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ROGER B. RAY

## Maine Indians' Concept of Land Tenure

If we can learn what Maine Indians thought about their land before their way of life became altered by the Europeans, we shall gain an understanding of what Maine Indians today think about their land. Such an understanding may shed some light on their present land claims.

The early missionaries, explorers and many later historians did not record what the Maine-Maritime Indians believed. These Europeans and Americans recorded what they understood. They observed Indian forms of government, their agriculture and much of their society, but they seemed to have been unable to understand what these Indians believed about themselves and their world.

If we explore the reasons why Maine Indians signed deeds conveying most of coastal Maine, 1625 to 1675, from Kittery to Pemaquid to the English colonists, we shall, I think, understand the Maine Indians' concept of land tenure. Then when we read their land claims today, we shall recognize these concepts deeply imbedded in their present day grievances.

The period 1625-1675 was the time when Maine Indians signed deeds in great number. It was the time when organized English colonization of Maine began. It

was the time when Maine Indians and the English had not begun hostilities. It was the time when the Maine Indians were quite willing to share their lands with the white strangers.

We must begin with an attempt to understand what the Maine-Maritime Indians believed about the natural world and their participation in it. Their myths and legends explained their beliefs. When the late Diamond Jenness wrote about the religion of Canadian Indians, he provided us with a summary of Maine-Maritime Indian beliefs at the time when the Europeans were arriving. Jenness wrote:

“The basic doctrine throughout the country was the kinship of man with nature.” “Man”, to the Canadian Indian, “was not set apart, all nature was one in kind; the rocks on the hillside, the trees of the forests, the animals on land, in the sea and in the sky; even the stars in the distant heavens, all were endowed with different outward forms, but all alike possessed personalities similar in kind to those of the Indians themselves. Their outward forms were transitory and impermanent, since even the hard rock must finally crumble into dust; sometimes, indeed, as with the shape of running water, they were as transitory as the clothes to which the Indians often likened them, but their personalities, their souls remained as constant and unchanged as human souls.”<sup>1</sup>

In 1692, the explorer Cadillac made an entry in his journal<sup>2</sup>: “They acknowledge a master on High, and a master below; they will not pray to Him on high because, say they, he does them no harm and they pray to him below that he may not ill-treat them.” But Cadillac made this observation in the context of a European. From his background and beliefs, this observation only illustrated

the appalling state of Indian religion. To Cadillac, as to Jacques Cartier<sup>3</sup>, the Indians were of a lower order. They and those who followed assumed they were enlightened, and their culture must prevail. The Europeans reported what they could understand.

But, as E. T. Adney wrote: "There was hardly anything we brought from Europe in way of language, idiomatic expressions, technical terms in religion and philosophy, methods of agriculture, that served to rightly explain the primitive man, the stone age man, we found here."<sup>4</sup>

Adney continued: "So with our Indians' whole line of thought concerning his universe. He couldn't explain himself to the Missionaries and the missionaries thinking in *terms of words* in their own idioms, couldn't see the Indians' point of view at all."

The explorers and the missionaries did not understand that the Indians saw no "chasm separating mankind from the rest of creation, but interpreted everything around them in much the same terms as they interpreted their own selves."<sup>5</sup> They believed they and the animals, trees, birds and fish die, but "while they are dead, their souls are merely awaiting reincarnation." They saw the cycle of the seasons and believed they too, were part of the cycle of the natural world. This is well illustrated by the legend of the Celestial Bear.<sup>6</sup> It is an old Micmac story which says: The four stars of the Bear never die because they are always in sight, and that is why her earthly descendants never die of natural causes, but only fall asleep each autumn and come to life in the spring. All earthly animals are the descendants of the ancestor animals in the sky.

The legend of Glooskap and the Great Witch illustrates the belief in resurrection. Glooskap was told by the Great Witch who had destroyed many of the best warriors where the bones were. He killed the witch, summoned the beasts and birds to eat the body and bring the bones out of the cave. Glooskap built a stone wall around the bones, put on wood, burned it, and poured water over the hot stones. Then he sang his resurrection song. The bones began to sing, came together and became human again.<sup>7</sup>

As we read the old myths and legends, we should exercise caution in the selections of them for illustrative purposes. Frequently, they have been encrusted with European folk lore and Christian beliefs.<sup>8</sup>

Glooskap (Glooscap, Kuloskap, Glusabe, Klusabe) was the god-hero of the Maine-Maritime Indians. He had been created by God, but he, Glooskap, created Man, according to one version. In the version used by Dr. Speck, Glusabe (Penobscot) created himself from the left over material after the Owner (Creator) made the first man. In some versions, Glooskap created the animals and fish as well. In other versions, he did not create but modified them in size so they could not overpower man. He toned down the wind and the sun and he regulated the supply of water. He taught Man all he needed to know to be fed and to live in harmony with his brother and with the natural world. Then Glooskap left his people, but he will return on the last great day when the battle between good and evil will reach a holocaust. And Glooskap will take the survivors who have lived by his teachings to live with him far away in the West.

