"The Pretended Riot Explained": Citizen Sovereignty and the Mashpee Revolt

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"The Pretended Riot Explained": Citizen Sovereignty and the Mashpee Revolt

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ABSTRACT

This thesis charts the course of the Mashpee Revolt, from its beginnings as a nonviolent protest in the spring of 1833 to the removal of guardianship by the General Legislature of Massachusetts in 1834. In 1833, the Mashpees formed a set of resolutions against their current system of governance, which included a system of guardianship that dated to before the American Revolution and placed all of the control of their land and money in the hands of five white men selected by the Massachusetts government. The Mashpees wanted control of their land returned to them and to elect their own leaders for their town, and informed their guardians and the governor of Massachusetts that they would enact these wishes starting July 1. When they did so, the Massachusetts governor first ordered the "riot" put down. After a representative of the governor visited Mashpee, however, they promised to give them a hearing when the General Court met the next year, as only the General Court had the power to change the Mashpees' status. Six months later, a special committee appointed by the General Court agreed to all of the Mashpees' resolutions.

By looking at published narratives of the Mashpee Revolt, newspaper articles, as well as the unpublished letters and resolutions from the Mashpees and their guardians, this thesis seeks to understand more fully what the Mashpees wanted and gained through their Revolt. It argues that the Mashpees sought, and achieved, citizen sovereignty - neither full American citizenship nor independence from the United States. By studying the strategies the Mashpees used to transform their status from dependents to citizen sovereigns, we can gain a better understanding not only of Native Americans in the early Republic, but also of the ways in which citizenship was constructed and performed in the Jacksonian era.
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Introduction

"Perhaps you have heard of the oppression of the Cherokees and lamented over them much, and thought the Georgians were hard and cruel creatures; but did you ever hear of the poor, oppressed and degraded Marshpee Indians in Massachusetts, and lament over them?"
-Mashpee Indians to Harvard College, 21 May, 1833

In his 1835 book, *Indian Nullification of the Unconstitutional Laws of Massachusetts Relative to the Marshpee Tribe; or, The Pretended Riot Explained*, William Apess, a Pequot Methodist minister and key participant in the Mashpee Revolt, put the Mashpee Revolt in conversation with both the Nullification Crisis and Cherokee Removal. By calling the events in Mashpee a “nullification,” Apess explicitly equated the Mashpee Revolt with the Nullification Crisis of 1832, when South Carolina had derived the ability to nullify federal laws, specifically the protective tariffs of 1828 and 1832, from the Constitution. In contrast to the national rhetorical trend toward democracy, nullifiers opposed majority rule and heralded the minority veto. According to South Carolinians, the United States was a league of independent states, and each part was sovereign; thus the minority did not have to obey the majority.¹ Apess’s comparison of the Mashpee Revolt to the Nullification Crisis signaled his ambition for Native Americans in the United States; the Mashpees, however, did not think of their plantation as sovereign, but wanted Mashpee to be a town in Massachusetts. The Mashpee Revolt further differed from the Nullification Crisis in two significant ways: the Mashpees had had no voice in the laws they were nullifying and the Mashpees were ultimately successful.

Both Apess and the Mashpees did draw a comparison between their position in Massachusetts and the Cherokees in Georgia. In both situations, the Indians' voices were ignored in favor of white guardians who allegedly knew better. Both the Cherokees and the Mashpees tried to prove their fitness by the extent to which they had assimilated to white American standards. Both did this through petitions, publicity, and various other written documents - that is, by employing the means available to nonvoters to participate in the American government. Again, though, the Mashpees were successful where the Cherokees were not. Since the circumstances and methods of the Mashpees and the Cherokees were similar, the different outcomes show a variation in state and federal response to the same problems of Indians, citizenship, and sovereignty.

The Mashpee Revolt began in the spring of 1833, when the Mashpees notified white authorities that they had formed their own government and would be taking full control of their own affairs starting on July 1. When they followed through on this announcement, the governor and the General Court, which had the power to change the laws governing the Mashpees, promised to give them a hearing when the Court was next in session the following January. The Mashpees agreed to wait, but immediately began waging a battle for public opinion in the press. In 1834, a special committee appointed by the General Court agreed to the Mashpees' resolutions of the previous year.

In their resolutions, the Mashpees did not seek independence from the United States, in spite of what their contemporaries feared: they sought fuller integration into American society. The Mashpees claimed their rights under the

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laws of the United States, quoting the Constitution, and demanded a share in the
democratic process. The citizenship that the Mashpees sought in 1833 was not
full citizenship: they still wanted their land protected and held in common, to be
exempt from state and federal taxes, and they did not ask to vote in federal or
state elections. They did, however, want to vote for their own selectmen, to have
a voice in the laws governing them, to exert authority over their own land and
land use, to be able to appear in court to defend themselves, and to worship as
they wished. This combination of citizenship within American society and
sovereignty over their own affairs was a unique construction that cast the
Mashpees as citizen sovereigns.

The Mashpee Revolt, like nineteenth-century New England Indians in general,
has been largely overlooked, especially considering the numerous written primary
sources that historians usually lament as lacking in Native American history. When
historians do study the Mashpee Revolt, it is through the lens of Apess, who has
gainedered much attention since the publication of his complete writings in 1992.3
Under the influence of Apess’s narrative, all of these scholars see the Mashpee Revolt
as the first claim to sovereignty, in the same vein as the Cherokees’ claim to be a

3 On Our Own Ground: The Complete Writings of William Apess, a Pequot, Barry O’Connell, ed.
(Amherst, 1992). The only study of the Mashpee Revolt that predates 1992 is Donald Nielsen’s “The
Mashpee Indian Revolt of 1833,” which is a straightforward accounting of the facts of the events;
400-20. Most studies of Apess have focused on the question of his Indian identity. For more on Apess,
see Arnold Krupat, The Voice in the Margin: Native American Literature and the Canon (Berkeley:
University of California Press, 1989) and Ethnocriticism: Ethnography, History, Literature (Berkeley:
University of California Press, 1992); Bernd C. Peyer, The Tutor’d Mind: Indian Missionary-Writers in
Antebellum America (Amherst: University of Massachusetts Press, 1997); Karen A. Weyler,
Empowering Words: Outsiders and Authorship in Early America (Athens, GA: University of Georgia
(Minneapolis, 2008); Maureen Konkle, Writing Indian Nations: Native Intellectuals and the Politics of
Historiography, 1827-1863 (Chapel Hill: University of North Carolina Press, 2004); David J. Carlson,
Sovereign Selves: American Indian Autobiography and the Law (Urbana and Chicago: University of
sovereign nation. However, close attention to the rhetoric and actions of the Mashpees themselves shows that they were fighting for citizen sovereignty.

The Mashpees' struggle to become citizen sovereigns in turn illuminates the construction of citizenship in the early American republic. Historians have characterized citizenship as increasingly racialized and gendered in the Jacksonian era, excluding the possibilities of nonwhites' and women's citizenship in favor of universal white male suffrage. Suffrage, though, was not the only measure of citizenship and, indeed, all white men would not be enfranchised until 1856. The Mashpee Revolt shows that citizenship in the early American republic might not have been as universally exclusionary as once thought, and that there were multiple paths, performances, and levels of citizenship still possible. Citizen sovereignty for the Mashpees included self-governance and recognition that they were not dependents. How the Mashpees went about changing government officials' and the public's conceptions of Mashpees from Indian dependents to masculine, American citizen sovereigns illustrates how a citizen identity could be constructed.

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6 North Carolina was the last state to abolish property qualifications for white men to vote.
The Mashpees argued that they deserved citizen sovereignty by attempting to prove their similarity to the ideal early Republican citizen. Whereas contemporary literature and stereotype portrayed nineteenth-century Native Americans as feminized, poor descendants of the once “noble savage,” the Mashpees worked to show themselves as masculine, controlled, and competent people. In Jacksonian New England, race, gender, class, and religion were all integral parts of citizenship and if the Mashpees did not perform in one area, it served as rationale for denying them citizen sovereignty. If no one claimed that the Mashpees could not govern their own affairs because they were Indian, some did claim that the Mashpees did not deserve either citizenship or sovereignty because they were lazy, uneducated, and unprincipled, thus attributing to them characteristics associated with being feminine, nonwhite, and non-Christian. While the Mashpees at times ceded to the hegemon by allowing that only men would vote and claiming their citizen sovereignty as Christians and non-slaves, they also challenged it, by denying the conventional Congregational Church in favor of the Baptist and Methodist, by intermarrying with African Americans and whites, and by maintaining women as heads of households. When the Mashpees claimed citizen sovereignty in 1833, they articulated their fitness for such a status by demonstrating that they met white Americans’ expectations in terms of religion, gender, and class.

Apess wrote his analysis of events after the fact, recording what he thought we should make of the Mashpee Revolt. He rejected the idea that it was a riot, calling it instead a “pretended riot,” and emphasized its significance in terms of

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7 Daniel R. Mandell, "We, as a tribe, will rule ourselves: Mashpee’s Struggle for Autonomy, 1746-1840," in Reinterpreting New England Indians and the Colonial Experience, Colin Calloway and Neal Salisbury, eds. (Boston: Colonial Society of Massachusetts, 2003); Smith-Rosenberg, This Violent Empire.
constitutionality by calling it an "Indian Nullification." Benjamin Franklin Hallett, the lawyer for the Mashpees, also disliked the term "riot," saying in his defense that "the Court at Barnstable, by an ingenious refinement upon the old common law construction of routs and unlawful assemblies, transformed [the Mashpees' actions] into a riot, and from higher places it is called 'sedition' and 'rebellion'... At most this act could have only been made trespass, in a white man, but in an Indian it was RIOT." The event has gone down in history as the Mashpee Revolt, though the word "revolt" seems like "rebellion" and "riot," and, as the Oxford English Dictionary records, revolts tend to involve "collective armed rebellion." Though clearly a problematic and misguided name, the Mashpee Revolt at least preserves within its name a relic of the sort of prejudice the Mashpees had to surmount. Though the name exaggerates the action of the events, it also draws attention to the important shift in the Mashpees' status in 1834. What this peaceful, successful, native protest has come to be called sheds light on attitudes towards Native Americans, the United States government, and the practice of American citizenship, as well as future peaceful protests and nonviolent actions.

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8 Benjamin Franklin Hallett, Rights of the Marshpee Indians: Argument of Benjamin F. Hallett, Counsel for the Memorialists of the Marshpee Tribe before a Joint Committee of the Legislature of Massachusetts (Boston: 1834), 26.


10 A further note on language: In this work, I use "Native American" and "Indian" interchangeably in recognition of the fact that native nations today disagree on which is correct. "Indian" and "native" was most often used at the time, if not "colored" or "negro." When I am speaking specifically about a certain community, though, I will always use their name. Mashpee was, at the time, spelled "Marshpee," and Pequot "Pequod": while I keep the spelling (and misspelling) that was used in the documents, I will use the modern spellings in my own work. Apess originally published with his last name spelled "Apes," but changed it to "Apess" in later books and editions of his works. This seems to indicate that he preferred the second spelling and changed it for a reason, so I will maintain his change. In this, I am following Barry O'Connell's reasoning in On Our Own Ground.
"It is a mistake to suppose that these are new complaints": A History of Protest

The first time the Indians who would come to be known as the Mashpees appear in a written document is when, on May 17, 1648, Paupmunnuck, his brother, and other native leaders from the surrounding area sold about twenty square miles of land to Miles Standish. Obviously, the Mashpees' history far predates 1648, but this document marks the beginning of the Mashpees long history of negotiating with white men over sovereignty and land.

