Native Claims

Indigenous Law against Empire,

1500–1920

Edited by Saliha Belmessous



OXFORD

UNIVERSITY PRESS

Oxford University Press, Inc., publishes works that further Oxford University's objective of excellence in research, scholarship, and education.

Oxford New York

Auckland Cape Town Dar es Salaam Hong Kong Karachi Kuala Lumpur Madrid Melbourne Mexico City Nalrobi New Delhi Shanghal Taipei Toronto

With offices in

Argentina Austria Brazil Chile Czech Republic France Greece Guatemala Hungary Italy Japan Poland Portugal Singapore South Korea Switzerland Thailand Turkey Ukraine Vietnam

Copyright © 2012 by Oxford University Press, Inc.

Published by Oxford University Press, Inc. 198 Madison Avenue, New York, NY 10016

www.oup.com

Oxford is a registered trademark of Oxford University Press

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior permission of Oxford University Press.

Library of Congress Cataloging-in-Publication Data Native claims : indigenous law against empire, 1500–1920 / edited by Saliha Belmessous. p. cm. Includes bibliographical references and index. ISBN 978-0-19-979485-0 (hardcover : alk. paper) 1. Indigenous people—Legal status, laws, etc.—History. 2. Indigenous people—Claims—History. I. Belmessous, Saliha. K3248.L36N38 2011 346.04'3208997—dc22 2011007319

135798642

Printed in the United States of America on acid-free paper

CONTENTS

Acknowledgments vii

Introduction: The Problem of Indigenous Claim Making in Colonial History 3 Saliha Belmessous

> 1. Possessing Empire: Iberian Claims and Interpolity Law 19 Lauren Benton

2. Law, Land, and Legal Rhetoric in Colonial New Spain: A Look at the Changing Rhetoric of Indigenous Americans in the Sixteenth Century 41 *R. Jovita Baber*

3. Court and Chronicle: A Native Andean's Engagement with Spanish Colonial Law 63 Rolena Adorno

> 4. Powhatan Legal Claims 85 Andrew Fitzmaurice

5. Wabanaki versus French and English Claims in Northeastern North America, c. 1715 107 Saliha Belmessous

6. "Chief Princes and Owners of All": Native American Appeals to the Crown in the Early-Modern British Atlantic 129 Craig Yirush

7. Framing and Reframing the Agön: Contesting Narratives and Counternarratives on Māori Property Rights and Political Constitutionalism, 1840–1861 152 Mark Hickford 8. "Bring this paper to the Good Governor": Aboriginal Petitioning in Britain's Australian Colonies 182 Ann Curthoys and Jessie Mitchell

9. The Native Land Court: Making Property in Nineteenth-Century New Zealand 204 Christopher Hilliard

10. African and European Initiatives in the Transformation of Land Tenure in Colonial Lagos (West Africa), 1840–1920 223 *Kristin Mann*

Afterword: The Normative Force of the Past 248 Duncan Ivison

> Contributors 259 Index 263