Most versions of the Glooskap legends begin with his birth. He was born a twin; his brother was Evil. The

duality of good and evil, and the never ending struggle to control evil runs through Glooskap's teachings to his people.<sup>9</sup>

Messrs Leland and Prince collected the Glooskap stories and published them as "The Epic of Kuloskap"<sup>10</sup>. They relate his wonderful deeds of subduing monsters, controlling the winds and the sun, his instruction in crafts and how to live. Throughout this collection are the tales of Kuloskap subduing evil. While Kuloskap was a master of magic, he turned his talent against evil. But the wizards who were also masters of magic used their talents for evil.

The witch doctors were not wizards, although wizards might disguise themselves as witch doctors. Witch craft practiced by a witch doctor was not bound to be evil, but was likely to be since the wizards so frequently impersonated witch doctors. Both witch doctors and wizards understood the evil spirits. It was part of Kuloskap's teaching to warn of the presence of evil spirits and the devious ways these spirits worked.

The Kuloskap, Glooscap, Glusabe legends encompass the essence of the beliefs of the Maine-Maritime Indians. They lived in accordance with these beliefs. For example, when an Indian needed the root of a bush he took only as much as he needed, and took it in a way to avoid killing the bush. He might leave a gift of tobacco with the bush, not as a propitiation, but as something the bush might enjoy. It was understood between the Indian and the bush that each had made a gift to the other. The animals served Man. When an Indian killed an animal, it was understood by the animal that the Indian had a need the animal could fill. The animal was not resentful. And the Indian killed only enough animals to meet

his needs. This understanding between Man and the animals was lost on the arrival of the European traders. They wanted all the beaver skins and the skins of some other animals the Indians could get. And the Indians succumbed to the temptation of money. Some of the Glooskap legends say that he was so disappointed with his people at their greed that he left them for that reason. And now his people having chosen a life of greed, must live with it until the holocaust on the last day, when the world will be destroyed.

In the course of hunting, fishing and harvesting the wild fruits and vegetables, the Indians developed a policy of land tenure. It appears that this policy underwent a number of changes. The policy in one region of Maine-Maritime Indians was not quite the same at the same time as in another region. Despite the variance in opinion of scholars who have worked on the subject of land tenure concepts at the time of the arrival of the Europeans, it seems reasonably clear that this concept among Maine-Maritime Indians is best described as usufruct, not ownership as understood by us today.<sup>11</sup>

Land tenure policy was directly related to local government. Both underwent change. Apparently, a significant change in local government and in the method of land allocations took place not long before the arrival of the Europeans. For this information, we are dependent on the reports of the early explorers and missionaries. They understood little about Indian beliefs, but they did understand what they were told about the function of the government and land allocation. About 1670, near the Restigouche, the Indians introduced Father Chrestian Le Clercq to "an old chief", their head and ruler, "more because of his family which was very numerous, than because of his sovereign power of which they have shaken

off the yoke and which they are not willing any longer to recognise.”<sup>12</sup>

In Champlain's time, the Indians of New Brunswick were, as now, the Malecites and the Micmacs. The Malecites, according to one legend, were an off-shoot of the Penobscots. And the Malecites had close ties with the Passamaquoddies. The Micmacs have referred to the Passamaquoddies as those Malecites who live in Maine. I relate these tribal associations to point out that the forms of government of the New Brunswick Indians would have been known to the tribes of Maine. Mr. Montague Chamberlain in writing about New Brunswick Indians in Champlain's time observed that local governments were in the hands of a council of six chosen by the Sakum (Malecite) confirmed by the people who carried out the will of the people. The Sakum was little more than a presiding officer elected by the people for life.<sup>13</sup>

From Dr. Speck's book, *Penobscot Man*,<sup>14</sup> it appears that, at the time the Europeans arrived, the Penobscots also had a council and chief form of local government.

From the early reports of the missionaries and later writing of ethno-historians, it appears that the land in a given local tribe area was the concern of the whole tribe, that land use which in the past had been allocated by the chief had become the responsibility of the council and chief.