Shortly thereafter, the Mashpees, or the South Sea Indians, as they were called then, permitted Robert Bourne, a neighboring Puritan, use of their land for hay. This same Robert Bourne built the Mashpee Church, began preaching there, and organized the town of Mashpee, where the converted Indians from various native towns on Cape Cod could move to become both Christianized and anglicized. In 1665, Bourne and the colony of Massachusetts Bay officially granted the 10,500 acre Mashpee to the South Sea Indians.

Converting to Protestantism and English ways gave the Mashpees a huge advantage compared to other native tribes – at first. Living on English land, they owned the land outright, and as Protestant Indians, they were protected from white expansion. They were not considered foreigners, but lived under English law. Even when their relationship with neighboring whites soured during King Philip’s War, the Mashpees still fared better than most Native Americans in the Northeast. As time

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13 Hutchins, *Mashpee*, 47-8. This scrap of paper would become important in the twentieth century for proving and recovering the original land grant for the Mashpee Indians.
went on, though, their status under the law regressed: the Mashpees went from having equal rights, to being singled out in the Act of 1693, an “Act for the better rule and government of the Indians; to the intent that the Indians may be forwarded in civility and Christianity, and that drunkenness and other vices be the more effectually suppressed among them,” to being placed under guardianship, to being labeled in the 1816 Massachusetts Supreme Court Case *Andover v. Canton* as “unfortunate children of the public, entitled to protection and support” though “incapable of civilization.”¹⁵

Many New England Native Americans in the new American republic suffered the fate of guardianship in the new American republic which was actually a holdover from British common law. The concept of appointing a guardian was the same as that used for orphans or others judged incompetent by the law. In the case of Native Americans in New England, it also allowed the guardians to lease out surplus native land, thus paving the way for white ownership and native disappearance. The law appointing guardians for all of the Indian tribes in Massachusetts was passed in 1746, and the Mashpees sent a petition shortly thereafter asking that the guardians be removed.¹⁶ The Mashpees sent many more petitions, but nothing changed until Reuben Cognehew, one of the Indian teachers at Mashpee, went to England and applied directly to King George III. In 1763, the General Court created the incorporated district of Mashpee, somewhere between a plantation and a town. Like towns in western Massachusetts, Mashpee was effectively a town that did not send representatives to the General Court. Under the incorporation of 1763, the Mashpees

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could elect their own overseers, only two of which, out of five, had to be Englishmen.\footnote{Hutchins, \textit{Mashpee}, 73-4; Daniel R. Mandell, ""We, as a tribe, will rule ourselves': Mashpee's Struggle for Autonomy, 1746-1840,"" in \textit{Reinterpreting New England Indians and the Colonial Experience}, eds. Colin Calloway and Neal Salisbury (Boston: Colonial Society of Massachusetts, 2003), 299-321.}

Mashpee ultimately fell back to plantation status by the machinations of Gideon Hawley. Hawley, a Congregationalist minister forced out of western Massachusetts by the French and Indian War, had arrived in Mashpee in 1757 and, at first, everything seemed promising. Hawley worked in conjunction with the native preacher Solomon Briant, who preached in Algonquian, while Hawley prayed in English. Together, they replaced the church from 1684 with the 1758 meetinghouse that would cause so much tension during the Mashpee Revolt. However, when Briant died in 1775, Hawley’s true feelings came out: he thought that Briant had been too open in accepting members and that the Mashpees were too welcoming to blacks. Though Hawley had supported the act in 1763 expanding the Mashpees’ rights, in 1788 he petitioned the General Court to return the Mashpees to their previous state. Massachusetts complied: Mashpee became a plantation, the Mashpees became wards, and Hawley became one of their guardians.\footnote{Hutchins, \textit{Mashpee}, 90-2.}

One of Hawley’s main objections was the Mashpees’ social organization. Because women in many native communities in New England, including the Cape, did what English termed “work,” namely tending the land, while men’s activities, hunting and fishing, were considered “leisure” in England, Indian men had long had the reputation for being “lazy.” Women did indeed wield much more power in Mashpee than was usual for Massachusetts towns, but this had little to do with their working the fields. As Daniel Mandell argues in \textit{Tribe, Race, History}, while “the largely familial authority of Indian women had roots in aboriginal culture, it was
renewed by the extended absences of Indian men and the increasing adoption of black
or white husbands who, as outsiders, lacked the status of those born into the
community.” Women thus became the gatekeepers to Mashpee society and the
guardians of Mashpee culture.

Mashpee men were absent for two reasons: a great number had died in the
Revolutionary War and the War of 1812, while others left for whaling voyages.
Hawley’s letters show that the high rate of widows resulted in more female-run
households, women in leadership positions, and immigrants to the plantation. This
phenomenon continued when Mashpee men went on whaling expeditions, but this
Hawley could try to prevent. Hawley wanted everyone to stay home and farm, as
conformed to the British ideal of civilization and the American model of the
“gentleman farmer.” However, whalers earned much more than they would remaining
in Mashpee, and often used their earnings to return to Mashpee and create a better
life. Hawley was nonetheless convinced that whaling prevented Mashpees from
achieving civilization. The absence of Mashpee men gave Mashpee women more
power within the Mashpee community than was usual in early nineteenth-century
New England, but this power was not particularly advantageous for their case in the
government’s eyes: citizenship and rights were decidedly male in the early Republic,
while women were wards who needed to be protected.

When Hawley died in 1807, Harvard installed a recent graduate named
Phineas Fish to be the Mashpees’ new preacher. Only five Mashpees still attended the

19 Mandell, Tribe, Race, History, 40.
20 Mark A. Nicholas, “Mashpee Wampanoags of Cape Cod, the Whalefishery, and Seafaring’s Impact
on Community Development,” American Indian Quarterly XXVI (2002): 167, 179, 183. Though many
Indians recruited for whaling voyages were essentially no more than slaves, forced into the voyage by
debt and coerced into spending their entire lives at sea by a ruinous cycle of debt, the Mashpees’
guardians, for a period of time, organized advantageous contracts for the Mashpees. This was not
always possible, however, since the Mashpees could not sell their land to get out of debt. Part of the
reason the Mashpees were stuck with Hawley as minister was because Briant got into debt and had to
join a whaling expedition. See Nicholas’s article for an interesting discussion of how whaling affected
Mashpee society.
Congregational meeting, and those five, out of almost two hundred Mashpees, approved Fish's appointment. Fish now came into possession of the parsonage, the meetinghouse, and a 460-acre woodlot, as well as an annual salary from Harvard of five hundred and twenty dollars. Fish's few letters back to Harvard show that he made little headway in attracting new followers, and instead seemed to lose them as the years went on. Fish was a conservative Congregationalist very much tied to the past, and he seemed to see his position with the Mashpees as the same as missionaries in the seventeenth century, always speaking condescendingly to the Mashpees and then excusing the fact that he had so few followers by comparing himself to other missionaries such as those "to the Society Islands laboured 12 years before they gained a single convert; & the Moravians in Greenland, as many more." While Fish remained firmly mired in a hierarchical, racist mindset, the nation plunged headlong into the Jacksonian era of increased democracy, and even Massachusetts followed.

Fish’s arrangement in Mashpee was not unusual for New England, where the standard was "one town, one parish, one church." In the beginning of the nineteenth century, however, different Protestant denominations started competing, and the fact that public endowments only went to the Congregational Church in Massachusetts was no longer acceptable. After several court cases ruling against publicly funded religion, Massachusetts disestablished the Congregational Church in 1833, the last state in the United States to do so. Disestablishment removed one of the many barriers to Baptist and Methodist Mashpees, the vast majority, claiming membership in the Massachusetts political community.

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21 John T. Kirkland, 18 Sept, 1811, Harvard University Archives, Records relating to the Mashpee Indians, 1811-1841, UAI 20.811 [hereafter HUA], seq. 25. The money came from a grant from the English preacher David Williams, meant to provide for American Indians' religious needs.
22 Phineas Fish to Josiah Quincy, 5 Dec., 1833, HUA, seq. 45.
23 Hutchins, Mashpee, 101.
Whaling had exposed the Mashpees to new beliefs, including the Baptist faith, which offered a new tool for dealing with the government. Instead of Fish, most Mashpees followed Joseph Amos, or “Blind Jo,” a young Mashpee Baptist preacher. Evangelical religions were far more open than Congregationalism and willing to accept people of all classes, educational backgrounds, genders, and races; everyone was equal before God. The popular religious movements of the Second Great Awakening, which included Baptistism and Methodism, were democratic in that they did not consider clergy as a different, higher class of men and in that they accepted ordinary people’s conversion experience at face value. Moreover, the organization of Baptist and other evangelical meetings was less hierarchical than Congregationalist services were: whereas in the latter, a preacher spoke and the meeting listened, in the former, the preacher spoke and expected not only a response, but full participation. As historian Nathan O. Hatch observed, evangelicalism could be tied to the rise of popular protests and movements, especially among the disenfranchised, and evangelical preachers “could rarely divorce [their] message from contagious new democratic vocabularies and impulses that swept through American popular culture.” White women were particularly active on this front, as evidenced by their petitions against Indian Removal and in their actions as abolitionists. By giving them the self-confidence necessary to protest and the language of freedom and equality, evangelicalism also trained Mashpees in a new way to protest. As Donald Mathews

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24 Nicholas, “Mashpee Wampanoags of Cape Cod, the Whalefishery, and Seafaring’s Impact on Community Development,” 167.
25 Hatch, Democratization of American Christianity, 8.
26 Ibid., 7.
27 Ibid., 56.
put it, “Evangelicalism was first of all DIS-order”; obviously, this did not sit well with Fish and others of the old order.28

The shift to a more democratic religion reflected a larger shift during the Jacksonian era away from the old Federalist order, even in Massachusetts. Both evangelical religion and Whig political culture encouraged common people to participate. As Mandell explained it, “vertical social arrangements, featuring an unambiguous hierarchy in tightly knit towns and villages” were replaced “with horizontal association that united individuals of similar class, occupation, or interest across wider areas.”29 Indians gained opportunities and confidence along with this shift, while Fish and the overseers gained new fears.

The Mashpees had a long history of protests, which were usually ignored. There was the 1748 protest, which made Mashpee a district and established overseers; the Mashpees further protested in 1788 when Hawley had forced them back into plantation status and tried to limit their participation in whaling.30 Moreover, the Mashpees had never asked for guardians or overseers, and were always placed under new laws without their consent.31 As Mandell observed, “the revolt was not a singular incident arising from immediate, unique grievances. Instead, it was the final push in a long series of Mashpee efforts to regain control of their community.”32 The Mashpees

29 Mandell, Tribe, Race, History, 116.  
30 Nicholas, “Mashpee Wampanoags of Cape Cod, the Whalefishery, and Seafaring’s Impact on Community Development,” 169.  
31 Hallett reported in his defense of the Mashpees before the General Court that “In all these acts there is no intimation of any desire on the part of the Indians to be put under guardianship, and an examination of all the files to be found in the office of the Secretary of State, shows that no petition to that effect had ever been made by them.” Hallett, Rights of the Marshpee Indians, 9.  
32 Mandell, “‘We, as a tribe, will rule ourselves’: Mashpee’s Struggle for Autonomy, 1746-1840,” in Reinterpreting New England Indians and the Colonial Experience, eds. Calloway and Salisbury, 299. The whole point of Mandell’s essay is that the Mashpee Revolt was the culmination of a century of protest.
were therefore well prepared for William Apess to walk into their district and to try a
new form of protest.
On a Sunday morning in early May, 1833, the Pequot Methodist William Apess presented himself at the Mashpee meetinghouse to preach to the congregation. Though he knew no one in Mashpee, he had heard when preaching in surrounding towns various accounts of the Mashpees and decided that the plantation would be worth a visit. After speaking with the resident Congregationalist minister, Phineas Fish, he secured an invitation to speak to Fish's congregation. As he began his usual sermon about how Indians were saved and loved by God, just like white men were, he looked out on the gathered faces and was confused. "I turned to meet my Indian brethren and give them the hand of friendship," Apess later recounted, "but I was greatly disappointed in the appearance of those who advanced." The Mashpees were supposed to be the most numerous and cohesive tribe in New England, with most living on the Mashpee plantation, unless they were out at sea. Further, they were by and large Christianized and so should have been at Sunday services; indeed, Mashpee was founded in the seventeenth century as a praying Indian town. Why, then, were all of the faces that he looked out on white?

