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UNCOMMON GROUND: PAWTUCKET-PENNACOOK STRATEGIC LAND
EXCHANGE IN NATIVE SPACES AND COLONIZED PLACES OF ESSEX COUNTY
AND MASSACHUSETTS BAY IN THE SEVENTEENTH CENTURY

A Thesis Presented

By

KRISTINE MALPICA

Submitted to the Office of Graduate Studies,
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in partial fulfillment of the requirements for the degree of

MASTER OF ARTS

May 2021

History Program

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Approved as to style and content by:

Jonathan M. Chu, Professor
Chairperson of Committee

Maria John, Assistant Professor
Member

J. Cedric Woods, Director
Institute for New England Native American Studies
Director, Critical Ethnic and Community Studies Program
Member

Elizabeth McCahill, Program Director
History Program

Timothy Hacsí, Chairperson
History Department

ABSTRACT

UNCOMMON GROUND: PAWTUCKET-PENNACOOK STRATEGIC LAND EXCHANGE IN NATIVE SPACES AND COLONIZED PLACES OF ESSEX COUNTY AND MASSACHUSETTS BAY IN THE SEVENTEENTH CENTURY

May 2021

Kristine Malpica, B.A., University of Massachusetts Boston
M.A., University of Massachusetts Boston

Directed by Professor Jonathan M. Chu

This thesis analyzes the historical, legal, and cultural dimensions and processes of land exchange between the Pawtucket-Pennacook and English colonists of Massachusetts Bay Company/Colony, in the seventeenth century. A close reading of colonial archives, reveals political and socio-economic factors, which initially motivated the Pawtucket-Pennacook to trade, share their homelands and ally with the English, forging a brief middle ground period. Through re-interpretation of legal documents and colonial sources, this study illustrates how the Pawtucket-Pennacook attempted to maintain sovereignty and territorial autonomy over Native spaces, which became some of the earliest colonized places in Massachusetts Bay. This research updates and adds to the historiography on Native/Anglo land use, tenure, deeds and legal relations in greater Essex County, Massachusetts, which has received little scholarly attention in the past century, despite its significance as one of the first locales of cross-cultural interaction and territorial transaction.

A careful re-examination of seventeenth century Native/Anglo land records and court cases, demonstrates that the Pawtucket-Pennacook were not merely victims of English conquest or trickery, but gained early intelligibility of colonial laws and actively asserted their rights, in an attempt to resist displacement through adaptive, hybrid legal, and land exchange practices. Re-analysis of these property negotiations and legal disputes, illuminates Native agency, and resiliency, in strategies of accommodation (cooperation), litigation (legal redress) and mobilization (relocation/removal), used by Pawtucket-Pennacook Sagamores and communities, who persisted in the wake of settler colonialism, dispossession and relations of increasingly uncommon ground with the English, within and beyond Massachusetts Bay.

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Much gratitude to Dr. Castle McLaughlin, (Curator of North American Ethnography at Peabody Museum Harvard) for invaluable professional mentorship, sage scholarly advice, hospitality, and abiding friendship, which has furthered my academic aspirations and career path in historical research. Your collaborative curation and exhibitions with Indigenous scholars, artists, and groups serves as a model for ethical stewardship and interpretation of Native history, and contemporary culture, which continues to inspire my public history work.

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for supporting my thesis and for the opportunity to collaborate with the Upstander team on impactful public history research, education, and documentary films which probe the impacts of cultural genocide and land dispossession, while acknowledging Indigenous survivance in *ckuwaponahkik*. Your words and creative works of wisdom inspire me to stand up for truth and justice for all, as I endeavor to apply my research to bring new awareness to challenging histories, and our responsibilities to co-create a more peaceful present and equitable future.

I am indebted to Mary Ellen Lepionka, whose broad ethnohistorical/anthropological knowledge of the Pawtucket has greatly enriched my understanding of Indigenous history and culture in the Essex County lands we call home. Her work provides a solid foundation for further research, informing my local history approach to this project. I cannot thank you enough for your time, advice, and generosity of spirit, in sharing invaluable resources, and patience in responding to my innumerable questions and unending queries. Your honest, keen critiques were also crucial in making course corrections which improved my final thesis.