But even before the democratic reform in Indian local tribal government, there appears to have been a sense of equity in land allocations to hunt and trap and fish that all should be fed. Also, there was a definite understanding of sharing the hunt with others in the tribe. This social understanding was repeatedly reported when the

writer, e. g. Cartier<sup>3</sup>, Gyles<sup>15</sup> witnessed occasions of a successful hunter sharing his bounty with the hungry. Although at one time the chief might have had the power to make arbitrary land allocations, he would have had to reckon with the custom of families holding traditional areas, the custom of accommodating new individuals entering by marriage into a family group and the problem of re-allocating land when a family merged with another. Also, there were several references by ethno-historians of maintaining common lands to provide for the ill, the aged and the widows.<sup>16</sup>

Cartier and LeClercq found that the easternmost Micmacs had a very primitive governmental system and land allocation policy. They seem to have migrated seasonally as a group. But as we look south and west of the Gaspe, we find a more complex system of land tenure, and Dr. Speck writing about the Penobscots noted definite tribal and family land boundaries.<sup>17</sup>

In 1764 a survey was completed on the order of the Massachusetts Bay government and reported on the feasibility of building a road from Fort Pownall (Bangor) to Quebec City. The survey journal was presumably prepared by John Preble, Cap't and interpreter. A map prepared by Joseph Chadwick, surveyor, was attached to the journal. The map contains the designation of "Indians Land" on the west bank of the Penobscot River about opposite Penobscot Island. The journal also contains a page entitled "Indines Lands, so called" which tells about the Indians' complaint that the English had been killing so many beaver there were few left and had destroyed the breeding. This had impoverished many Indian families. The account further said: "That these hunting Ground and Streames were all parsele'd out to Certen familys time out of mind."<sup>18</sup> This sentence on

Penobscot land allocation policy of long standing supplements Dr. Speck's findings.

But however land was allocated, there was a definite sense among the Maine-Maritime Indians that land use had to be equitable, and that the bounty of the land should serve all the people. Seemingly, family boundaries were well understood. Despite the custom of traditional family land areas and the implication of inheritance, and the implication of the right of alienation to make room for a son-in-law from another family, there just was no implication of private ownership. The bounty of the land was for the family. A hunting group was frequently composed of more than one family. Here again the bounty of the hunt was divided among the group. This way of life of sharing the bounty of the land, and of considering the natural world as the residence for all was part of the teaching of Glooskap. This then was the understanding of land tenure as the English colonists came to Maine.

The English colonization of Maine began under the leadership of the second colony of the Plymouth Company chartered 1620.<sup>19</sup> Oddly enough, the Maine Indians initially were not hostile to the English. The Indians had been treated badly enough by the Popham crew in 1607<sup>20</sup>, had seen some of their people kidnapped by Weymouth in 1605<sup>21</sup>, and apparently had been visited by slavers long before. Verrazzano, early in the 16th century, had termed Maine the "Land of Bad People."<sup>22</sup> Verrazzano had encountered hostility at or near Cape Small. Samuel Eliot Morison felt that the Indians' hostility reflected a previous unhappy experience with European slavers.

But the English colonists and the natives were able to

get along with each other until 1675 when Maine and Massachusetts Indians exploded in anger under the leadership of King Philip. In the meantime, from 1625 to 1675, Maine Indians signed deeds conveying to the Englishmen most of the coastal lands from Kittery to Pemaquid. And Massachusetts Indians were conveying their lands to the English. The Plymouth Council had at first encouraged the settlers to buy Indian deeds as a pacification measure, but later prohibited the practice<sup>23</sup> The Plymouth Council and their man for Maine, Sir Fernando Gorges, were frequently in trouble with Parliament. Maine proved to be outside the area the Council could control. The Plymouth patentees and the colonists continued to buy lands from Maine Indians. The governments in Massachusetts and Maine changed, but the political turmoil in Massachusetts and Maine did not affect the willingness of Maine Indians to sign deeds. This turmoil and the uncertainty of the settlers about their lands increased their desire for some kind of titles. The settlers saw the Plymouth Company dissolved, new patentees claiming large areas, and a government under Andros come in and go. The introduction to *Part One, York Deeds*, has an excellent summary of the political changes in this period, including a brief account of the changes in Massachusetts laws from the older English laws relating to land transfers<sup>24</sup>. Sullivan's *History of Land Titles in Massachusetts* contains a chronicle of the succession of Massachusetts governments and their policies on land titles.<sup>25</sup> For purposes of this paper, it would be extraneous to discuss the political troubles of the Maine colonists. But for those who wish to study this part of history, the above references will be helpful.