After preaching and visiting the Sabbath school, Apess asked Fish "where the Indians were; to which Mr. Fish replied, that they were at a place called Marshpee." Being, of course, already in Mashpee, Apess arranged for a meeting the next day with the Mashpees. Fish attended and disagreed with what Apess said regarding oppression, "that being, he said, the very thing that made them discontented. They thought themselves oppressed, he observed, but such was not the case. They had

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34 Ibid., 169-170. Apess actually wrote that "it seemed to me that the hue of death sat upon their countenances" (170).
35 Ibid., 171.
already quite liberty enough.” Apess, though, was intrigued, and “wishing to know more of their grievances, real or supposed,” he arranged a council on May 21, 1833, in order to “hear their whole story and to help them.”

When Apess met with the Mashpees on May 21, they recounted all of their complaints, as well as their long history of applying for redress from the government, only to be blocked by various white men. Apess “then addressed them in a speech which they all listened to with profound attention”:

I began by saying that, though I was a stranger among them, I did not doubt but that I might do them some good and be instrumental in procuring the discharge of the overseers and an alteration of the existing laws. As, however, I was not a son of their particular tribe, if they wished me to assist them, it would be necessary for them to give me a right to act in their behalf by adopting me, as then our rights and interests would become identical.

The Mashpees ostensibly agreed that the arrival of Apess could be a turning point in their affairs. They drafted three documents that day, one of which, signed by everyone at the meeting, adopted Apess into the Mashpee tribe.

Stories often begin with a stranger arriving in a town. However, the beginning of the story of the Mashpee Revolt was not in May, 1833, but reaches back to a long history of protest against colonial rule. Attributing full responsibility for the Mashpee Revolt to William Apess, as many have, denies that the Mashpees had any real cause for protest. As the lawyer Benjamin Franklin Hallett would later clarify, “[i]t is a mistake to suppose that these are new complaints, or that they have been stirred up recently by a stranger among the tribe. They have existed ever since the Indians were deprived of their civil rights, and will continue to exist, unless a milder policy is

36 Ibid., 172.
37 Ibid., 173.
38 Ibid.
pursued or the Tribe be put out of existence.” The story starts with the Marshpees, not William Apess. Apess’s arrival in Mashpee is not the beginning of this story, but rather the beginning of this section. In spite of what many government officials and newspapers wanted to claim, Apess was not the cause of the unrest, though he was the catalyst of the renewed protest.

Apess is in a fairly unique position, as he has controlled most of what scholars know about him through his autobiographies. Before Apess published A Son of the Forest: The Experience of William Apes, a Native of the Forest, Comprising a Notice of the Pequot Tribe of 1829, he did not appear in the public records, unless it was as an unnamed, voiceless number in one of the informal censuses. In contrast to Indian characters in fiction and other subaltern groups that historians have lamented as voiceless in history, Apess took control of his legacy. He has thus provided an example of one way in which Native Americans could manage their place in history, even as they could not change history. By writing his life, he claimed a selfhood and asserted his citizenship in the early Republic. This was particularly powerful considering that Apess was not only a Native American, but also a Pequot; after the Pequot War in 1637, those Pequots who were not massacred were forced to sign a treaty that declared them literally and figuratively nonexistent and their very name

39 Hallett, Rights of the Marshpee Indians, 26.
40 Apess was the first published native autobiographer and therefore holds a special place in the history of native writers and literacies. Other native writers came before him, like Samson Occom and Joseph Johnson, but Apess’s act of writing a life history questions what many scholars have said about the disconnect between assimilation, European literacy, and Native identity. Since, in New England, education went hand in hand with assimilation and conversion, scholars have debated the implications of Native Americans using English and implied that literacy was paramount to abandoning native identity. For example, in The Invasion Within, James Axtell notes that “the Indians lost badly, if not to diseases alone.” Axtell, The Invasion Within, 331. Others include Krupa, The Voice in the Margin; Peyer, The Tutor’d Mind; Weyler, Empowering Words. Since Apess claims his Pequot ancestry throughout his writings, he clearly has a different idea of what it means to be a native than these scholars. I note “published” autobiographer here in recognition of the work of Hertha D. Wong and Andrew Newman pointing out forms of Native American autobiography that were neither written nor published. Hertha D. Wong, Sending My Heart Back Across the Years: Tradition and Innovation in Native American Autobiography (Oxford: Oxford University Press, 1992); Andrew Newman, On Records: Delaware Indians, Colonists, and the Media of History and Memory (Lincoln: University of Nebraska Press, 2012).
was forbidden forever. In a country that defined Native Americans as wards of the state, Apess effectively created his citizenship status and took the possibility of that definition out of the hands of others.

Apess began his story with his birth in Colrain, Massachusetts in 1798, soon after which he moved in with his maternal grandmother in Colchester, Connecticut, because his parents separated. His father, William, was half white and half Pequot, while his mother, Candace, was fully Pequot. His grandmother was often drunk and one year after moving in her house, she gave Apess a severe beating. The town of Colchester responded by binding Apess out to a childless couple identified as Mr. and Mrs. Furman. Apess speaks of the Furmans kindly: at least, they sent him to school and introduced him to their Baptist religion. However, six years later, after an attempt to run away, his indenture was sold to Judge William Hillhouse of New London. Apess continued to run away, so his indenture was sold again to William Williams. At this time, Apess began to attend Methodist meetings and records that his conversion experience took place on March 13, 1813. He successfully ran away in 1813 to New York City, where he enlisted as a drummer in the militia. He was promoted to the infantry against his will and was involved in fighting along the Canadian border, including the Battle of Lake Champlain. He left the army in 1815 and never received pay, bounty, or land grant money for his service. At this point, Apess wandered around doing odd jobs and did not return to the Colchester area until 1817. He was baptized in 1818 and began preaching without a license in 1819. He married Mary Wood on December 21, 1821, and they lived in southeastern Connecticut, then Providence, Rhode Island. In Providence, he was licensed as an exhorter and in 1829 he was ordained by the Protestant Methodists, after being denied by the Methodist

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Episcopal Church. He also wrote *A Son of the Forest* in 1829. His second rendition of his life appeared in *The Experiences of Five Christian Indians; or, An Indian's Looking-Glass for the White Man* in 1833; his other publications include *The Increase of the Kingdom of Christ: A Sermon* (1831), *The Indians: The Ten Lost Tribes* (1831), *Indian Nullification of the Unconstitutional Laws of Massachusetts Relative to the Marshpee Tribe; or, The Pretended Riot Explained* (1835), and *Eulogy on King Philip, as Pronounced at the Odeon, in Federal Street, Boston* (1836).42

Apess came to religion because he viewed it as equalizer. In *The Experiences of Five Christian Indians*, Apess writes that his conversion was marked by the fact that “I felt convinced that Christ had died for all mankind; that age, sect, color, country, or situation made no difference. I felt assured that I was included in the plan of redemption, with all of my brethren.”43 He specifically chose to join the Protestant Methodists; the Methodist Evangelicals refused to ordain Apess, and he found other sects of Christianity hypocritical, often segregating the congregation by race and gender and only allowing participatory rights to a select few. Christianity was not just a tool, but it was the platform that gave Apess a voice and authority.

While both the Methodist and Baptist churches were particularly popular in Mashpee because they “offered the common people, especially the poor, compelling visions of individual self-respect and collective self-confidence,” as Hatch argued, Methodism offered particular tools, over and above the Baptist religion, that helped the Mashpees successfully coordinate.44 Itinerant preachers were a key part of the Methodist church, so Apess had experience and connections all over New England,


and could speak generally about Native Americans' conditions from a place of authority. Further, since Apess was dependent on creating and maintaining an audience for a living, he would have had to be an outstanding orator. The type of extended meetings that Methodists held, encouraging everyone to speak, were "nothing less than the creation of mass movements that were deeply religious and genuinely democratic at the same time." Hatch goes on to describe Methodist meetings, saying that

This new plateau of social possibility, based on self-confident leadership and widespread methods of internal communication, permits people to conceive of acting in self-generated democratic ways, to develop new ways of looking at things less clouded by inherited assumptions, and to defend themselves in the face of adverse interpretations from the orthodox culture.\textsuperscript{45}

Methodism drew its clergy from laymen and encouraged them to speak colloquially. They further took advantage of the advances in printing, publishing sermons, hymns, and autobiographies. Apess's numerous publications are evidence of the Methodist faith in language.

With his experience in publishing, skill at public speaking, and success in claiming citizenship as an American Indian, Apess arrived in Mashpee perfectly suited to aid the Mashpee community, especially given that, as Apess himself claimed, "the causes of the prevalent prejudice against his race have been his study from his childhood upward."\textsuperscript{46} His arrival in Mashpee was like the falling of a few pebbles that caused an avalanche. At the meeting on May 21, 1833, the adoption of Apess was the least monumental of all the Mashpees' actions. That day, the Mashpees elected a president, Ebenezer Attaquin, and a secretary, Israel Amos; drafted a letter

\textsuperscript{45} Ibid., 57-8.

\textsuperscript{46} Apess, \textit{Indian Nullification}, in ed. O'Connell, 168.
to Harvard complaining about Fish; and produced a memorial addressed to the
governor and council of Massachusetts.47 Apess’s name appears as one of the 102
signatures on the document, but not in any special place.48

The Memorial not only listed the Mashpees’ complaints and asked for redress,
but also proposed a plan of action. The Mashpee Memorial asserted all of the
hallmarks of citizenship, which were necessarily male in 1833. While they
acknowledged that their demands had too often been brushed aside as coming from
“poor Indians” or “poor drunken Indians,” they characterized this memorial
throughout the document as written in “the voice of one man.”49 Whereas outsiders
identified the Mashpees’ race or class as reasons for exclusion, the Mashpees called
attention to their gender, which demanded rights. This was clearly rhetorical: there is
not one, but 102 signatures on this first memorial, and sixty-six of them are female
names.50

The Mashpees took care to demonstrate in this renewed expression of rights
that they comprehended the qualities of white ideals for masculinity in the early
nineteenth century, the characteristics that allegedly qualified white men, and not men
of other races, women, and children, for the full extent of American citizenship. They
understood the laws of the nation and quoted the Constitution in stating “[t]hat we as
a tribe will rule ourselves, and have the right so to do for all men are born free and

47 Ibid., 174. Marshpees, “To the Governor + Councell of the State of Mass.,” 21 May, 1833,
Massachusetts Archives [hereafter MA], Guardians of Indians, Accounts and Correspondence, 1788-
1865, Series 739X, CO47, Box 2, reel 1.
48 A special place was, however, given to Isaac Coombs, deacon of Fish’s congregation, to show that
even people whom Fish deemed respectable were protesting and that Fish’s already small congregation
was not standing by him. Marshpees, “To the Governor + Councell of the State of Mass.,” 21 May,
1833, MA, Guardians of Indians, Accounts and Correspondence.
49 Ibid., 1.
50 Ibid., 5–7. There is another interpretation that could be put forward about the phrase, “as the voice of
one man,” claiming that this was a typically “native” way of thinking and governing. See, for example,
Equal says the Constitution of the Country. Equal says the Constitution of the Country.51 The connection was clear to the Mashpees: in order to ride themselves of guardians, they had to prove their masculinity according to the standards of Jacksonian America. The fact that men were in fact accountable for their actions was exactly what made them qualify for citizenship. By noting that they believed in such a system, Mashpees showed themselves more qualified for the coveted citizenship than the treasurer. Men were supposed to be in control of all aspects of their life and the Mashpees strove to show that they were. They were not in fact drunkards, but had “joined the temperance cause and wish to be counted so.”52 They were not poor, either: they counted only four who were supported by the plantation. The Mashpees demonstrated as thorough a knowledge of running as was possible without the accounts. Indeed, they implied that if Mashpee was run by Mashpees, if it were “properly managed,” the four poor people would thrive much better.53 Finally, the Mashpees were good Protestants; indeed, their first objection to their treasurer was that he was “a man of no religious principle.”54 This they knew because he had told them “he does not believe that a man is capable of committing a crime whereby he is made accountable hereafter.”55

The Mashpees were not claiming to be white, but they were showing that there was no difference between them and white men. In some cases, they showed that they were “whiter” than some poor whites in their behavior. Everything that theoretically should have differentiated the Mashpees as Indians from whites – illiteracy, laziness, drunkenness, poverty – they claimed did not apply to the Mashpees. As the construction of whiteness was solidifying during the Jacksonian and antebellum era,

51 Marshpees, “To the Governor + Councell of the State of Mass., 21 May, 1833, MA, Guardians of Indians, Accounts and Correspondence, 3.
52 Ibid., 1.
53 Ibid., 2.
54 Ibid., 2.
55 Ibid.
the Mashpees were sure to code themselves white, even as their nativeness gave them a claim to Mashpee, because only Anglo-American conduct would give them citizen sovereignty.