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Many thanks for the support of the UMB History and Anthropology Departments. My

heartfelt appreciation to Professor McCahill, for standing by me through the ups and downs, and all your extra time and feedback throughout my thesis process, from start to finish. Your kind, wise and honest advice served as a constant guiding beacon in navigating the graduate program. In gratitude to my advisor and toughest critic, Dr. Chu, for challenging me to ask hard questions about historical complexities, avoid easy answers, and do my best work. Your scholarly expertise, editorial acumen, and commitment to upholding the highest level of historical inquiry and mastery also helped me to sharpen my analytical and writing skills. While we did not always agree on the theoretical or methodological approach, you taught me much, and I am thankful that we found common ground, in the final analysis, making this a far better thesis. My thanks to Professor John, whose collaborative work with Native groups on pressing issues, I have long admired. The Native American and Indigenous Studies program, directed by Professor John, was one reason I chose to pursue my research at UMB. Thanks for your time to co-advise and willingness to support my multidisciplinary interests, pointing me to invaluable historical resources, and providing keen insights on contemporary NAIS research perspectives and approaches, helping me to integrate these in my final thesis.

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CHAPTER 1

INTRODUCTION

For thousands of years before Europeans arrived on the Atlantic coast, Indigenous peoples inhabited *W'banakik* (the Algonquian Dawnland in Abenaki), where the sun's light first reached the Pawtucket-Pennacook homeland of *Ckuwaponahkik* (New England).¹ The *Molodemak* (Merrimack) River, served as a vital intratribal conduit of socio-economic and political interactions for Native groups. The Pennacook Sagamore Kancamagus described the mighty Molodemak as "One Rever great Many Names," referring to numerous *wolhanak* (river valley) communities and interconnected kin networks, along its shores.² The Pawtucket-Pennacook had a central village, *Wamesit*, near Pawtucket Falls (later Lowell/Chelmsford) on the upper Molodemak, and seasonal subsistence land stretching from the river's Atlantic mouth (later Essex County), to its Lake Winnepesaukee source.³

¹ Lisa Brooks defines these terms in the Abenaki language, also spoken by the Pawtucket-Pennacook. See *The Common Pot: The Recovery of Native Space in the Northeast* (Minneapolis: University of Minnesota Press, 2008), 4-7; Champlain noted a distinction between the language spoken in Agawam and Massachusetts Bay. Archaeologist Robert Grumet and demographer Sherburne Cook, conform to Champlain's assessment of linguistic distinctions and cultural boundary between the Pennacook and Massachusetts. See Stewart-Smith, "The Pennacook Indians and the New England Frontier, circa 1604-1733," (PhD diss., The Union Institute, 1998), 7, 9, 55-56.

² Sagamore Kancamagus's letter to New Hampshire Governor Cranfield, appears in Nathaniel Bouton, ed., *New Hampshire Provincial Papers*, vol.1 (Concord, New Hampshire, 1867): 583-84.

³ 26 village sites were identified in archaeological surveys by Warren Moorehead along 40 miles of the Merrimack River from Tyngsboro to Newburyport. Archaeological evidence has unearthed sixteen Pawtucket villages in Agawam alone, from the mouth of the Molodemak to the Ipswich River. Warren King Moorehead, and Benjamin Lincoln Smith, *The Merrimack Archaeological Survey* (Salem: Peabody Museum, 1931); Sherburne Friend Cook, *The Indian Population of New England in the Seventeenth Century* (Berkeley: University of California Press, 1976); Barbara E. Luedtke, and Massachusetts Historical Commission. *The Camp at the Bend in the River: Prehistory at the Shattuck Farm Site* (Boston: Massachusetts Historical Commission, 1985); Mary Beaudry, "Scratching the Surface: Seven Seasons at the Spencer Peirce Little Farm, Newbury, Massachusetts," *Northeast Historical Archaeology* 24 (1995): 19-50; John R. Grimes et al., "BULL BROOK II," *Archaeology of Eastern North America* 12 (1984): 159-83; Dean R. Snow, *Foundations of Northeast Archaeology* (New York: Academic Press, 1981); Robert Steven Grumet, *Historic Contact: Indian People and Colonists in Today's*