I should include mention of a concept that developed in the minds of the colonists as they witnessed the Eng-

lish and Massachusetts governmental chaos. This concept greatly increased the colonists' desire for some kind of a deed to protect their lands. It was the concept that their labor on the land gave them some land rights. This was the colonists' argument against absentee patentees and absentees who, by descent or purchase claimed title to land previously acquired from Indians and absentees who by descent or purchase acquired deeds previously given by patentees. The colonists were being badgered by a lively real estate market. This market traded lands on which the colonists lived.<sup>26</sup>

The horde of colonists moved in. By 1675 there were more than 5000 Englishmen in Maine. Thirteen towns and plantations (including Monhegan) were established in that period from 1620-1675.<sup>27</sup>

The deeds the Indians of Maine signed reflect the avidity of the English buyers. Generally the boundaries of the conveyances included several hundred acres, much more land than a family could farm. Some buyers, as Major Phillips of Saco, acquired several thousand acres via Indian deeds.<sup>28</sup>

Except for a few deeds signed by women, the deeds were signed by Sagamores representing the local tribes. The earliest deed for which we have a record was given by Captain John Somerset (also known as Samoset) and Unongoit, Sachems, to John Brown of New Harbor on July 15, 1625. Later, on July 24, 1626, this instrument was acknowledged by both Sachems (Sagamores) before a Justice of the Peace.<sup>29</sup> The deed conveyed a large amount of land along the Muscongus (Medomak) river at New Harbor and west to Pemaquid, and included Muscongus Island. The two Sagamores acknowledged receipt of the consideration, full satisfaction and bound

themselves and their heirs to defend Brown's title and agreed to quiet and peaceable possession. But this did not mean that the Indians quitted the premises. This deed, like so many others, made no mention of rights reserved to the Indians. But as we well know, the Indians continued to inhabit the lands on which they lived before signing all these deeds.

After 1625 and possibly before then, the coastal Indians signed a great number of conveyances. Indirectly, we know that many were recorded in the *Sheepscot Records*. These records were taken to Boston, and were lost by fire.<sup>30</sup> Fortunately, all the Indian deeds which were recorded in the York registry are available.<sup>31</sup>

A few deeds were signed by women who appear to have been daughters or widows of Sagamores.<sup>32</sup> The terrible plague of 1616-7 greatly reduced Maine Indian population. In some areas the survivors were few.<sup>33</sup> Where the plague had not disrupted local governments, the deeds reveal that the local governments had authorized the Sagamores to sign. None of the deeds indicate that an Indian signing an instrument had a sense of individual land ownership, either in the Western sense or in the Indian sense of usufruct. The few deeds and affirmations of earlier conveyances, dated after the King Philip's War, do not indicate any breakdown in the concept of tribal control of land use. The contrary was true in Massachusetts. David Pulsifer's "Book of Indian Records for their Lands" clearly shows that by 1669 the Indians of several eastern and coastal areas of Massachusetts were signing deeds as individuals.<sup>34</sup> And earlier than 1669, the Massachusetts Indians had largely been persuaded to settle in some forty three "praying-towns" on the mainland and in eight on Nantucket and Martha's Vineyard. The Puritans by sundry pressures had segregated the In-

dian villages from white villages. "Praying towns" meant that the inhabitants "prayed to God". The General Court regulated the form of local government. Daniel Gookin who had been appointed superintendent of Massachusetts Indians in 1656, wrote of this.<sup>35</sup> From his account, it is evident that whatever traditional concept of land tenure they might have had, they had surrendered it. The condition of Massachusetts Indian Society was in marked contrast to that in Maine.

The Maine Indian deeds of this period frequently contain rights these Indians reserved for themselves, while allowing the buyers to also enjoy the fruits of the land. The deeds with the rights reserved show that the Indians intended to live right where they had previously lived. It serves little purpose to tabulate them, but it may be helpful to mention two of them. They are:

A statement, May 10, 1643, by Mr. Roles, Sagamore, to Humphrey Chadbourne that he had sold a section of land between two rivers to Mr. Chadbourne but had retained a parcel of the land. Later on May 8, 1646 Mr. Roles confirmed this "Bargain of my Right of Ware at the Fales of the great River of Newichawanucke" and retained for himself, his heirs and Executors "so much smale Alewives to fish Ground" as he, his heirs and Executors shall have occasion to make use of for planting from "Time to Time" and "likeways Fish to eat and also half the great alewives that shall be taken at that Ware from time to time."<sup>36</sup>

Deed, July 7, 1684, given by six Sagamores to Richard Wharton: One of the few post war deeds. Confirms Wharton's title of land acquired in part fifty years earlier and now because Wharton desires to settle a town and promote salmon and sturgeon fishing these Sagamores

convey more land. The Sagamores retained for their people the right to hunt, fish and plant, hunting by the Indians to be restricted to land "not inclosed."<sup>37</sup>

As noted before, many of the Maine Indian deeds contained no restrictions or rights reserved and did contain a clause granting the buyers peaceable access and possession. Today such a clause implies that the vendor shall get out. But the Indians did not leave. The deeds with the special rights reserved to the vendors confirm the implication that neither the Indians nor the colonists expected the Indians to leave. And some of the deeds contain the elements of a lease.<sup>38</sup>

As the deeds were always written in English, and obviously prepared for or by the buyers, and frequently entail several miles of lands, the question arises: Did the Indians know what they signed? Uniformly there are witnesses. Frequently, there are Indian and White witnesses. Generally the signing Sagamores went at later dates to York Registry and affirmed that they had signed the instruments. More importantly, many of the deeds bear internal evidence that the signers were serving as representatives of their tribes. The answer seems to be that the signers and the local tribes knew they had made an agreement. But the agreement could only have been that the Indians and the colonists would both use the land.

