

The Constitution of the White Earth Nation

A New Innovation in a Longstanding
Indigenous Literary Tradition

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

Gerald Vizenor, *The People Named the Chippewa*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Constitutional literature often emerges during a period of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

NOTES

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

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

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

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

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

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

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

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

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

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

9. See Kirby Brown in this issue.

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

11. See Mann and Fields, esp. 119–39.

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

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

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

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

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

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

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

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

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

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

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

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

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

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