Missionary John Eliot and Massachusetts Bay Colony Indian Superintendent Daniel Gookin, first noted large seasonal gatherings on the Molodemak, where they eventually proselytized to Native converts and congregants, at Pawtucket Falls: “a great confluence of Indians...usually resort to this place in the fishing seasons,” for communal festivities.⁴ This river also facilitated a significant cross-cultural exchange of ideas, goods and lands, between the Pawtucket-Pennacook and English, who traded, settled and sought common ground in these Native spaces, which became the earliest colonized places in Massachusetts Bay.⁵

Gookin deemed the Pawtucket: “the last great sachemship of Indians,” describing their traditional homelands,”...their country lieth north and northeast from the Massachusetts, whose dominion reacheth so far as the English jurisdiction or colony of Massachusetts doth now extend; and had under them several other smaller sagamores.” He also alluded to amicable relations between the English and Pawtucket, “a considerable people heretofore, about three thousand men, and held amity with the people of Massachusetts.” Gookin claims, however, by the mid seventeenth century, they were “almost totally destroyed by the great sickness that prevailed among the Indians...so at this day they are not above two hundred and fifty men, beside women and children.”⁶ His account attests to the

Northeastern United States in the Sixteenth through Eighteenth Centuries (Norman: University of Oklahoma Press, 1995); Mary Ellen Lepionka, "Unpublished Papers on Cape Ann Prehistory," *Bulletin of the Massachusetts Archaeological Society* 74, no. 2 (2013): 45-92; Mary Ellen Lepionka, "Native Agricultural Villages in Essex County: Archaeological and Ethnohistorical Evidence," *Bulletin of the Massachusetts Archaeological Society* 81, no. 1-2 (2020): 65-90.

⁴ Daniel Gookin, *Historical Collections of the Indians in New England* (New York: Arno Press, 1972), 46.

⁵ Captain John Smith noted over 30 Pawtucket-Pennacook villages along the Merrimack River valley in 1614. For more information on Smith's account and Moorehead's 1931 survey see Cook, *The Indian Population of New England*, 23-27; David Stewart-Smith, “The Pennacook Indians and the New England Frontier, 88. Ethnohistorian David Stewart Smith's research has shown that Pawtucket villages were named after natural features and organized under small, patrilineal family bands in, “The Pennacook Lands and Relations: Family Homelands,” in *The Indian Heritage of New Hampshire and Northern New England*, 124; William Wood, *New-England's Prospect. Being a True, Lively, and Experimental Description of That Part of America, Commonly Called New-England* (Boston: Printed for the Society, 1865); John J. Currier, *History of Newbury, Massachusetts, 1635-1902* (Boston: Damrell & Upham, 1902), 14-18.

⁶ Gookin, *Historical Collections*, 8-9. Gookin used the term "Pawtucket," the name of village around Lowell as general term largely encompassing the same territory as Champlain's Armouchiquois. Grumet, *Historic Contact*, 105; David Stewart Smith claims that at one time Native New England had a relatively cohesive social commerce and consanguinity, without hard ethnic boundaries between groups. As the range of economic and kin ties fluctuated constantly, it is nearly impossible to precisely define tribes or territories prior to contact. See “The Pennacook Indians and the New England Frontier”; Essex

political authority and territorial autonomy of this once populous and powerful, multi-cultural group, estimated to have numbered roughly 15,000, before, as Gookin claims, they were wiped out by European plagues, by the time he penned his tract near the end of the century.⁷

Gookin's colonial period account speaks to a common historical narrative of lamentable, yet inevitable Native decline and displacement, due largely to English disease and dominance. This oversimplified explanation, however, omits mention of the implementation of Massachusetts Bay Colony legal system and impact of property laws on Indigenous groups, which led to a clash of cultures, land ways, political and socio-economic systems. This thesis seeks to counter ongoing misunderstandings of colonial conquest, and dispossession, with an uncommon story of Pawtucket-Pennacook creativity, resiliency, persistence, and survival, through cross-cultural land practices and legal strategies.