The Indians saw no reason why more than one colonist could not enjoy the same piece of land. So the Indians signed deeds for the same land to more than one buyer. This practice brought about a wondrous confusion in the colonists' land claims.

To the Puritans, the Maine Indians had done nothing to “improve” the land, and this was a sinful waste. The Puritans and other English colonists in Maine set great store in such phrases as “tilling the soil” and “wresting a living from the wilderness”. They held to the concept that they should subdue the earth. It became part of the culture of New England.<sup>39</sup>

By the middle nineteenth century, one historian looking back on the colonial period wrote:

“The conveyance from Somerset, and acquisition by Brown, marks the distinct legal boundary between barbarism and civility; the hunter, all unconscious of the nature and consequences of the legal formulas of the stranger, alienated his forests and hunting grounds, and relinquished the streams which had yielded their treasures every summer; he admitted the tiller of the soil to a permanent abode on his ancestral domain, and now the earth, for the first time, consecrated by the hand of labor, will yield her increase; migratory life must disappear before the tenure of the fixed cultivator of the soil; and the ensuing struggle between these hostile conditions of life could end only in the destruction of the weaker. The savage state of liberty could not coexist with individual permanent domain in the soil.”<sup>40</sup>

Lest we dismiss the above quotation as drivel, we have only to turn to the sermons, other Maine history books and the text books for children of that period for confirmation of Yankee attitudes. Little, of course, was written about the state of Indian agriculture as the colonists entered Maine.

The Maine-Maritime Indians were not an agricultural people to the degree as were the Iroquois. But they did grow vegetables and harvest the wild maize.<sup>41</sup> The John

Giles (Gyles) journal of his captivity among the Malecites relates a cultivation of corn (maize) near Meductic. Mr. & Mrs. Wallis writing about the Malecite Indians of New Brunswick<sup>42</sup> refer to the cultivation at the permanent spring and summer settlements close to the St. John River as seen by Cadillac (1692), Giles (1689-95), Champlain, n. d., and Father Chrestien Le Clerq (in the 1670's). Champlain had noticed that the Armouchiquois used a small spade like a wooden tool to aid in planting. This would have been along the coast of Maine roughly 1605. These Indians apparently were a coalition of tribes from Western Maine who came together long enough to defeat Bashaba near the mouth of the Penobscot River a few years later.

And, as we know from several of the Maine Indian deeds, there was some land cultivation elsewhere along the Maine coast.

The fact that there was some agriculture in Maine cannot be used to imply that Maine Indians had an agriculturally based society, but it can be used to imply that they had long established growing locations as they had fishing locations. This disputes the popular fallacy that these people had no accustomed seasonal habitation locations. When the colonists arrived and the Indians gave deeds to them, the Indians planned to hunt, fish, plant and harvest on the same land. The Indians truly planned to share with the colonists the use of the land.

It seems clear that the Maine Indian deeds meant one thing to the Maine Indians and quite a different thing to the English/Massachusetts land buyers. It also seems clear that the land buyers knew that the Indians intended to continue to draw upon the bounty of the land they conveyed in these deeds and to continue their accustomed habitation locations.

The land buyers would have understood the Indians' desires to retain access to their food, fish and meat supplies but neither the English nor the French bothered to discover why the Maine-Maritime Indians wanted to share their lands with the Europeans. The Europeans were convinced that the Indians were of a lower order of mankind and that their beliefs were a hodgepodge of magic and superstition. These assumptions of the Europeans were adopted by the New England born historians.

During the 1625-1675 period Massachusetts Indians were also conveying land to the English but these deeds were signed in quite a different context than those in Maine. During this period the Massachusetts Indians were corralled into segregated villages. Their local governments were regulated by the General Court. The Massachusetts Indians in signing deeds were not sharing but selling. The subjection of the Maine Indians came about much later. During this 1625-1675 period the cultural ties of Maine Indians with their kin in the Maritimes were so strong that their beliefs had not been submerged. Later these beliefs were submerged, but not destroyed.

It further seems evident that while Maine Indians made seasonal migrations they also had permanent seasonal habitation locations. The proximity of corn and vegetable plots and fishing locations with burial places strengthens this conclusion, e.g. the Newcastle-Damariscotta shell heaps and the nearby burial places.<sup>43</sup>

In Maine, the Indian sense that they were sharing not selling was part of the beliefs that were not extinguished. The sense today which Maine Indians have concerning the natural world and their participation in it underlie their belief that they have a claim for their ancestral lands.

