania, the authors highlight the rapid destruction, stating “driven by one man, traces a grid through the woods, grabs trees with a metal claw, holds them until a blade saws then tosses them aside.” This line particularly stands out for a number of reasons. The idea of the grid

through the woods mirrors the idea of property and the divisions of land. The grid is marked by the rapid removal of trees which are held still until chopped. This shift in land use demonstrates how technology has allowed human power over nature to continue expanding. Thinking back to Richter's frontier when the trees were, "keeping the humans down under their thumbs, (Richter 228)," the scene painted in Shale Play vastly contrasts with imagery of metal claws grabbing trees and holding them (Richter 228). As technology changes, humans' control and use of land changes as well with such intense extractive practices.

The poem continues on to reflect concerns regarding property rights, demonstrating how ideals surrounding property have shifted from individualism to corporate money machines. The authors highlight the blatant disregard for the property owners' wishes throughout the process, stating how the frackers blew up the two spots where one older woman had buried her husband and horse. The conscious choice to begin fracking while the landowners were at church and the lack of respect for the land, the history and the people demonstrate how dramatically notions and values surrounding land use have changed. While Richter demonstrated the importance of individual property ownership, this poem shows readers instead how property rights have been complicated and disrupted given the separation of estate and mineral ownership and the lack of control Pennsylvanian's have over their land.

Finally, through the beekeeper, this poem calls attention to the vastly different ways humans have come to control nature over time. Through the keeping of bees, humans have been able to control and manipulate nature, strategically holding and using them for product or pollination. While one man begs to keep his bees alive, a more dramatic power over nature wins, shaking the earth beneath both the bees and the beekeeper. The beekeeper becomes a small example of humans over nature, ultimately controlled by the power held by large corporations to



control nature in a more dramatic manner. Upon learning of the bees, the poem ends abruptly, almost as if the conversation is cut short. This ending leaves readers with a sense of inevitability surrounding the death of the bees. This emphasis on human power over nature continues to be conveyed throughout the book and supports ideas perpetuated in extremes by the law regarding the commodification of nature.

### *Changing Land Use*

When considering land use and regional history, changing land use is a recurring theme seen in *Shale Play*. A poem titled “Sacrifice Zone, Tioga County, PA” calls attention to the theme of changing land use practices. The title of this poem references Tioga County as what is known as a sacrifice zone, which are, “often ‘fenceline communities’ of low-income and people of color, or ‘hot spots’ of chemical pollution where residents live immediately adjacent to heavily polluted industries or military bases. Quite often, this pattern of unequal protection constitutes environmental racism—a pattern first challenged in the courts in a 1979 lawsuit, *Bean v. Southwestern Waste Management*.” (Bullard). In this poem, the authors highlight Tioga County as a sacrifice zone given the dangerous proximity to chemicals and fracking. The beginning of the poem reads as follows:

*These are the roads to take when you think of your country, dirt  
roads where men lift a finger from the steering wheel and nod.*

Along Caitlin Hollow, paved by Shell as a service to the  
community,  
I stop to photograph a barn, and a guy slows, opens his window,

asks if I need help. At the Tioga County Historical Society  
the docent says they never sent the same landman twice.

They’d say, your neighbor leased, so why don’t you?

But my neighbor said, Hell no, he told me you leased!

They said if we don't lease, they'd take our gas anyway.  
Some learned they didn't own the rights to their land

or a lease from the '30s still applied; some got two grand  
an acre, some twenty bucks; some just got dirt and noise.

This poem, a bit more descriptive in nature than the previous poem, gives an even more personal account to the story told. The poem begins with a recurring line: "*These are the roads to take when you think of your country.*" This line highlights the importance of national identity and community in rural areas such as Tioga County. Kasdorf uses this imagery to familiarize readers by connecting the land with an idea of the American countryside known beyond Tioga County. Kasdorf demonstrates how these communities have been shaped by big corporations, such as Shell, and how their work denotes service and progress in rural spaces. She continues on by accentuating the way these corporations lie to members of such communities, particularly in this case land owners, in an attempt to get them to lease or sell their profitable land. Here, Kasdorf is using the built world to convey her ecocritical thinking, considering how the familiar industries of Shell, Exxon, etc. shape our environment.

One interesting element of land laws that stands out in these lines is how property owners came to find out that old mineral leases could still apply to their property. This allows corporations to come in and frack on people's land without new permits or monetary exchange required. This once again emphasizes the shifting views on property rights and ownership from personal property to open and profitable sacrifice zones as the wishes of estate owners are blatantly disregarded. The poem continues by stressing the history of the region and past industries that shaped the land and surrounding communities. The authors write,

During the Great Depression, everyone was broke, but

in Wellsboro gas streetlamps glowed and royalties built

new homes. In '38, the Corning plant silvered the inside  
of Christmas balls, hired extra hands just to cap and pack.