In their early engagement with English colonists and the legal system of Massachusetts Bay Colony during the seventeenth century, the Pawtucket-Pennacook attempted to negotiate a middle ground, largely through strategic accommodation in reciprocal exchange, and hybrid land sharing practices, relying on a mutual tolerance of differences and creative misunderstandings.⁸ Despite an initial period of cooperative coexistence, colonial land encroachment, resource commodification, speculation, punitive laws, failed litigation strategies, and violent displacement, led to legal power inequities and

County ethnohistorian Mary Ellen Lepionka's research concurs, that "The Algonquians of Essex County were not tribes or chieftainships, but tributary patrilineage-based bands in shifting confederations and alliances," in "Native Agricultural Villages in Essex County," 65-66. I follow this model in defining Pawtucket-Pennacook, as a political coalition consisting of multiple group subsidiaries, with wide ranging geographic and cultural affiliations.

⁷ Pre-contact population estimates for the Pawtucket-Pennacook along the Molodemak River range from 15,000- 22,000 in Cook, *The Indian Population of New England*, 23-27.

⁸ Richard White, *The Middle Ground Indians, Empires, and Republics in the Great Lakes Region, 1650-1815* (New York: Cambridge University Press, 2011).

dispossession, prompting Pawtucket-Pennacook mobilization and resulting in relations of “uncommon ground” with the English after the mid-seventeenth century.

This thesis analyzes seventeenth century Pawtucket-Pennacook land exchange with the English, in Native spaces which became colonized places of Essex County and Massachusetts Bay. Land and legal negotiations in this period reveal accommodation and litigation and mobilization strategies used by Native proprietors and groups seeking to resist displacement, and maintain territorial autonomy, political sovereignty, and a middle ground with the English. These cross-cultural land exchange practices and legal strategies form the interpretive lens and organizational framework for the three chapters of this study.

This thesis began as a local micro-history of land transactions between the Pawtucket and English colonists in seventeenth century Essex County Massachusetts. However, this Anglo settler framing and mapping of Pawtucket territorial and political boundaries, is inherently culturally biased and analytically problematic, in interpreting and reconstructing an historical narrative of Native spaces, that aligns with Indigenous perspectives and land practices. As I discovered, the inextricable kinship ties, socio-economic, geo-political and military interconnections between the wide-spread Pawtucket-Pennacook alliance, especially during and after King Philip’s War, I felt it essential to expand the scope, to include land and legal relations between the English and Pawtucket-Pennacook in and beyond Massachusetts Bay, including praying towns and northern Pennacook Confederacy territories.

The title, “Uncommon Ground,” alludes and poses a counterpoint, to, Richard White’s seminal frontier study, *The Middle Ground Indians, Empires, and Republics in the Great Lakes Region, 1650-1815*, illustrating reciprocity between Algonquian refugee populations and the French. White defines the middle ground as a “search for

accommodation and common meaning," describing an unstable paradigm, "in between cultures, peoples, and in between empires and the nonstate world of the villages."⁹ Mutual accommodation, is, likewise, evident in cross-cultural exchange, land, and resource negotiations, between the Pawtucket-Pennacook and English, who sought to benefit from one another to survive, during an initial period of change and instability, in the early seventeenth century, when neither side could dominate the other, without serious consequences.