— NOTES —

<sup>1</sup> Diamond Jenness, *Canadian Indian Religion*. Anthropologica, No. 1-1955. Research Center for Amerindean Anthropology. Univ. of Ottawa. pub. National Museum of Canada, Ottawa.

<sup>2</sup> W. F. Ganong, trans. *The Cadillac Memoir on Acadia of 1692*. Collections New Brunswick Historical Society, No. 13, 1930. St. John, N.B.

<sup>3</sup> James Phinney Baxter. *A Memoir of Jacques Cartier*. New York 1906.

<sup>4</sup> Letter, July 1, 1948 from E. T. Adney to Shaw (Avery Shaw, the New Brunswick Museum, St. John, N.B.) Archives, New Brunswick Museum, Document: Eastern Algonkian Art, Avery Shaw notes, Shelf 123. Quoted with permission of the New Brunswick Museum whose archivist, Mrs. Robertson, has kindly made a photo copy of the letter available at the Maine Historical Society Library.

<sup>5</sup> Diamond Jenness. "The Indians' Interpretation of Man and Nature." *Proceedings and Transactions, Royal Society of Canada*. 3rd. Series, vol. 24, Section 2, 1930.

<sup>6</sup> Stansbury Hagar. *The Celestial Bear*. Journal of American Folklore, from annual meeting December 28, 1899, American Folklore Society, offprint, n. d.

<sup>7</sup> G. W. Chamberlain. *A Wabanaki Cave Legend*. New England Magazine, 39, No. 1. September 1908.

Note: Chamberlain used the word "resurrection" and Jenness used the word "reincarnation" They seem to have made no differentiation in these words. One man apparently preferred one word, and the other preferred another. With Jenness, reincarnation seems only to mean restored to his former being.

Wabanaki: the association or confederacy of the Penobscots, Malecites, Micmacs and Passamaquoddies. The use of Wabanaki as part of the title of this legend connotes a legend common to these tribes.

<sup>8</sup> Frank G. Speck. "European folk-tales among the Penobscot" *Journal of American Folklore*, vol. 26, no. 99 (1913) p. 81-84.

Joseph Nicolai. *The Life and Traditions of the Red Man*. Bangor, 1893. The author's version of Glooskap legends heavily encrusted with Biblical and Christian doctrine and pious opinions.

<sup>9</sup> Kay Hill. "Glooscap, the good chief." *Agenutemagen*. vol. 1, no. 9, July 1972. Frederickton, N.B. A well written one page composite of several versions of the Glooscap legends, including the creation story.

Frank G. Speck. *Wawenock Myth Texts from Maine*. U.S. Bureau of Ethnology, 43rd Annual Report. Washington, 1920. The Wawenocks, before their flight to Canada early in the 18th century, probably lived south-west of the Penobscot, and east of the Kennebec Rivers. They were known as "People of the bay country", and had strong ties with the Penobscots. The version Dr. Speck uses includes European encrustations, which he notes. *Letter, Thomas Gorges to Henry Gorges, 19 July, 1640*. (Robert E. Moody), ed. Maine Historical Society Newsletter, Vol. 12, No. 1b. p. 49.

"The great Sagamour hath bin with me to welcome me to his country. I find them very ingenious men, only Ignorant of the true wisdome. I told him I pittied his case that he was soe Ignorant of God. He answered me he knew his great God Tanto, that he lives westward in a great city and feeds upon pidgeons and they that doe well shall goe to him to the west country, and the naughty men shall go into the east cold country, and with those that dy they bury theyr bows and arrowes, money which they call wampumpeage and theyr other things bec: they (?think?) they shall have need of it where they goe." Mr. Moody noted that the Sagamore probably was Thomas Chabinocke of Wells. Thomas Chabinocke might have been a Pennacook. The Pennacooks had lived in York County, but in 1640 were beginning to move north. Charles G. Leland, *Algonquin Legends of New England*, Boston, 1884.

<sup>10</sup> Charles G. Leland and John Dyneley Prince. *Kuloskap the Master*. Funk & Wagnalls Co., New York, 1902.

<sup>11</sup> For a discussion of the varying points of view on Indian concepts of land tenure at the time of the arrival of the Europeans and for comments on the studies scholars have made on this subject, see the author's introduction to Alfred G. Bailey. *The Conflict of European and Eastern Algonkian Cultures, 1504-1700*. 2nd. ed. Univ. of Toronto Press, 1969.

<sup>12</sup> William F. Ganong, trans. LeClercq (Father Chrestien) *New Relation of Gaspesia*. The Publications of the Champlain Society, Toronto, 1910, ch. 14, p. 235.

<sup>13</sup> Montague Chamberlain. *Indians of New Brunswick in Champlain's Time*. Acadensis. Vol. 4, July-October 1904, nos. 3-4.