The Mashpees’ chief complaint was that the overseers and not the Mashpees, “as Proprietors of the soil,” controlled the land. The Mashpees lamented that

There is something like six or seven who pretend to be our Masters and spend and dispose of our property as they please. And in the following manner our Meadows are set up at auction + sold, and only is reserved enough for the wintering of one Cow, + if we want more we have to buy it the same as our white neighbors, our wood shares the same fate, sold at Auction, and we have to pay One dollar upon every cord we sell, much of our Land is also rented out and white people have the pre-eminence, and the overseers will not rent our own lands to us, and we can not turn our own sheep or what little stocks we have without a noise from these Lordly men. These white men take the liberty to turn their cattle upon our plantation if they please, + no body must say a word. Even our fishing streams are over run daily with many who are whites, so that all of our privileges are in a manner taken from us.

The Mashpees did not even get full use of their land, because neighboring whites honed in on their wood, pasture, and streams. The Mashpees resolved “[t]hat we will not permit any white man to come upon our plantation to cut or carry off any wood or hay or any other article without our permission after the first of July next.” There are two interwoven complaints here: the overseers were incompetent in looking after Mashpee and they had no right to rule in their stead. But then, the overseers could not be expected to do what was best for the plantation, because they had no vested

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56 Ibid., 2.
57 Ibid., 1-2.
58 Ibid., 3.
interest in it. This principle coincided perfectly with an older European and the early nation’s understanding of rights: since men possessed land in the United States, it was in their interest to do what was best for the nation.

There are only two other resolutions in this document: that the Mashpees would rule themselves, and that they would enforce the resolutions on July 1. Therefore, this very specific resolution regarding land use stands out. At its heart was a problem with Anglo-American colonization that for the Mashpees stretched back to their first agreement with Bourne, allowing him to use their land for hay and wood, but not own it. The Mashpees still owned their land outright, as Anglo-American conceptions of land deemed appropriate, but neighboring whites impinged on their land use rights, which was theoretically a “native” way of thinking about the land - to use the land was to own the land. Wood was also extremely important in the early nineteenth century and was used for everything from construction to heating to cooking. And, by the early nineteenth century, New England, particularly Massachusetts, was practically barren of wood, making the Mashpees’ stock all the more valuable.59

The next step was for the Mashpees to make their demands known to the state. A group of Mashpees including Apess travelled to Boston to deliver the documents and meet with the governor and his council. Though the governor was not in the city, they did manage to meet with lieutenant governor Samuel Armstrong, who agreed to submit their Memorial to the Governor’s Council. Armstrong advised them that their petition would “avail us nothing, unless enforced,” according to Apess. “We answered that they would be enforced, at the appropriate time.”60 The Mashpees also

60 Apess, Indian Nullification, in ed. O'Connell, On Our Own Ground, 178.
arranged for William Lloyd Garrison to publish their three resolutions in his newspaper, *The Liberator*.61

Whether it was the visit to the state capital, the publication of the resolutions, or the fast-approaching date of July 1, white men began to pay attention to the impending nullification crisis in Mashpee. Their alarmist language showed just how revolutionary the Mashpees' resolutions were, as well as how threatening Indian rights could be. Fish sent a nervous letter to the governor, Levi Lincoln, about the "crisis" wherein "a large proportion of the Indians of this place are in a state of insurrection."62 "They have entered the Meeting house," Fish explained, "held a meeting, organized a new government, discharged the board from further duty, nullified former usages, made a formal demand of the Accounts + declared their fixed purpose of being free all white influence whatever."63 The Mashpees' actions did not threaten Fish's life, but rather his livelihood and the established order. Though Fish acknowledged that the Mashpees had expressed "much discontent for some time back," it was only now, with the arrival of Apess, that "there has been a marked change in the temper + conduct of a large number of the Indians."64 The Mashpees' visit to the capital forced Fish to react, not least because he knew that the governor would be hearing the Mashpees' side of the story.

Fish need not have worried overmuch – at least not at first. The Council was disinclined to believe anything the Mashpees put in the Memorial. Nevertheless, they advised Lincoln in a letter dated June 25 to send someone to Mashpee in order to establish the "actual condition," since there was "much reason to fear that impressions have been made on the minds of some of these Indians which may lead them into

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61 *Liberator*, 22 June, 1833.
62 Fish to Levi Lincoln, 18 June, 1833, MA, Guardians of Indians, Accounts and correspondence, 1.
63 Ibid.
64 Ibid.
difficulties unless measures are soon adopted, to dispel their fears, and enlighten their minds, and some evidence be exhibited to them of the interest which the Government feels in their welfare.65 The council did not appear to even notice the Mashpees’ assertion of citizen sovereignty; at least, they did not mention it in their report to the governor. They only responded to the allegations of mistreatment, and their solution to that was to take better care of the Mashpees – or lead them to believe that they were being taken care of.

Meanwhile, the Mashpees had taken their rights into their own hands and elected a new government, with Daniel Amos as president and Israel Amos as secretary. They wrote to the treasurer of the plantation, a Mr. Goodspies, demanding all of the accounts and documents pertaining to their affairs and drafted a new version of their resolutions: the resolutions did not change, but the preamble did. Instead of speaking “as the voice of one man,” they now proclaimed that they “want[ed] nothing more then what is right betwixt man And man,” and warned that “Said Resolutions will be inforced.”66 At stake was not only the Mashpees’ masculinity, the resolutions asserted, but that of the white men of Massachusetts – to treat the Mashpees as inferior would reveal the whites as dishonorable and therefore unworthy of rights.

While the Mashpees again quoted the Constitution and called upon the “Laws of the Cuntry” to enforce their resolutions, they did so under “the authority of the Marshpee tribe.”67 The Mashpees had stopped waiting for the state government to give them rights and instead went ahead and set forward their rights, assuming that they were equally protected by American laws. They did not need the government’s authority, because they had their own.

65 Samuel P. Armstrong, on behalf of the Committee, 25 June, 1833, Guardians of Indians, Accounts and correspondence.
66 Marshpee Notice, 23 June 1833, MA, Guardians of Indians, Accounts and correspondence.
67 Ibid.
The overseers were so unsettled by these new developments that they sent Gideon Hawley, Jr., one of the overseers and son of the preacher of the same name, to rush to Lincoln for help.\textsuperscript{68} Lincoln had already heeded the council’s advice and elected Josiah J. Fiske to visit the Mashpees. Fiske’s official task was to visit, as soon as conveniently may be, the Marshpee Tribe of Indians, and make faithful and diligent inquiry into their supposed grievances, and endeavor, as far as possible, to learn their condition, and what their interest and comfort require. You will represent to them, the parental feelings and regard of the Government of the Commonwealth towards them, and especially, the obligation in which the Executive is placed, under the Laws, to see that their property is preserved, and that order and quiet are maintained.\textsuperscript{69}

Lincoln also reminded Fiske that he had already “in a personal interview expressed to you, most fully and freely, my views in relation to the object of this Commission.”\textsuperscript{70} This suggests that Lincoln was intentionally not detailing in writing what Fiske was really being sent to Mashpee to do in writing.

Not that Lincoln held back in his written command: he wrote that he wished Fiske to communicate that “open resistance will be quickly corrected by punishment” and that the only acceptable response from the Mashpees would be “yielding a cheerful acquiescence in the provisions of the Government, who have no other object than their best good.”\textsuperscript{71} Disregarding the fact that the Mashpees had not actually asked him to do anything, Lincoln instructed Fiske to communicate that he could do nothing to change their governance, unless the overseers had been negligent, in which case he could choose new ones. Only the state legislature could change the laws.

\textsuperscript{68} Lincoln to Fiske, 30 June, 1833, MA, Guardians of Indians, Accounts and correspondence.
\textsuperscript{69} Lincoln to Fiske, 27 June, 1833, MA, Guardians of Indians, Accounts and correspondence, 1.
\textsuperscript{70} Ibid., 1.
\textsuperscript{71} Ibid., 2.
regarding the Mashpees. While this was technically correct under state and federal law, Lincoln was missing the point. Lincoln, obeying the letter of the law, saw the Mashpees as wards of the state and pointed out that, under the law, they would remain so until the law changed, whereas the Mashpees questioned that such laws could actually apply to them without their consent. Since the Mashpees were neither domestic nations nor slaves, nor all women or children, the laws making them wards of the state without their consent were unconstitutional. After all, they had tried to change the laws through petitions and paper to no avail. Only changing the law in practice had earned them the attention of white men and the possibility of a hearing.

Fiske seems to have been the one white guy who was not frightened by the Mashpees' threats. In any case, he did not feel pressured to rush down to Mashpee and investigate. Lincoln sent him another letter three days after the first one, encouraging him "to hasten your departure [which], I hope you will not now, for an hour more, delay." Enclosed was the anxious letter from Fish and an account of the visit from Hawley, whom Lincoln had sent home by way of Fiske's house in order to further encourage Fiske to depart. All of the alarm was starting to frighten the governor as well, for he instructed Fiske "[i]f there should be any seditious or riotous proceedings, let the ringleaders be arrested & delivered over to the civil power, under the ordinary processes of Law, and if more serious consequences [sic] than are now apprehended, are like to ensue, advise me, by express if necessary." Fiske clearly did not share their alarm, for he did not arrive in Mashpee until July 3, and therefore missed all of the drama of July 1, when the Mashpees put their resolutions into effect.

72 Lincoln to Fiske, 30 June, 1833, MA, Guardians of Indians, Accounts and correspondence, 1.
73 Ibid., 2.
Two white brothers by the name of Sampson came to Mashpee on July 1 with their carts in order to cut and carry off wood, as they often had. Though they had seen the Mashpee Resolutions posted, they, like Fiske, did not take the threat seriously. When Apess happened upon them loading up their carts, he “mildly stated to him the views and intentions of the tribe...[and] begged them to desist for the sake of peace.” Predictably, they refused. A group of Mashpees arrived and, after offering the brothers one more chance to unload their teams, began to unload for them. Realizing that they would get no wood that day, the brothers left with their empty carts. Apess reported that “[t]hroughout this transaction the Indians uttered neither a threat nor an unkind word, but the white man used very bitter language at being thus, for the first time, hindered from taking away what had always been as a lawful spoil to them hitherto.” This incident was the closest that the Mashpees came to any type of physical confrontation.