The middle ground theory challenges earlier historical narratives, which emphasized European conquest and assimilation of vanquished Native peoples of New England. It also complicates benign narratives of culture contact and assimilation. My analysis of colonial era deeds, court records, documents and accounts reveal that the Pawtucket-Pennacook of Essex County and Massachusetts Bay were not naive victims of English law or trickery but quickly learned how to strategically navigate the colonial legal system, in an attempt to preserve their homelands and lifeways, through adaptive, hybrid legal practices. My interpretation of Pawtucket-Pennacook legal intelligibility, modifies the "new Indian history," claiming that English legal deceit led to the conquest of Native lands.¹⁰

While there have been recent valid critiques of the middle ground theory, including overuse and oversimplification in applying the theory to describe every kind of cultural compromise, Phil Deloria, claims that White's theory endures, due to its inherent complexity which rejects two primary, earlier analytical tendencies, including mythical tropes of cross-cultural affinity, as well as models of Indigenous acculturation and dependency. I concur with Deloria, that the middle ground remains a valuable analytical tool, in its ability to

⁹ White, *The Middle Ground*, xxvi.

¹⁰ Francis Jennings, "The Deed Game," in *The Invasion of America: Indians, Colonialism, and the Cant of Conquest* (New York: Norton, 1976). For discussion on legal hybridity, see Jennifer Pulsipher, "Defending and Defrauding the Indians," in *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America*, ed. Brian P. Owensby and Richard J. Ross (New York: NYU Press, 2019), 89.

reevaluate the dynamics of cross-cultural relations, counter biased historical narratives of white protagonists, and also as an interdisciplinary model, which integrates political, socio-economic, ecological, and legal approaches.¹¹ I have sought to apply the middle ground theory in all these ways to help counter historical narratives of Pawtucket-Pennacook conquest and erasure, through analysis of many stages and changes in Native/Anglo land exchange and legal relations, throughout the seventeenth century.

In the first chapter, I illustrate how the Pawtucket-Pennacook and early English colonists forged a middle ground, using White's concepts of "creative misunderstandings," and "mutual tolerance of differences," practiced by French and Natives, who did not fully "understand" each other's laws and customs but negotiated, based on "improvised accommodation." This is evident in case studies of early trade relations and terms of seventeenth century deeds and legal agreements reached by Pawtucket-Pennacook and English leaders, where each relied on their own imperfect cultural and legal understandings of the other, in cooperative land use and resource sharing, which helped to create a period of mutual accommodation in Essex County and Massachusetts Bay. Evidence for this includes Native proprietors allowing the English to settle on their lands, perceiving this as a means of securing trade and allegiance, while continuing to assert territorial autonomy and bring the English under their sphere of political influence, by requiring ongoing tribute payments. For example, in 1639 the town of Cambridge was required to "give Squa Sachem a coate every winter while she liveth," signifying this Massachusetts Native leader and proprietor's understanding and expectation of an ongoing reciprocal relationship.¹² On the other hand, the English likely perceived their gifts of goods as land payment, establishing desired trade and

¹¹ Philip J. Deloria, "What Is the Middle Ground, Anyway?" *The William and Mary Quarterly* 63, no. 1 (2006): 17-18.

¹² Pulsipher, "Defending and Defrauding the Indians," 91-2.

alliance, while satisfying legal land title under Massachusetts Bay Colony charter and laws.

My use of the territorial metaphor, *Uncommon Ground*, as a title, is a nod to White's theory intended to illustrate the result of changing patterns and processes of cross-cultural land exchange and legal relations, which eroded the middle ground, in Native spaces, which became colonized places in and beyond Massachusetts Bay, by the mid seventeenth century. My analysis of the impacts of English colonization on the Pawtucket-Pennacook, which led to relations of uncommon ground, uses White's thesis of the middle ground as a metaphor for process and place. His theory posits that this "process, is, if not a universal aspect of human communication, a common one." White claims this "process is quite common, yet the construction of a historical space in which the process becomes the basis of relations between distinct peoples is probably less common."¹³ I use White's theory as a barometer of sorts, for evaluating to what extent the middle ground existed in land and legal relations between Natives and English colonists in seventeenth century Essex County and Massachusetts Bay.