<sup>14</sup> Frank G. Speck. *Penobscot Man*. Univ. of Penna Press. Phila. 1940.

<sup>15</sup> *Memoirs of Odd Adventures, Strange Deliverances, etc. in the Captivity of John Giles, esq. written by himself*. Boston, 1736. reprinted for William Dodge, Cincinnati, 1869.

<sup>16</sup> Frank G. Speck. "The Family hunting band as the basis of Algonkian Social organization." *American Anthropologist*. New Series. vol. 17. (1915) pp. 289-305. p. 299 Penobscot and p. 302 Micmac.

<sup>17</sup> Frank G. Speck. "Land Ownership among Hunting Peoples in Primitive America and the World's Marginal Areas." *Proceeding International Congress of Americanists*. 1928. pp 327-8. In this article Dr. Speck wrote of "well defined inherited districts" which in his mind implied individual ownership, not in the Western sense of land ownership, but in the right to pass by death the right to the bounty of the land to descendants.

<sup>18</sup> *Journal of a Survey throu the intere parts of the Countery from Penobscot to Quebec, 1764 By Order of the Government of the Massachusetts Bay*. Map. manuscript copy. Joseph Williamson papers, Manuscript Collections, Maine Historical Society, Col. 110, Box 1 c/17.

<sup>19</sup> *Great Patent of New England by James I. of England, November 3/13, 1620*. Documentary History, Farnham Papers, Maine Historical Society Collections, Series 2, Vol. 7. Portland, 1901.

<sup>20</sup> William D. Williamson. *History of the State of Maine*. 2 Vols. Hallowell, 1832. Vol. 1, ch. 1.

<sup>21</sup> Williamson, Vol. 1, ch. 1, p. 194.

<sup>22</sup> Samuel Eliot Morison. *The European Discovery of North America*. Oxford Univ. Press, New York, 1971, p. 308.

<sup>23</sup> N. B. Shurtleff, ed. *The Records of the Governor and Company of the Massachusetts Bay in New England*. Vol. 1 (1628-41). Boston, 1853. Order of 17 April 1629. Extract: "If any of the saluages ptend right of inheritance to all or any pt of the lands granted (graunted) in (our) pattent, we pray (you) en-

deavor to prchase their tittle, that wee may avoyde the least scruple of intrusion.”

Order of 4 March 1633-4. Extract: “It is ordered that noe pson whatsoeuer shall buy any land of any Indian without Leause from the Court.”

<sup>24</sup> *York Deeds*. Book 1. Portland, 1887.

<sup>25</sup> James Sullivan. *The History of Land Titles in Massachusetts*. Boston, August 1801.

Sullivan, when he was attorney general of Massachusetts, wrote about (p. 45) the problems in Maine after the King Philip’s War (1675-1678-9). He wrote of the Act of 1716 by the General Court which act appointed commissioners to receive and record claims of people in Maine. “The Indian deeds were revived with other claims, and thus gained a standing as legal titles. The government, however, was alarmed at their extensiveness; and on 1731, passed an act, prohibiting purchases of the natives without license from the Legislature; and declaring all deeds, taken without such license, to be null and void. There had been a similar act passed in the year 1633; but the eastern territory was not then within the jurisdiction of Massachusetts.

*Note.* After the King Philip’s War, land titles in Maine were in chaos. Successive patentees had given deeds in conflict with deeds from earlier patentees. The Duke of Newcastle had received a grant from the King and thought of settling a community. The Indians willing to share the fruits of the land had signed deeds for the same tracts with more than one buyer. Former inhabitants unwilling to return to Maine sold their plots derived from Indian deeds. And returning settlers found the titles they had received from the Indians disputed by a new wave of settlers. The General Court had passed orders in 1633, 1700 and 1715 forbidding the purchase of land from the Indians without a license from the Court. But these orders had been ignored in Maine. So to bring order out of chaos the General Court appointed a Commission. Their report will be of interest to those who want to know how the problem was settled. It is: *Order of both branches of the Legislature of Massachusetts to appoint Commissioners to investigate the Causes of the Difficulties in the County of Lincoln; and the Report of the Commissioners thereon with the Documents in support thereof*. Boston, 1811,

printers: Munroe and French. The commissioners held that no validity ought to be given to Indian deeds unaccompanied by some previous allowance or subsequent ratification of the Legislature and that Indian deeds without such an allowance would be admitted only as evidence of a relinquishment on the part of the native of his right of hunting and fishing within the limits described and of a right of peaceable entry to the grantee. The Commissioners favored the owner in residence to the extent of his improvements and actual possessions on the land. Claims of non-residents were largely swept aside along with the Duke of Newcastle's grant.