The Mashpees further enacted their resolutions on the first of July by writing to one of the overseers, Charles Marston, and demanding the key to the meetinghouse. They sent two men to his house to acquire the key, which was apparently given up with no resistance. The letter, signed by Daniel and Israel Amos, claimed the right to the key as “the proprietors of the Meeting house.” In both cases, the Mashpees claimed authority through their property rights and by July 1st were in full possession of it. Thus far, the resolutions were a success.

Fiske finally arrived on the evening of July 2 to Cotuit, a neighboring town, where he remained for the duration of his stay. He barely spoke with the Mashpees,

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74 Only one brother, William, is named in the trial. Commonwealth of Massachusetts v. William Apes et al., Barnstable County Court of Common Pleas, September 1833.
76 Ibid.
77 Daniel Amos to Charles Marston, 1 July, 1833, MA, Guardians of Indians, Accounts and correspondence, 1788-1865.
preferring instead to spend the morning of July 3 reading the records of the governance of Mashpee for the past ten years in order “to make up a comparative view (or such a chart) as will have a tendency to shew [sic], at a single glance, the system of government and the results of the past administrations; so that some opinion may be formed of its wisdom or defects as the case may present.”\(^7\)\(^8\) Instead of asking the Mashpees about their complaints, Fiske chose to look for the source of the problem in white reports of Mashpee that excluded Mashpee voices.

Unsurprisingly, given that Fiske barely spoke to any Mashpees that first day, his first report to Lincoln was rife with prejudice. He gave as a reason for not speaking to any Mashpees that “[t]hey no doubt will keep at present upon the soil, concealed in secret places ready to operate in little squads as occasion may require.”\(^7\)\(^9\) He referred to Apess as “a very deceptive imposter,” the Mashpees as “Indian Combatants,” and reported that “[i]t is thought by the best judges that these insurgents will not be made to submit without arrest or bloodshed.”\(^8\)\(^0\) Who exactly these “best judges” were is unclear, but it is obvious that Fiske was in no place to judge himself.

Fiske requested to meet with the Mashpees later that afternoon off of the plantation at the establishment of a white man named Ezra Crocker, but the Mashpees did not show up. In his evening letter to Lincoln, therefore, Fiske still had not met with the Mashpees, though he did have rumors and a plan to report. First, he had heard that Hawley and others had successfully carried away loads of wood without hindrance that day. Apparently, Hawley and his accomplices “notified some of the Indians of what they were going to do, & the natives advised them not to proceed, & some of them told them at least that they might go away with their wood to-day but

\(^7\) Fiske to Lincoln, 3 July, 1833, MA, Guardians of Indians, Accounts and correspondence, 12 p.m., 1.
\(^8\) Ibid., 1.
\(^9\) Ibid., 1.
\(^0\) Ibid., 1, 2.
to-morrow there would be serious work if they went again after more wood."81 Left to interpret these events for himself, Fiske was unsure "whether this may be set down as an indication of submission or whether they were off of their guard and were not prepared for a fight."82 The Mashpees apparently wanted no violence, and the fact that Hawley was an overseer and accompanied by so many more men probably made a great difference in how the encounter unfolded.

Fiske was more pessimistic and "look[ed] for warm work to-morrow either in the woods or at the meeting-house."83 He placed all the blame for the insurrection on Apess and proposed to arrest Apess for unloading the Sampsons' carts on July 1, as well as the eight others who were present, if, after speaking to the Mashpees, "there be no conclusive evidence of their determination to recede."84 Apess's arrest would, Fiske hoped, "strike terror through the tribes and reduce the plantation to peace & quietness."85

The Mashpees, meanwhile, delivered a letter to Fiske at seven in the morning on July 4 to excuse their absence of the previous day. They explained that Crocker's establishment was very expensive and that he had kicked the Mashpees out of his establishment multiple times. Further, the Mashpees implied that they had other demands on their time and could not drop everything to leave their town and meet Fiske. However, they were quite pleased that the government was paying attention to their complaints, and would gladly meet with Fiske on their own terms, on their own ground: 9 a.m. in the meetinghouse. Fiske willingly obliged.86

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81 Fiske to Lincoln, 3 July, 1833, MA, Guardians of Indians, Accounts and correspondence, 11 p.m.
82 Ibid.
83 Ibid.
84 Ibid.
85 Ibid.
86 Daniel Amos to Fiske, 4 July, 1833; Fiske to Daniel Amos, 4 July, 1833, MA, Guardians of Indians, Accounts and correspondence.
Fiske’s tone changed when he actually met with the Mashpees. Though the Mashpees had muskets, Fiske noted that they “behaved themselves well.” When the Mashpees would not change their mind and Fiske had Apess arrested, he assumed that the Mashpees “seemed to have forgotten for a moment that they had muskets with them and looked with perfect amazement at the Sheriff when he was taking their champion.” He did not yet consider that “it was not the intention or wish of the Marshpees to do violence or shed blood,” but he seems to have started to change his mind. Though Apess was successfully arrested, Fiske wrote Lincoln that “their case demands the vigilant attention of the government & I shall not feel that I have discharged my whole duty without making still further investigations.”

Fiske was, by his own admission, very tired when he wrote his recap of the events of the Fourth of July - after all, the meeting ran until sunset - and he left out a few key details. Initially, the meeting was just between Fiske and the Mashpees, but the Mashpees sent for the overseers, so “that they might have fair play and hear of what faults they were accused.” They also invited the sheriff, John Reed, who arrived with several other white men. When Fiske read out a letter from the governor, the Mashpees were shocked at his insinuations of violence and that the governor seemed to think it might be necessary to call the militia out against them. As far as Apess could tell, he was arrested because he “spoke with an energy that alarmed some of the whites present considerably” and because he and Reed disagreed about the Mashpees’ ability to adopt Apess into their tribe.

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87 Fiske to Lincoln, 4 July, 1833, MA, Guardians of Indians, Accounts and correspondence. Apess reported that only three Mashpees brought their guns into the meetinghouse, because they had been hunting deer before the meeting. Apess, Indian Nullification, ed. O’Connell, On Our Own Ground, 183.
88 Apess, Indian Nullification, ed. O’Connell, On Our Own Ground, 184.
89 Fiske to Lincoln, 4 July, 1833, MA, Guardians of Indians, Accounts and correspondence.
90 Apess, Indian Nullification, in ed. O’Connell, On Our Own Ground, 182.
91 Ibid., 184. Apess was charged with riot, assault, and trespass and pled not guilty. Four Sampson brothers testified against him and said that though he threatened to call his friends to “cut up a shine
What seemed to strike Apess most about the meeting, though, was the two parties' different conception of the role of the law. Fiske explained that "merely declaring a law to be oppressive could not abrogate it; and that it would become us, as good citizens whom the government was disposed to treat well, to wait for the session of the Legislature and then apply for relief." Picking up on the irony of the governor and Fiske expecting the Mashpees to act like respectable members of the nation, Apess commented in parentheticals that "it was either insult or wrong to call the Marshpees citizens, for such they never were, from the Declaration of Independence up to the session of the Legislature in 1834." If the government wanted the Mashpees to act like citizens, they would have to recognize their claim to citizen sovereignty. Meanwhile, it was unfair to expect them to obey laws that they had had no say in creating. Instead, Apess proclaimed that "the laws ought to be altered without delay; that it was perfectly manifest that they were unconstitutional; and that, even if they were not so, there was nothing in them to authorize the white inhabitants to act as they had done." If their white neighbors were not following the law, there was no reason that the Mashpees should, and if the law was unconstitutional, there was no reason for it to be enforced in the first place. The fact that their white neighbors, who were citizens, acted outside of the law forced the Mashpees to look beyond the legal system in order to attain their rights.

Lincoln was somewhat behind the times when he finally responded to the letters that Fiske had sent before meeting with the Mashpees. Therefore, while he

with them," but they also testified that "no unchristian temper was manifested and no indecorous language used...that they had no fear for their personal safety and that no harm was done to any of the persons concerned." His case was sent on to the next session of the Court of Common Pleas, his bail was set for two hundred dollars, and he could only be released if a white man would vouch for his good behavior. Fiske expressed disbelief that "any white man whatever would be bail for him," but Lemuel Ewer, who was the former treasurer for the Mashpees, posted his bond. Apess, Indian Nullification, in ed. O'Connell, On Our Own Ground, 184; Fiske to Lincoln, 5 July, 1833, MA, Guardians of Indians, Accounts and correspondence, 2.

93 Ibid., 184.
approved of all of Fiske’s actions thus far, he advised him that “[i]f there is resistance, the Sheriff will, with your advice, call out the posse comitatus, and should there be reason to fear the insufficiency of this resort, I will be present personally, to direct any military requisition.”

Fiske, however, reassured him that “the events of yesterday are beginning to work a favorable change in the feelings + temper of the natives.” More likely, Fiske realized after meeting with the Mashpees that the white men’s alarmist reports of riots in Mashpee were greatly exaggerated. Indeed, he noted that while “it is rumored this evening that [Apess] has been trying to-day to prevail on a party of the Indians to hold on to the possession of the meeting-house,” he also acknowledged that “[t]his, however, may not be true.”

The Fourth of July meeting was productive for everyone involved. Amos agreed to give the key of the meetinghouse back to Fish so that he could hold Sunday worship as usual, saying that since “[t]he Government has taken our affair under Consideration Concerning the Meeting house... we are willing to Live in peace until the Law shall Decide on the Matter.” Teamsters were once again permitted to take wood from Mashpee. The Overseers, after spending the day at the meetinghouse, promised to respond to each of the Mashpees’ complaints in turn. Fiske, meanwhile, proposed to “go over every part of the plantation, not only for the purpose of looking into the condition of the natives but also of seeing the surface of extensive tracts of wood land, the pastures & the salt marshes from which their revenues are derived.”

The overseers registered their shock as they rushed to defend themselves to Fiske against the Mashpees’ allegations. They placed all the blame for the recent

94 Lincoln to Fiske, 5 July, 1833, MA, Guardians of Indians, Accounts and correspondence, 2.
95 Fiske to Lincoln, 5 July, 1833, MA, Guardians of Indians, Accounts and correspondence, 1.
96 Ibid., 3.
97 Daniel Amos to Fish, 5 July, 1833, MA; Fiske to Daniel Amos, 4 July, 1833; Fiske to Lincoln, 5 July, 1833, MA, Guardians of Indians, Accounts and correspondence.
98 Fiske to Lincoln, 5 July, 1833, MA, Guardians of Indians, Accounts and correspondence.
99 Fiske to Lincoln, 6 July, 1833, MA, Guardians of Indians, Accounts and correspondence.
unrest on Apess, claiming that “[t]he discontent of the natives on the Plantation, is as new to us, and as unexpected by us, as it can have been to you.” This claim, though, only made the overseers appear negligent, given that, as the Mashpees would go on to prove in court, they in fact had a long history of protest against overseers. Further, the overseers’ response to many of the charges was that there was nothing they could do, either because the law said so or because of the situation. For example, to the charge that “White people take the liberty to turn out their cattle on our Plantation as they please, and no one says a word,” the overseers replied that “there may be cattle belonging to white people feeding on the commons, on the Plantation, but such is the location of Marshpee, with the towns adjoining, that it would be extremely difficult if not impossible, to prevent it.” The overseers gave a similar response to the charge that white men fished in their streams: they were not obligated to regulate it and it was not important, they claimed. In conclusion, the overseers reassured Fiske and the governor that “the care and kindness that has been shewn the natives of Marshpee, by the Government, is quite proverbial” and that “their complaint of neglect is utterly unfounded,” thus absolving both themselves and Lincoln of any wrongdoing. The overseers overlooked the fact that the Mashpees wanted not better guardians, but no guardians at all. Their responses suggest they were most focused on keeping their jobs.