In '46, workers made an American flag of 1,438 balls  
for a party in the Penn Wells Hotel. It still hangs in the lobby.

What would you do with a million bucks—with ten?  
They let us watch them frack our land as long

as we wore fireproof suits, a house cleaner says.  
Four months, our home covered with gritty mud,  
and they never stop drilling except a few days  
at Christmas. Our neighbor's well burned as loud

as jets taking off, seven days. They said if we let them  
drill, we'll be free of Arab oil for a hundred years,

then they turn around and sell our gas to foreigners.  
At this rate, it will be gone in ten.

Kasdorf accentuates the culture and historical significance of previous industrial influences in the region while further unpacking how locals were manipulated into selling and leasing their land as a product. The authors mention Wellsboro gas street lamps and the Corning glass manufacturing plant in contrast with the fracking industry and the money it promised to bring in. The detailed storytelling elements of these lines make readers feel as if they are speaking with someone who has lived through all these events as they acquaint readers with real companies and dates of events. This narrative style challenges readers to consider their own communities were they to be put in a similar position. Additionally, these small-town stories conflict with legal action, such as Pennsylvania Act 13, which served to de-personalize and de-link from community issues such as fracking by creating state-wide mandates. In this way, personal and historical narratives of

different communities challenge readers to think critically about existing fracking regulations that pose countless issues to private property owners.

The poem also demonstrates the rapid speed of the fracking industry, highlighting a narrative that was sold regarding how such drilling would lessen American dependence on oil imports. The authors write, “They said if we let them drill, we’ll be free of Arab oil for a hundred years, then they turn around and sell our gas to foreigners. At this rate, it will be gone in ten.” This sentiment is highlighted throughout *Shale Play*, as previously mentioned, many Pennsylvanians were sold this story of American productivity and energy independence in an attempt to get them to support fracking. The poem concludes with the following lines:

See gravel well pads, gathering lines, compressor stations.  
See hay standing late in the fields. With all this rain,

it won’t be worth more than three dollars a bale. Cultivators  
rust in farm yards; a cast-iron pot froths pink petunias.

Wood derricks burst into flame along Pine Creek, 1890s,  
and oil flooded the stream. You hear of people writing

checks for a quarter million dollars to the IRS, and see  
all the farms up for sale? Why bother to paint or cut hay;  
they’ll hang on to the mineral rights and move away  
before their wells go bad. (75-76)

The ending of this poem demonstrates just how drastic the changes in mindset surrounding property were in this region. The authors reference the farms for sale with the “cultivators rusting in farm yards” as an image of the past agricultural landscape. Kasdorf’s use of this imagery serves to instill nostalgia surrounding previous uses of the land. Though agriculture continues to dominate the surrounding region, the contrast from an agricultural economy to the booming fracking industry is made clear. The authors highlight a sense of

hopelessness surrounding the shifting property rights, saying, “Why bother to paint or cut hay; they’ll hang on to the mineral rights and move away before their wells go bad.” These lines demonstrate the inevitability of corporations entering these communities to profit off the land.

### *Ecological Effects of Fracking*

Throughout *Shale Play*, Kasdorf also highlights the ecological effects of fracking on local wildlife and ecosystems. While the center of the majority of the poems is human connection to land and land use changes, poems such as “At Jersey Mills, a Ridge Runner from Way Back Remembers the Wildlife” demonstrate the effects of invasive and destructive processes, such as fracking, on wildlife. These poems take a more ecocentric view, still considering the built world but focusing on the natural world. With similar diction and short detailed sentences as the past two poems, this poem instead uses its prose to invoke feelings of biological change. One section of the poem reads:

Last winter we heard them drilling on top of the mountain  
Every night, a low, constant rumble, and the animals  
came down. It was bitter cold, but I think they were driven  
by the noise and vibrations, all the trucks on the road  
with those big grill guards in front so they can hit  
a deer or bear and just keep going. I put out corn,  
one hundred pounds every night; herds of deer and flocks  
of turkey surrounded our cabin. The bear did not look healthy. (63)

Similar to the initial changes and destruction along the Pennsylvania frontier, the effects of fracking extend beyond human’s ability to use the land and into the way ecosystems function. This poem demonstrates side effects of fracking, such as noise pollution and increased truck traffic, which often go unaccounted for when considering the dangers of fracking on wildlife. Kasdorf’s diction used to describe the trucks with big grill guards that allow them to hit animals

and keep driving perpetuates continued themes and imagery of an industry that exists outside of the natural world that is unwilling to slow down as it crosses paths with wildlife. The effects on the wildlife highlighted in this poem are contrasted with the history of logging in the region, as stories of logging and life in the area is described near the beginning of the poem with the following lines:

My great-grandfather, Nelson Moore, built a house  
and barn up on Okome Mountain, kept a pasture and orchards.  
Giant trees up there made the settlers think the land was good  
for farming. There were enough folks living on top at one time  
to support two schools, two places for mail. People just stayed  
in the pioneer days a lot longer up there. At Beulah Land,  
the most beautiful trailing arbutus used to grow along the road.  
Now it's gone. I guess the trucks killed it.  
When my great-grandfather went into lumbering,  
he dragged logs off the mountain down to Pine Creek  
and counted those of his concern here at Jersey Mills.  
In spring and fall, the water was high enough to raft  
logs down to the Susquehanna Boom at Williamsport. (61)

This poem reveals recurring themes of land use changes, reflecting back on settler times and the introduction of agriculture and logging to the land. This passage highlights how the same land was once commodified by settlers who thought the land was good for farming. As seen in Richter's work, such settlers perpetuated rapid and large-scale changes to the land and wildlife biology in search of land ownership, personal incentives and profit. The ecological effects of early settlement are contrasted throughout the poem with the dramatic effects of fracking. Using both biology and history, this poem highlights just how dramatic the ongoing effects of fracking are across Pennsylvania.

### *Legal Standing and Fracking Pushback*

One more prevailing theme in *Shale Play* is the question of standing. The authors ask readers to consider the complexities of who has the legal standing to challenge the operations of massive fracking corporations. They bring readers into the legal and political realms of these issues with poems such as “Notes from the Zoning Hearing Board re Springhill #2 Compressor Station, German Township, Fayette County, Zoned A-1, Agricultural Rural.” This poem serves as a sort of “meeting minutes” for zoning hearings regarding concerns around a compressor station. Very different in style to the other poems analyzed, this poem serves a different, more informative purpose. Near the beginning of the poem, the requirements for standing are laid out as follows:

To speak, you must be sworn in.  
To speak, you must have standing.  
To have standing, you must be a person aggrieved who owns property  
that abuts the compressor station.  
You may speak as a party in opposition if you live within half a mile. (84)

While the authors lay out the requirements for standing as stated in the zoning meeting, the poem demonstrates how the concerns of locals are often dismissed as, under the law, they lack standing to challenge the corporations. Repeated objections on relevance grounds are seen throughout the meetings, questioning the concern and authority of community members. This poem challenges the validity of the law as upholding the best interests of the American people by demonstrating the ways in which it falls short in protecting the safety of a community, as concerns surrounding issues such as traveling emissions and air quality are written off as irrelevant given the supposed emissions compliance with state standards. Like much of the book, this poem aids in demonstrating how dramatic and irreversible ecological destruction is both supported and pushed forth in the American legal system. With the advancement of technology

and continued population growth and sprawl, such destruction continues on large scales as supported in the name of advancement and progress.

Finally, a poem titled, “Among Landowners and Industrial Stakeholders, the Citizen with Too Much Memory Seeks Standing to Speak of Recent Events in Penn’s Woods” tells the story of a concerned citizen searching for standing against fracking corporations. The poem touches on moments of regional historical significance, such as Native American history and WWI. A few lines from the poem read:

When they clear-cut the right-of-way to lay pipeline over the Nittany Ridge in 2009,  
gasmen left good lumber to rot, my handyman says. The Centre Relay Compressor  
Station  
stands on a former cornfield in Pleasant Gap. The pipe runs past Weis Market, recently  
built  
on a razed farm, and ends in gas storage fields at Leidy, under the Tamarack Swamp.  
I, who have never eaten grass out of necessity, drive home and cook my groceries  
on a gas stove. (97)

Through this poem, Kasdorf uses images of industrialized civilization, such as Weis Market, to demonstrate how reliant Americans now are on industrialized society. This passage challenges readers’ perceptions of the dangers of fracking and fossil fuels, as the speaker comes to acknowledge that, they too, are reliant on fossil fuels.

Kasdorf’s poetry, alongside the compelling images provided by Rubin, convey a regional story of a shale gas extractivism boom, demonstrating both the arguments made for and against the industry. These first-hand accounts and community-based stories demonstrate how the privatization of mineral rights has contributed to perpetuating notions of private property as a means for profit and production. Though markedly different from initial American property law, as mineral rights exist only for the ability to extract natural resources from the ground, mineral



rights preserve the same American ideals of individual ownership, economic growth, and land production.