<sup>26</sup> James Sullivan. *The History of the District of Maine*. Boston, 1795. Reprinted by Maine State Museum, Augusta, 1970. Ch. 7, p. 129 "The Titles from the Natives." Contains his justification of the contribution of labor to land ownership. He dismissed Indian ownership because they did not exploit the natural resources which according to Sullivan was a crime against civilization.

<sup>27</sup> Williamson. Vol. 1, ch. 3, p. 242.

<sup>28</sup> David Sewall. *Coppy (sic.) of Mr. Sewall's state of Saco lands, under Major Phillips' purchase of the Indians*. 15 pp. manuscript. Manuscript Collections, Maine Historical Society. Misc. Box 39/2.

This document apparently prepared about 1770 for Nathaniel Sparhawk to assist in clarifying title disputes in the Saco river valley arising from Major Phillips' purchase of land, 1660-1664.

<sup>29</sup> *Deed*. July 15, 1625. Captain John Somerset and Unongoit, Sachems, to John Brown of New Harbor. Maine Historical Society Collections, Series 1. Vol. 5 Portland, 1857.

John Wingate Thornton. "Ancient Pemaquid, an Historical Review." Maine Historical Society Collections, Series 1. Vol. 5 Portland, 1857. Mr. Thornton believes that the Justice of the Peace, a Mr. Abraham Shurt, is entitled to be known as "the father of American conveyancing."

<sup>30</sup> David Quimby Cushman. *The History of Ancient Sheepscott and Newcastle*. Bath, 1882.

Samuel Johnson. *Some Account of an Ancient Settlement on Sheepscott River*. Maine Historical Society Collection. Series 1. Vol. 2. Portland, 1847.

<sup>31</sup> *York Deeds*. Books 1 and 2. (both) Portland, 1887.

<sup>32</sup> *The Declaration of Jane, the Indian of Scarboro concerning Land*, September 19, 1659. George Folsom, *History of Saco and Biddeford*. Saco, 1830. Jane (Uphannum) declared that in 1651 she, her brother and mother, widow of Sagamore, sold land at Blue Point River to \_\_\_\_\_ with the right to plant as long as she and her mother lived, p. 321 Appendix. This declaration described as a deed in *York Deeds*, Book 2, Portland, 1887.

*Deed*. January 15, 1670. Jhone to Anthony Brackett. Manuscript Collections, Waldo papers. Col. 34, Box 1 1/1 Maine Historical Society. Jhone was a woman.

<sup>33</sup> H. V. Williams. *The Epidemic of the Indians of New England 1616-1620 with Remarks on Native American Infections*. Johns Hopkins Hospital Bulletin: 20. pp. 340-349. (1909)

"Gorges, Brief Narration." Massachusetts Historical Society Collections. Series 3, Vol. 6. p. 57.

<sup>34</sup> David Pulsiver, ed. *Records of the Colony of New Plymouth in New England*. Vol. 1 (1620-1651). Boston, 1861. Includes "Book of Indian Records for their Lands." These records, not in any discernible order, pertain only to Massachusetts Indian deeds and declarations of ownership. The dates appear to be 1669-1697.

<sup>35</sup> Daniel Gookin. *The Historical Collections of the Indians in New England*. Spencer, Mass. 1970. Reprinted from Massachusetts Historical Society Collections, 1792, with notes added by Jeffrey H. Fiske.

<sup>36</sup> *York Deeds*. Book 1. Portland, 1887.

<sup>37</sup> Documentary History, Maine Historical Society Collections, Second Series, Vol. 24. Portland, 1916, pp. 211-7. Also a copy in Manuscript Collections, Maine Historical Society, Vol. 1, Box 4/10.

<sup>38</sup> *Deed*. June 14, 1659. Nanuddemaure to John Parker. *York Deeds*. Book 2, Portland, 1887, also Documentary History, Maine Historical Society Collections, Series 2, Vol. 24. Portland, 1916, p. 227. A consideration was acknowledged supplemented by Parker's agreement to "a quart of Lyquor" to be given on or before Christmas Day, annually, "to Nanuddemaure and his heyres forever" and further reserves to Nanuddemaure and his heirs the right to fish, hunt and trap on the land.

<sup>39</sup> Sullivan. *The History of the District of Maine*. Ch. 7. "Of Titles from the Natives."

<sup>40</sup> J. Wingate Thornton. *Ancient Pemaquid, An Historical Review*. Maine Historical Society Collections, Series 1, Vol. 5. Portland, 1857. p. 193.

<sup>41</sup> John Giles. *Memoirs*.

<sup>42</sup> W. D. and R. S. Wallis. *The Malecite Indians of New Brunswick*. National Museum of Canada, Ottawa, 1957. Bulletin 148, Anthropological Series no. 40.

<sup>43</sup> David Cushman. *Clam Shell Deposits*. Manuscript, dated January 27, 1864. Manuscript Collections, Maine Historical Society, Coll. 110, Box 3C/35. 11 pp.