The title and metaphor, *Uncommon Ground*, is also a sort of hybrid reference to White's *Middle Ground*, as well as Kathleen DuVal's more recent work, *Native Ground*, about Arkansas Valley groups, who retained power during the colonial period.¹⁴ My analysis of Pawtucket-Pennacook/Anglo power differentials and early quest for common ground, more closely resembles White's *Middle Ground* of the Great Lakes, than DuVal's *Native Ground*, of Arkansas, where Natives maintained a greater degree of cultural, economic, political, and territorial autonomy, vis a vis the French, than in the pays d'en haut or Pawtucket-Pennacook of Massachusetts Bay, during English colonization. However, as in

¹³ Richard White, "Creative Misunderstandings and New Understandings," *William and Mary Quarterly* 63, no. 1 (2006):10.

¹⁴ Kathleen DuVal, *The Native Ground: Indians and Colonists in the Heart of the Continent* (Philadelphia: University of Pennsylvania Press).

Arkansas and the Great Lakes, Pawtucket-Pennacook impacted by intertribal war, negotiated mutually beneficial alliances with colonial powers. Duval and White provide differing models for evaluating Native agency, power and strategy in cross-cultural exchange practices, cooperative land use, economic interdependence, and reciprocal relations.

My first chapter, which emphasizes “a quest for common ground,” also pays tribute to Lisa Brooks’ terrestrial concept of “the common pot,” as “ a cooperative, interdependent Native environment emerges from within Native space...that which feeds and nourishes. It is the wigwam that feeds the family, the village that feeds the community, the networks that sustain the village.”¹⁵ I use her term in my analysis of Pawtucket-Pennacook communal ecology and kin-based land use and tenure systems, gender roles, socio-political organization and subsistence practices. My interpretation of early exchange further reveals how Native groups extended the common pot to the English, through reciprocal trade, aid, land sharing practices, and mutual accommodation, which forged early middle ground relations. As this thesis argues, however, the processes of colonization rapidly led to Native/Anglo power imbalances, legal imperialism, and dispossession, shattering the common pot, and creating relations of uncommon ground, by the end of the seventeenth century. Finally, *Uncommon Ground* alludes to the erosion of early colonial land traditions of commons (later enshrined in the name, Commonwealth of Massachusetts), as well as cross-cultural land exchange and legal practices, undermining the quest for common ground by Native and Anglo proprietors in the first decades of seventeenth century colonization in and beyond Massachusetts Bay.

Due partly to the inherent cultural/legal English bias of colonial records, I apply an interdisciplinary approach to interpret Pawtucket-Pennacook deeds, land exchange, and legal

¹⁵ Lisa Brooks, *The Common Pot: The Recovery of Native Space in the Northeast* (Minneapolis: University of Minnesota Press, 2008), 4-7.

documents. In addition to traditional historical methods of analyzing archival sources, I also draw on anthropology, archaeology and the more recent field of Native American and Indigenous Studies, which provide a theoretical, decolonizing lens, through which I seek to elicit a scarce and largely inaccessible Native perspective from obtuse colonial archives.

Decolonization as a theory, has recently been applied by scholars in the field of Native American and Indigenous Studies, notably, Linda Tuhiwai Smith, who utilize this framework in an attempt to give voice to Indigenous historical and cultural perspectives, lived experiences and inclusion of contemporary descendant groups.¹⁶ This has also led to the development of new approaches to interpreting archival sources, which recognizes Native agency and reveals subaltern perspectives and practices. While my approach has not included collaboration with Native groups, I have attempted to use this framework to reinterpret colonial sources, in order to reveal creative responses to the impacts of settler colonialism, including adaptive legal practices and territorial exchange strategies. Through this lens I seek to illuminate Indigenous territorial tenure systems, resource use, land exchange and legal practices, traditional ecological knowledge, and Abenaki language terms for Native spaces, previously interpreted via English settler colonial narratives and ontology.