## Conclusion

Throughout this thesis, I look at three major points and transitions throughout Pennsylvania history to highlight how property rights have impacted and changed the Pennsylvania landscape. Through literary and legal analysis, these transitions demonstrate how American property rights have played a key role in pushing a societal narrative focused on making land productive and profitable. In my research, I found that though the push for land productivity has existed across the United States throughout American history, Pennsylvania in particular has been a hotspot and sort of national “sacrifice zone” given the natural resources distinguished in the region. Though each chapter examines very different literature and legal frameworks, the three chapters work together to convey a story of privatization and production and the everlasting effects this has had on the region.

Analyzing Pennsylvania’s complex history of extractivism is important as we consider how to move forward from here. As highlighted throughout my argument, many industries, such as logging, mining and fracking, have created boom-bust economies across central Pennsylvania. Though providing short-term economic growth, history shows us how these economies are not sustainable for dependent communities. As such, it is important to consider how Pennsylvania communities can thrive sustainability while breaking cycles of boom-bust. As previously noted, Pennsylvania has one of the most robust environmental amendments to its state Constitution. Though, as seen with fracking, this amendment has not necessarily prohibited further environmental destruction, it can be used as a tool moving forward to prohibit similar patterns of extractivism and land production from occurring. The amendment reads:

The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of the environment. Pennsylvania’s public natural

resources are the common property of all the people, including generations yet to come. As trustee of these resources, the Commonwealth shall conserve and maintain them for the benefit of all the people. (PA Constitution Section 27).

This amendment is particularly noteworthy as it not only mentions the rights of all the people, but includes generations yet to come. Long-term and sustainably oriented, this amendment is crucial for the preservation of Pennsylvania and the natural environment, which includes the human communities existing within it.

Pennsylvania's complicated history of short-term profit-oriented industries must remain at the forefront of the movement towards a sustainable future. Historical and eco-critical analyses of Pennsylvania are crucial for ensuring that the region does not fall into another boom-bust cycle, rather works towards an environmental and community-oriented future fit to continue on sustainably. As we push for a better future, Pennsylvania's history must not be left in the rearview, but instead, this landscape of great history, significance, and identity must remain present in the discourse surrounding Pennsylvania's movement towards a better future.

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## Appendix

1.

### NOTICE

The Public is informed of the laying out of a Town  
at the Confluence of the River and its Squaw Branch.  
Near Vrain's Store and Tavern. To be called Tateville.  
Lots will be numbered and Buyers may have first and  
second Choice.

Public Auction Independence Monday on the Premises.

Tate and Vrain, *Proprietors*.

2. The Land Ordinance of 1785 was passed by the U.S. Congress under the Articles of Confederation. It laid out the process by which lands west of the Appalachian Mountains were to be surveyed and sold. The method of creating townships and sections within townships was used for all U.S. land after 1785.

(Land Ordinance of 1785, May 18, 1785, State Historical Society of Iowa.

<https://history.iowa.gov/history/education/educator-resources/primary-source-sets/how-states-get-their-shapes/land-ordinance#:~:text=The%20Land%20Ordinance%20of%201785.all%20U.S.%20land%20after%201785.>)

3. Officially titled "An Ordinance for the Government of the Territory of the United States North-West of the River Ohio," the Northwest Ordinance was adopted on July 13, 1787, by the Confederation Congress, the one-house legislature operating under the Articles of Confederation. The Northwest Ordinance chartered a government for the Northwest Territory, provided a method for admitting new states to the Union from the territory, and listed a bill of rights guaranteed in the territory.

(Northwest Ordinance of 1787, National Archives.

<https://www.archives.gov/milestone-documents/northwest-ordinance#:~:text=The%20Northwest%20Ordinance%20chartered%20a,rights%20guaranteed%20in%20the%20territory.>)

4. Photo taken by Juliette Gaggini, October 2023. Pictured: Former neighborhood in Centralia empty of houses and covered with wildlife. Plots of land still visible as marked by roads and walkways.



5. “A large capacity fracking tank holds flowback water during a fracking operation at the Inflection Energy well pad in Eldred Township, Lycoming County, Pennsylvania. The Department of Environmental Protection has cited Inflection Energy for repeated violations at this site, including the company’s failure to properly cement gas wells, and for spilling approximately 63,000 gallons of flowback fluid, which discharged into a nearby tributary to Loyalsock Creek. All of the nearby residents rely on private water wells for their water supply. September 18, 2016.” (Shale Play)





6. “Homeowners seek to lease their property’s mineral rights along Route 22 near New Florence, Westmoreland County, Pennsylvania. August 24, 2012. (Shale Play)



7. “Residents of Point Marion in Fayette County, Pennsylvania, at one of many region-wide Hands Across Our Land protests called to protect the land and communities from the unnecessary building of new natural gas infrastructure, such as pipelines. August 18, 2015.” (Shale Play)