In his report, Fiske ascribed to the Mashpees all of the attributes of good American citizens. First, he referred to them as “families,” which in and of itself suggested an appropriate understanding of gender roles and convention, and went on

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100 Whitman and Overseers to Fiske, 6/9 July, 1833, MA, Guardians of Indians, Accounts and correspondence, 1.
101 Marshpees, “To the Governor + Councell,” 21 May, 1833; Whitman and Overseers to Fiske, 6/9 July, 1833, 2, MA, Guardians of Indians, Accounts and correspondence.
102 Whitman and Overseers, 6/9 July, 1833, MA, Guardians of Indians, Accounts and correspondence, 3, 4.
to describe them as “nearly all …comfortably and decently clad.” Their class was further attested by the fact that most lived in framed houses (though a few still lived in wigwams), grew crops, and had cows or pigs. Since colonial times, Anglo agriculture and the keeping of livestock had been a sign of civilization and the lack thereof a justification for taking Indian land.

Fiske also reported that Mashpee was not a poor place. It was reported in 1808 that Mashpee was worth five dollars for every acre and was fourteen hundred dollars in debt, but in 1833 Fiske estimated that Mashpee had “nearly doubled in value; its whole debt has been paid off, and the tribe have a balance of nearly a thousand dollars in the treasury.” This increase was largely due to the increased value of wood. Of the 10,500 acres of Mashpee, three-fourths of it was covered by trees. Wood had become scarce in New England by 1833, so this was the Mashpees’ chief asset.

The Mashpees were able to support two schoolhouses with their own funds, and also maintained a Sabbath school. Though the Mashpees were Protestant, Fiske observed that most were Baptist and diplomatically said of Fish that “his services are far from being highly appreciated at the present time.” He agreed with the Mashpees that Fish’s monopolization of the meetinghouse was unfortunate and advised that “some further provisions, in accordance with religious freedom, ought to be made for the religious instruction of the Baptist part of the colored population.” Even those who had made the laws for guardianship were not to blame, since they had done so in the Mashpees’ best interest. The question, as Fiske saw it, was whether the Mashpees would continue to flourish without guardians.

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103 Ibid., 17.
104 Ibid., 17-8.
105 Cronon, *Changes in the Land*, 130.
107 Ibid., 21.
Aside from religious competition, Fiske observed nothing to object to in Mashpee. He absolved everyone, from Fish and the overseers to the Mashpees, claiming that “it is not so much for the want of more school, and more means of religious instruction, nor so much for the want of more property and facilities of obtaining a more comfortable subsistence, that the Indians are now discontented and unhappy, as it is for the want of an unrestrained liberty and freedom from the controlling influence of the government and white men in the management of their property.”\(^{108}\) Mashpee would be perfectly fine, in other words, if they were in charge of their own affairs.

In closing, Fiske felt the need to acknowledge, in “an act of justice to the natives” that, while taking matters into their own hands might have been unlawful, they were also extremely respectful and competent when dealing with him. Though the Mashpees had given back the key of the meetinghouse to Fish and were allowing whites to remove wood from their land again, they

never abandoned the ground, that all men were born free and equal, and that they ought to have the right to rule and govern themselves. They steadily maintained that, by a proper exercise of self government, and the management of their own pecuniary affairs, they had it in their power to elevate themselves much above their present state of degradation; and that by a presentation of new motives for moral and mental improvement, they might be enabled in a little time to assume a much higher rank on the scale of human existence.\(^{109}\)

Fiske left it to the Massachusetts General Court to decide if the Mashpees were indeed ready for citizen sovereignty, but his characterization of them in his report as ideal male citizens of the young Republic would appear to be a vote in their favor.

\(^{108}\) Ibid., 22.
\(^{109}\) Ibid., 29.
The response of the overseers and Fiske’s apparent interest in their affairs convinced the Mashpees that they could count on a real hearing from the government. Therefore, on July 8, they rescinded their resolutions and agreed to “wait with pleasure the decision of the general court.”

The notice to that effect, signed by Daniel and Israel Amos, explained that they were willing to do so upon the surety of the governors counsel that we should be righted, and that there should undoubtedly be a change of government, and that the governor has pledged him self that he would see, or have things done to order, and that all the monnies, for the property that has been sold or disposed of should be refunded to us again and that Justice we should have. Now in consideration thereof, the 20 here by guarantee to our white Neighbours that they shall not be molested in there Lawful concerns upon our plantation. Provided, that no White man does not Medle or interfear in any way what ever in our Lawful affairs.

Since the Mashpees had rescinded their resolves and he had finished his report, Fiske considered his job done and returned home.

Though the Mashpees did back down from their resolutions, it would be incorrect to characterize the Revolt as unsuccessful. It had obtained the attention of the Massachusetts government and Harvard College, which the Mashpees had been unable to catch previously with solely written protests and petitions. Indeed, the reason that the Mashpees were willing to rescind their resolutions for the time being was that the promise of recourse in the courts came from “so high an authority.”

The Mashpee Revolt was only on pause; it was not over, though the time of peaceful,

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110 Notice, Marshpee Indians, 8 July, 1833, MA, Guardians of Indians, Accounts and correspondence.
111 Ibid.
112 Apess, Indian Nullification, in ed. O’Connell, On Our Own Ground, 189.
extralegal resistance in Mashpee was finished. The next battlefields would be the press and courts.
"The Appropriate way to Attain an Enlargement of their Civil Rights": The Court Case

Just as the neighboring whites' and the state government’s alarm that the natives were going to stage a violent riot subsided, the press began to report a violent Indian revolt. On July 10, as Fiske reported to Lincoln that everything was peaceful in Mashpee and he was returning home, the Barnstable Patriot published "Trouble in the Wigwam," the Baltimore Gazette and Daily Advertiser published "HostilitiesCommenced in Marshpee," and the Hampshire Gazette published "Indian War in Massachusetts!".113

Dramatic headlines designed to sell papers aside, much of the press throughout July and August criticized the Mashpees' revolt and displayed the prejudice against Native Americans still rampant in New England, even as Catharine Maria Sedgwick’s Hope Leslie, James Fenimore Cooper’s Last of the Mohicans, and Lydia Marie Child’s Hobomok were bestsellers, and writers and audiences alike lamented that the “noble savage” had disappeared from the New England landscape. Though the revolt was widely covered in New England and news of it even reached New York and Maryland, many of the articles were reprinted, usually from the Barnstable Patriot or Benjamin Franklin Hallett’s Boston Daily Advocate, as was usual for the press in the early nineteenth century. “Hostilities Commenced in Marshpee” and “Indian War in Massachusetts!” were actually the same article lifted from the Boston Daily Advocate and, contrary to what might be expected from the headlines, specifically noted that the Mashpees’ unloading of the carts was nonviolent.

Other articles with more neutral headlines nonetheless vehemently protested the Mashpees’ actions. Often, the blame was laid on Apess, “a well known half breed preacher of the itinerant order,” according to the Newburyport Herald. Apess was depicted as full of threats: his mixed-race heritage threatened developing ideals of racial purity; his Methodism threatened the established Congregational, Episcopal, and Presbyterian church in New England; the fact that he, as an Indian, could rise to the rank of preacher challenged the ingrained class and race system that relegated Native Americans to the lowest class. His non-sedentary life was particularly worrying: not only was this traditionally associated with Native Americans and used as a justification for taking their land; there was also a growing worry in the new republic that without an established aristocracy and class system, anyone was free to move about and pretend to be whomever they wished in new surroundings. Further, there was nothing to stop Apess from showing up in their towns next. Itinerancy, though, was a fundamental feature of Methodism that allowed the denomination to spread: the very fact that Methodist itinerant preachers came from outside the community underscored the universal character of their religion.

While many blamed Apess, only one paper did so out of any actual knowledge of the preacher. The Portsmouth Journal of Literature & Politics quoted the Barnstable Patriot’s account of Apess’s arrest on July 4, but then reminded its readers in brackets that “This Mr. Apes is an Indian Preacher, whom some of our readers may remember, as having preached a very odd sort of sermon in this town, full of premises and conclusions, but destitute of argument, injudicious, and somewhat offensive.” Possibly, the Portsmouth reporter objected to Apess’s more democratic, Methodist preaching style, which would have been colloquial and have encouraged audience

114 Newburyport Herald, 15 July, 1833, 2.
115 Hatch, Democratization of American Christianity, 87; Mathews, “Evangelical America,” 92-3.
participation. Alternatively, if Apess preached on the familiar topic of Indian rights and history, the reporter may have been offended by the fact that Apess lambasted whites for their centuries of oppressing Native Americans. In any case, the reporter was not alone in his discomfort with Indians claiming rights.

The danger of Apess was often tied to the Mashpees' inability to rule themselves: the Mashpees were so weak-minded, it was argued, that they were easily swayed by Apess, too ignorant to realize that he was wrong. This was, of course, the same argument used against women, children, and African Americans – none were capable of making their own decisions. The *Springfield Gazette*, quoted later in the *New-Hampshire Gazette*, explained directly that “[t]o allow them to do thus [gain control of their own affairs], would obviously be doing them great injury; for they are as helpless and incapable of taking care of themselves as children or slaves.”

Much of the negative press, like the government, was simply misinformed about events. The *New-Bedford Mercury* wrote on July 12 that the “Mashpeeian Indians” had declared a “New Republic,” though “the commencement of open hostilities was postponed for a day or two.” The writers hoped that bloodshed would be avoided, since “[i]t would require but little diplomatic skill and reasonable dealing, to pacify the Indians.” Many newspapers reporting the Mashpee events in July contained a similarly mixed message of racism and fairness. On the one hand, they condescendingly advocated “pacifying” the Mashpees as one would a child, instead of recognizing that the Mashpees might have valid complaints. On the other hand, the diagnosis of “diplomatic skill and reasonable dealing” acknowledged that the Mashpees had not been dealt with fairly in the past.

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118 *New Bedford Mercury*, 12 July, 1833, 2.
Often, otherwise sympathetic articles used racist language that revealed the underlying problem that Mashpees faced in their quest for rights. The Boston Free Press quoted the “Marshpee Manifesto” in its article, calling it a “declaration of independence” and drawing a comparison between the Mashpees’ actions and those of South Carolina, which had recently nullified federal tariffs. In the author’s view, the “Church as well as State has had a hand in the Marshpee nullification” because they so often did nothing in spite of the Mashpees’ complaints. The Boston Free Press noted that the Mashpees had a long history of protest, and that since “[t]he Legislature have not thought their complaints worthy attention, and at the last session refused to do any thing for their relief,” they had forced the Mashpees “to open resistance to the laws of which they complain.” However, the newspaper also described the Mashpees as a “tribe, which consists, we believe, of about fifty genuine adult male Indians, and an hundred or more negroes and descendants of the Indians and Hessians.” The charge that the Mashpees were not “genuine” Indians, but rather mixed with African Americans and Germans undermined their claim to rights since immigrants were highly suspect and African Americans were considered to be on the same level as women and children. One part of masculinity was being able to control one’s own sexuality, as well as that of the women one was charged with, so intermarriage indicated a worrying lack of restraint. Further, Mashpees were “generally inclined to indolence,” even if this was only because “the laws of the State are well calculated to foster” it.119 In order to qualify for the same rights as white men, Mashpees needed to show that they were diligent workers without needing a white man to force them to work, and that they could provide for their families and community.

