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Conveyance to Kin:

Property, Preemption, and Indigenous Nations in North America, 1763–1822

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Few accounts of preemption—the exclusive right of the British Crown, and later the U.S. government, to acquire Indigenous lands—consider the impact of Indigenous law and governance on this fundamental Euro-American legal principle. This article examines conveyances made between Indigenous nations and their kin after 1763 to track the development and eventual divergence of British and American interpretations of preemption. Given by Cherokee, Haudenosaunee, and Anishinaabe leaders to the children of Indigenous women and settler men, these conveyances to kin wove property rights from the bonds of kinship to keep land and people within the legal orders of Indigenous nations. When pushed to recognize such conveyances by the parties involved, crown and federal officials could neither ignore the origins of this property in kinship nor agree whether preemption prohibited such arrangements. A remarkable series of conveyances made by the Senecas and the Anishinabek to one family, the Allans, in the 1790s reveals that U.S. officials understood Indigenous nations to be the object of preemption’s restrictions whereas British officials did not. Then, as now, thinking about preemption, in all its guises, required thinking about kinship. Both shaped how Indigenous nations experienced property and dispossession in North America.