Apess knew how to use the press to his advantage, as he first showed when he asked William Lloyd Garrison to print the Mashpee Resolutions in the *Liberator*. He also advertised for an address that he delivered on the rights of the Mashpee Indians on December 17, 1833, which the *Salem Gazette* and the *Columbian Register* publicized.\(^{120}\) Isaac Coombs, Daniel Amos, and Apess, who would be speaking at the General Court, arrived in Boston early and used the opportunity to advocate for themselves in a series of public addresses. Though they deftly avoided the topic of the overseers' behavior, their pointed barbs at the pilgrims earned them “applause from the audience.”\(^{121}\) The technique of travelling around and speaking to crowds in order to drum up support was not a new one, but it was a tool used by the Methodists with great success, and one that the Mashpees had not before tried.

Garrison took up the cause of the Mashpees, and continued to write in support of the Indians, especially during their hearing in court, when publicity seems to have otherwise dried up. He covered Coombs's, Amos's, and Apess's speeches in early January, noting approvingly “[w]e are proud to see this spontaneous, earnest, upward movement of our red brethren.”\(^{122}\) On February 1, when some tried to hinder the reading of the Mashpee Petition in court, the *Liberator* spoke out against those objections; on February 22, it pointed out the hypocrisy of Massachusetts judging Georgia’s Native American policies; on March 1, it expressed disappointment at the actions of the court; and on March 29, it triumphantly heralded that the Marshpee Bill had passed without a single dissenting vote.\(^{123}\) In fairness to both sides, the *Liberator* also printed on February 1 the memorials of Fish and Nathaniel Pocknot against a change in government, as well as the Mashpee petition asking for a change, and a

\(^{120}\) *Salem Gazette, Columbian Register*, Dec. 21, 1833.
\(^{121}\) *Liberator*, 25 January, 1834, 15.
\(^{122}\) Ibid.
\(^{123}\) *Liberator*, 1 February, 20; 22 February, 1 March, 29 March, 1834, 51.
summary of the past laws governing Mashpee that first appeared in the *Boston Daily Advocate*. Though Garrison and his newspaper were clear about their stance, he was also the only printer willing to give so much space in his newspaper for the most complete coverage of the events.

The *Liberator* and the *Boston Daily Advocate* emphasized the masculinity of the Mashpees. The problem with guardianship, according to Garrison and Hallett, was that “no native Indian, or descendant, is allowed by us to be a man, or to make himself a man, whatever may be his disposition or capacity.”124 Guardianship deprived Mashpee men of their ability to be men. Garrison implied that the laws governing Mashpee would hinder Mashpee men’s masculinity, arguing that Massachusetts, “[f]earing…that the Indians would never rise to be men” had “placed them under a guardianship which is sure to keep them in servile dependance [sic].”125 In Apess’s speech in early January, he claimed that the Mashpees were unable to improve any more under the present laws, since those laws inhibited the preconditions of masculinity.

The fact that the press reported the events in Mashpee was a crucial difference when compared with previous protests. Revolutions in technology meant that the early nineteenth century saw a rapid growth of publications and newspapers. Printing was a major factor in the spread of the Second Great Awakening, and Methodists were most conscientious about using print media.126 Even when the opinions expressed were negative, the press at least drew attention to the fact that the Mashpees were unhappy with their current situation and that there were still Native Americans living in New England. As the most numerous tribe, with an actual land base, the Mashpees were best able to accomplish this. The press also forced New Englanders to

124 [Hallett], *Boston Daily Advocate*, in *Indian Nullification*, 215.
126 Hatch, *Democratization of Christianity*, 142.
face the hypocrisy of protesting President Andrew Jackson’s Indian Removal Act, when they were oppressing the Native Americans in their own region. It is impossible to know how much the publicity helped the Mashpees in their quest for citizen sovereignty, if at all, but it does seem likely that the press played some role, as it was one element that was not present in previous unsuccessful incidences of Mashpee protest.

Though they may have influenced congressmen’s minds, newspaper articles did not make it into the file for the Special Committee of the General Court. Instead, copies were made of the Mashpees’ Memorial of May 21, the General Council’s advice to Lincoln on sending a commissioner, Lincoln and Fiske’s correspondence, the overseers’ response to the Mashpees’ charges, and Fiske’s report as commissioner. Basically, the only documents from the summer of 1833 that did not make it into the Special Committee’s file were the correspondence of the Mashpees. New documents were also created by Fish, explaining his view of the state of Mashpee; by a majority of the Mashpees, asking in a new petition for the specific changes they hoped the General Court would grant; and by a smaller group of Mashpees, requesting that the government not change.127

In his memorial to the General Court, Fish claimed to have twenty native members of his church. He also asserted that whites were entitled to use the Mashpee meetinghouse, since a white missionary society had built it and the white government had repaired it. He took pains to disassociate himself from the overseers and government of Mashpee, and asserted that “[t]he events of the last Summer afford, it might be supposed, sufficient evidence to the community, how far this people are

127 MA, Documents Relating to Passed Legislation, Mashpee Act of 1834 folder.
capacitated for self government."\textsuperscript{128} The fifty-one Mashpees who were against any change in government explained that they were doing very well under the overseers and that their prosperity was a sign that guardianship should continue. They barely spoke about religion, but blamed the unrest on Apess. Their chief fear seemed to be that without government protection, they would lose their land.\textsuperscript{129}

The guarding of their land was actually the one law that the Mashpee Memorial requested to continue; aside from that, the Mashpees requested that the plantation be made into its own district, that the overseers and Fish be removed, and that they be allowed to govern themselves. This would release Mashpee and its inhabitants from their dependent status. Two hundred out of 287 Mashpees signed the petition and, in order to make identification easier, they separated into different columns the male and female signatures. Their complaints, largely about land use, were the same as those from the previous May, though they laid the brunt of the blame on the laws instead of the overseers now. The Mashpees also changed their section on their finances: they no longer implied that the overseers and treasurer misappropriated funds, but instead showed that Mashpee and the state would save money by not having to pay overseers or accommodate their white neighbors. In either rendition, though, the argument was the same: the Mashpees were not dependents, but fully capable of ruling themselves.

As in their Memorial from May 1833, the Mashpees sought to prove their fitness for citizen sovereignty. They had a long history of protest, that they now suspected the overseers had thwarted, and contrary to the guardians' representations,

\textsuperscript{128} "Memorial of Phineas Fish, Missionary to The Marshpee Tribe of Indians in relation to the Memorial of Sundry of said Tribe," 18 Jan., 1834, MA, Document Relating to Passed Legislation, Mashpee Act of 1834, 9-10.

\textsuperscript{129} "Remonstrance of sundry Marshpee Indians against an alteration in the form of their government," 1834, MA, Documents Relating to Passed Legislation, Mashpee Act of 1834.
the Mashpees stated that they were in fact “temperate + sober + industrious.” On top of emasculating them, the present laws implied that the Mashpees were on the same level as slaves; as Apess said, “Heigh-ho! It is a fine thing to be an Indian. One might almost as well be a slave.” The Mashpees also made the link between guardianship and slavery and stated in their petition that “we have been in slavery long enough.” The Mashpees did not denying their race, but rather asserted their status as free people who, under the Constitution, should not be treated like slaves.

The Mashpees had already proven their manhood by fighting for America in the Revolutionary War and the War of 1812, as they reminded the General Court. Here, they made a connection with the white men deciding their fate, saying that “our fathers fought, bleed, and died for the liberties of their, now weeping + suffering children, the same as did your fathers for their children whom ye are.” Indeed, their fathers had died to break the control of the British hereditary government, and yet the Mashpees were still “obliged to submit to a hereditary government...son succeeding father + brothers brothers to the overseership.” The Mashpees used irony and their own knowledge of the Constitution to further make their case. They observed that “ye

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130 “Petition of the Marshpee Indians,” 1834, MA, Documents Relating to Passed Legislation, Mashpee Act of 1834, 16.
131 Marshpee Petition, 1834, MA Archives, 1834 Act, 9.
132 Apess, Indian Nullification, in ed. O’Connell, On Our Own Ground, 188.
133 “Petition of the Marshpee Indians,” 1834, MA, Documents Relating to Passed Legislation, Marshpee Act of 1834, 15.
134 Ibid., 19-20.
135 Ibid., 5. The charge that the position of overseer remained in families was a fair one.
are filled with the fat of our fathers land, and enjoy your liberties with out molestation," and, noting the protest in Massachusetts against Jackson's Indian policies, hoped that "the honorable body [will] be as benevolent to us poor Marshpee Indians who are sighing and weeping under bondage, as ye are to the poor Cherokees." The present laws, made without the consent of the Mashpees, were simply unconstitutional. The General Court had no reason to deny the Mashpee men citizen sovereignty.

The petition attacked those Mashpees who were against the change in government, explaining that "there is not one enlightend and respectable Indian upon the plantation, that wants overseers or the present minister Mr. Phineas Fish." The ones who signed the anti-Memorial were either drunks who did not attend any religious meeting, never mind the Congregationalist one, the petition claimed, or people who did not know what Fish’s petition contained.

The Special Committee, "appointed to inquire into the causes of the complaints of the Marshpee Indians," consisted of Ira Barton Moore and Mr. Strong from the Senate and Henry Dwight of Stockbridge, Timothy Fuller of Springfield, and James Lewis of Pepperell from the House. The Committee had all of the documents in the file in order to determine if the Mashpees’ petition would be granted, as well as the testimony of various men from both sides. Benjamin Franklin Hallett appeared as counsel for the Mashpees, while Leimuel Ewer, Deacon Coombs, Daniel Amos, Ebenezer Attaquin, Joseph Amos, and William Apess testified. Ewer was the only white witness to speak in the Mashpees’ defense. Kilburn Whitman acted as counsel for the overseers, while Fiske, Elija Swift (on the Governor’s Council), Fish, Judge

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136 Ibid., 2.
137 Ibid., 3.
138 Ira Moore Barton Papers, Box 1, Folder 1, “Minutes of the Legislative Committee appointed to Inquire into the Complaints of the Mashpee Indians,” February 5-March 8, 1834. My best efforts to find Strong’s first name have been unsuccessful.
and Charles Marston, Nathaniel Hinckley, Gideon Hawley, Judge Whitman (all overseers), Nathan Pocknot and William Amos (Mashpees) spoke against the Mashpees' Resolutions.  

In his defense of the Mashpees, Hallett was careful to avoid the question of whether the overseers had been negligent, and instead made the case about the Mashpees' rights under the Constitution. Hallett delved into the history of Mashpee governance and protest in order to prove that they deserved the same rights as white men. This, he hoped, would show "whence we get what we are accustomed to consider the exercise of a rightful authority over them, to put them under a stern guardianship." The history of Mashpee protest would also show that the revolt of 1833 was not the fault of Apess, but merely a continuation of longstanding complaints with new methods. Hallett explained more clearly the connection between the Mashpees and slavery: according to him, the only time when the principles of the Constitution could be said not to apply to an entire community was with slaves. The Mashpees also were not aliens, and Hallett drew a distinction between the Mashpees and "domestic nations," like the Cherokees. Since the Mashpees were not slaves or foreigners, they must be some kind of citizens, and the "General Court, therefore, cannot rightfully exercise any more control over the soil belonging to the Marshpee Indians, than over that belonging to any other class of citizens." With the question of the Mashpees' status answered, the only matter of debate remained their capacity for self-governance and this, Hallett claimed, could only be solved by letting them attempt it.

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140 Hallett, *Rights of the Marshpee Indians*, 3.
141 Ibid., 16.
142 Ibid., 4.
Hallett guilted the General Court not only with the long history of rights taken away from the Mashpees, but also by applying to Massachusetts’ reputation as a bastion of freedom and equality, especially compared to the South. He ingeniously illustrated this by comparing the type of citizenship offered to the Mashpees compared to African Americans in Massachusetts:

The Indians of Marshpee have no civil rights, and yet the government you impose upon them, makes them pay a tax out of their own property, for every soul on the plantation, which is more than double the tax that qualifies any white or black male adult, elsewhere, to be a citizen and a voter. And yet by your laws a negro, in Boston, who pays $1 50 tax, is a voter, while an Indian freeholder in Marshpee, is put under guardianship. So the negro in Boston, is free, but if he moves to Marshpee, he is a minor.\(^{143}\)

The long history of Mashpee protest also proved that the Mashpees’ only recourse had been to take their rights into their own hands. After all, it was only their direct action that led to the hearing in front of the General Court in the first place. Hallett demanded “Can we severely blame them, that in their recent movements to get redress for intolerable grievances, they took the law into their own hands, remembering as they did, that every time they had applied for redress, since the revolution, it had been followed by an act riveting tighter the chains of vassalage upon them?”\(^{144}\)

The Court decided that they could not. In their final report drafted on March 18, 1834, the Special Committee wrote that the “becoming manner in which the

\(^{143}\) Ibid., 17. The inverse of this was also true: if a Mashpee left the plantation, they could acquire property and be free from guardianship, and essentially be citizens of Massachusetts, but they could never bring that property or rights back to Mashpee. Apess theorized in Indian Nullification that this was partially the point of the guardianship: to incentivize leaving Mashpee, thus leaving the land for white men.

\(^{144}\) Hallett, Rights of the Marshpee Indians, 25.
indians have presented their grievances to the Committee, and through them to the Legislature, has gone far to atone” for their actions of the previous summer, and the sentencing of Apess and the others who had unloaded the carts with him was punishment enough.\textsuperscript{145} They hoped that by granting the Mashpees’ wishes through the Court, they would socialize the Mashpees to believe that “the appropriate way to attain an enlargement of their civil rights, is to demonstrate their ability to exercise those rights.”\textsuperscript{146}

The ways in which the Special Committee found that the Mashpees apparently showed “their ability to exercise those rights” illustrates the expectations of citizenship in Jacksonian America. Since the rights the Mashpees attained were exclusively white at the time, in the nation if not in Massachusetts, it also reveals what behaviors might code someone racially. Though the report did not go into the particulars of the events of the summer, it did enumerate the population, land specifications, and incomes of Mashpee, thus showing that the Mashpees were both civilized and solvent. Furthermore, “[t]hey were intelligent,” the report claimed, and though the Special Committee was warned that most Mashpees were “inferior” to the ones that testified in court, the Committee noted that “of the 79 males who signed [the Memorial], 44 wrote their own names.”\textsuperscript{147} Literacy, denied to slaves, was quickly becoming a sign of cultivation in early republican New England. Notably, the Special Committee only talked about the men; though women had also signed the 1834 petition, they were separated into a different column, which signaled to the Committee that the Mashpees understood that gender roles were separate and men and women’s signatures would not be valued the same. The Committee’s

\textsuperscript{145} Special Committee Report, 18 March, 1834, MA, Documents Relating to Passed Legislation, Mashpee Act of 1834, 2.
\textsuperscript{146} Ibid., 2-3.
\textsuperscript{147} Ibid., 4.
acknowledgment of only the male signatures in turn indicated that these were the ones who qualified for citizen sovereignty; women could support them by signing their names, but their literacy, intelligence, and petition was of no consequence. Notably, white women did not petition on behalf of the Mashpees, whereas they had for the Cherokees: the fact that the Mashpees did not need women to advocate for them demonstrated that they were not wards or children in need of protection by women.

Temperance was also a rising test of fitness, which the Mashpees passed; indeed, the Committee ascribed the Mashpees' progress "to a diminished use of ardent spirits."

Solvency, literacy, sobriety: all of this was to say that the Mashpees would be capable of making important decisions without being swayed or swindled by others. Since "their conduct was marked with much propriety," surely they qualified for rights.

Still, the Mashpees's rights were not inalienable, like white men's, but had to be merited. They were only given those rights "corresponding to the measure of virtue and intelligence to which they have attained." Instead of criticizing the unconstitutional laws pertaining to the Mashpees, the Special Committee applauded them, saying that they had achieved their "avowed purpose of 'advancing them in civility.'"

One attribute which was not mentioned as a sign of citizen sovereignty was religion, and this was surely deliberate. The Special Committee sidestepped the question of Fish, the parsonage, and the meetinghouse altogether, saying that there was nothing they could do about a grant deeded to a private office. This, therefore,

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148 Ibid.
149 Ibid.
150 Ibid., 5.
151 Ibid.
152 It is unclear if the original grant was legal, though, since technically Mashpee land could not be given or sold away from the plantation without the consent of the entire tribe, plus the General Court. Only the overseers and Harvard agreed to the grant. Harvard installing Fish, September 18, 1811; Overseers install Fish, 23 Aug., 1811, HUA.
left Fish’s position entirely in Harvard’s hands. For their part, though, the Special Committee absolved Fish of any wrongdoing. Indeed, they agreed with Fish “in exculpating the overseers and Missionary from any charge of maladministration of the affairs of Marshpee.”

The “Act to Establish the District of Marshpee” repealed all of the laws previously pertaining to the plantation and instead declared that Mashpee was “a body politic and Corporate, as a District by the name of Marshpee, with all the powers and privileges and subject to all the duties and liabilities.” The Mashpee proprietors would elect their own selectmen and treasurer at a yearly meeting, who in turn would manage the land use of the district, including the wood. Liquor could not be sold on district land, nor could anyone besides inhabitants of Mashpee cut or transport wood. The Mashpees were now in complete charge of the maintenance of their own schools and roads, though they were exempted from state and federal taxes. The old law that held their lands in common and forbade the land from being sold without the collective consent of the Mashpees and General Court or from being used as payment for debt against them remained. They would continue to have a Commissioner appointed by the Governor who would make a yearly report on the district, but he might be removed in time.

Only nine months earlier, the governor had been threatening to call out the state militia against the Mashpees. Now, they were being accorded most of the rights and privileges of citizenship and sovereignty. Why the shift in the government’s opinion? The Special Committee of the General Court explained part of it themselves: when the Mashpees had a chance to argue their case, they did prove to have the

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153 Special Committee Report, 18 March, 1834, MA, Documents Relating to Passed Legislation, Mashpee Act of 1834, 2.
capacity to participate as virtuous interlocuters within the public sphere. They would never have gotten such a chance, though, if they had not acted outside of the law.

Publicity and public opinion also surely played a role. Though many of the articles published in July 1833 were against the Mashpees, by 1834 many either printed the documents and events of the case without comment, or advocated for the Mashpees. Public opinion against Jackson and the Indian Removal Act probably helped, but so did Apess’s publicity campaign. He not only spoke in December on the Mashpees’ case, but also published editorials and rebuttals, enlisted Garrison on their side, and encouraged Hallett to publish his defense. Ultimately, it was a combination of factors that came together in 1833-4 that helped the Mashpees win rights they had been denied since 1788: Massachusetts’ protest of Jackson’s Indian policies, Apess’s Methodist tactics, the disestablishment of Congregationalism in conjunction with the rising respectability of Methodism and Baptism, and, finally, the Mashpees’ expert manipulation of the rising tide of democracy and their ability to articulate citizen sovereignty.

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155 Apess would later publish his own account of the Mashpee Revolt, though it did not appear in print until 1835, so it could not have had any bearing on the outcome of the court case. Since the Mashpees had already achieved their settlement with the government, his Indian Nullification of the Unconstitutional Laws of Massachusetts Relative to the Marshpee Tribe; or, The Pretended Riot Explained worked more to clear his own name and to chip away at Fish’s hold on the meetinghouse and residency at Mashpee, which had not yet been resolved. As the title of the book suggests, Apess was trying to use the Mashpee Revolt to challenge constitutional questions and the government’s dealings with Native Americans by referencing the Nullification Crisis of 1832, just as the Boston Free Press had a few years earlier. This was not necessarily the Mashpees’ agenda, but Apess was not only concerned with the Mashpees. The book quoted many of the documents from the Mashpees and the government, now found at the Massachusetts Archives, as well as many newspaper articles about the Revolt, to which Apess added his own commentary.
“White men of the present day console themselves by attributing all the wrongs of the Indian to our ancestors”: Conclusion

The Mashpees’ success was not complete: Fish still remained in the district and had control of the meetinghouse. In 1836, however, Harvard decided to split the grant between Fish and a minister of the Mashpees’ choice: E.G. Perry, a Baptist. A few years later, the Massachusetts legislature decided that while Fish could use the meetinghouse while preaching to the Mashpees, the Mashpees actually owned the land and building and the Mashpees voted to switch their religious affiliation to Baptist and officially (and physically) removed Fish. The rest of Apess’s story, meanwhile, remains unclear. He definitely spoke at the Odeon theater in Boston and published his talk in 1836 as Eulogy on King Philip, as Pronounced at the Odeon, in Federal Street, Boston. His next appearance in written records, though, is his obituary; he apparently died of apoplexy in New York on April 10, 1839.

The district of Mashpee did quite well under independence, if the annual reports of Charles Marston, the new commissioner, are any indication. In his report for the year 1834, Marston wrote that “[a]s they become more capable, it is to be hoped that at no very distant time they may be able to transact their affairs without the supervision of a Commissioner.” In 1842, they officially divided their land into

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157 Apess, Eulogy on King Philip, as Pronounced at the Odeon, in Federal Street, Boston, in O’Connell, On Our Own Ground.
159 Marston, 1834 Commissioner Report, MA, Indian Affairs, House + Senate Unpassed Legislation 1783-1856 SC1 Ser # 230, 231, Senate, 5.
private plots. In 1869, however, the General Court abolished Mashpee’s special legal status, which meant that white people could now buy Mashpee land.

The Mashpees’ success in 1834 came back to haunt them when, in 1976, the Mashpee tribe filed a complaint at the Boston district court, claiming to have always owned most of the land in Mashpee. Cape Cod had become a popular vacation destination, and since Mashpee land could now be sold to non-Mashpees, construction companies were buying up Mashpee land and limiting their land use, especially fishing. Fundamental to their case was the implicit assumption that the Mashpees constituted a federal tribe. The jury, therefore, was asked to decide if the Mashpees had always been a tribe, as they claimed, had not been a tribe since 1670, as the defense claimed, or if they had at least been a tribe on six separate dates: 1790, 1834, 1842, 1859, 1870, and 1976. After forty days of testimony, three hours of instruction by Judge Walter Jay Skinner, and three days of deliberation, the jury identified 1834 and 1842 as the only moment when the Mashpees had a tribal identity. Strangely enough, the moment when the Mashpees tried, and succeeded, to integrate more fully into American society, was the one moment when the modern legal system claimed they were Indian.160

The ruling of the court made little sense. How could a town suddenly be a tribe in the 1830s, but not before or after? The process of proving identity involved historians, sociologists, and anthropologists, and yet Mashpee tribal identity was still difficult to prove. After the United States Supreme Court decided not to review the lower courts’ decisions, the Mashpees moved on to gaining federal recognition.

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administratively, instead of by jury. The Mashpees were officially declared a tribe in 2007 and are now making headlines by their bid to open a casino in Taunton, Massachusetts.

Since the Mashpee Revolt was singled out as an identifying moment for the Mashpees, there was a flurry of interest in the event, and it is usually brought up in connection with the modern Mashpees' quest for federal recognition. The Mashpee Revolt was just one moment in a continuous struggle for the Mashpees to survive and maintain sovereignty over their land and lives. They were successful in 1834, when it made most sense to claim to be the same as other Americans, unsuccessful in 1976, but then finally successful in 2007. Now, it makes most sense for the Mashpees to claim an identity distinct from Americans. 1834 and 2007 are not necessarily in opposition, though they may seem so at first: in both cases, and in their struggle since Mashpee was founded, the Mashpees have sought control of their own land and lives.
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