Although I apply decolonizing methods, intending to reify a Native perspective on the past, this has its limitations and problems, including attempting to delineate Indigenous cultural relations, territorial affiliations, land tenure and legal practices in the past, and reconcile them with cultural knowledge and claims of descendant communities. There are also consequences of telling stories about the past, which may have real life, land, and legal

¹⁶ Decolonization originally referred to the dissolution of colonial control and emergence of new independent states post WWII. See Linda Tuhiwai, Smith, *Decolonizing Methodologies Research and Indigenous Peoples* (London: Zed Books, 2012), 29-30.

implications for Native groups in the present and future. As Eve Tuck and K. Wayne Yang have pointed out, there is an inherent “incommensurability” in scholarly efforts to apply critical methodologies, metaphorically, which may lead to “reinhabitation,” and inadvertently further the hegemony of settler colonialism.¹⁷ Christine DeLucia reminds us that to many Native Peoples, historical research conjures up centuries of colonial and imperial projects, which reverberate today. She also emphasizes unequal access to archives and institutions, which privilege academic scholars, like myself, over Indigenous communities, in reinterpreting their own past.¹⁸ There have also been recent charges by historian David Silverman and others of the pitfalls of presentism, practiced by NAIS scholars, giving credence to Native oral history and perspectives, above documentary evidence, which may contradict or offend certain groups. Silverman speaks to the challenge of “reconciling our disciplinary and political commitments,” when conducting research on controversial subjects. His critique expresses valid concerns about sugar coating or “scrubbing the historical record,” of difficult topics or interpretations which may offend modern groups or ethics.¹⁹

Despite the pitfalls and imperfections of decolonizing methodologies, they are a critical analytical lens for historians, revealing new lines of evidence and voices in a discipline that has historically silenced the Native past. I realize that, from the perspective of a settler, my own privileged attempts to conduct research and reanalyze colonial accounts, is inherently biased and lacking an Indigenous perspective. My aim is to be both accurate and epistemologically balanced in drawing upon the historical record, as well as Native

¹⁷ Eve Tuck, and K. Wayne Yang, "Decolonization is Not a Metaphor," *Decolonization: Indigeneity, Education & Society* 1, no. 1 (2012): 1-2.

¹⁸ Christine M. DeLucia, *Memory Lands: King Philip's War and the Place of Violence in the Northeast* (New Haven: Yale University Press, 2018), 20.

¹⁹ David J. Silverman, "Living with the Past: Thoughts on Community Collaboration and Difficult History in Native American and Indigenous Studies," *The American Historical Review* 125, no. 2 (2020): 522, 526.

knowledge of the past. I have attempted to contact and acknowledge regional descendant communities and incorporate their historical perspectives and contemporary issues facing regional groups, from publicly available tribal sources, particularly in my epilogue. I recognize, however, that this is limited in verifying what transpired in the past, and insufficient, both to rectify the past historical erasures and present day damages to Native communities by historical misinformation/interpretation and ongoing colonial projects which continue to perpetuate legal inequities and land dispossession in Indian Country today.

I reference Patrick Wolfe's term settler colonialism in this study to interpret the impacts of English colonization on Indigenous land displacement. According to Wolfe, "Territoriality is settler colonialism's specific, irreducible element."²⁰ Wolfe defines, Settler colonialism not as an event, but a process and structure, which destroys Native societies and creates new colonial ones, on appropriated land. I apply Wolfe's "logic of elimination," to analyze the economic, cultural, political, and legal processes by which English encroachment, laws and violence undermined middle ground, mutual accommodation strategies and reciprocity in cross-cultural land exchange and hybrid legal practices, leading the Pawtucket-Pennacook to develop new strategies, in an attempt to resist dispossession and relations of uncommon ground, which developed by the mid seventeenth century.

I apply the term, survivance, coined by Anishinabe scholar Gerald Vizenor, to demonstrate Pawtucket-Pennacook adaptive resiliency in the face of adverse impacts of English settler colonialism, which resulted in relations of uncommon ground in and beyond Massachusetts Bay, after the mid seventeenth century. Survivance helps counters passive, simplistic, explanations for the outcomes of colonization and recognizes Indigenous agency

²⁰ Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research* 8, no. 4 (2006): 387-88.

and authenticity, through creative responses to difficult times. According to Vizenor, “more than survival, more than endurance or mere response... survivance is an active repudiation of dominance, tragedy and victimry.”²¹ I use the word, survivance, in order to challenge benign concepts of “culture contact,” conquest, and legal consent in land exchanges made by Native groups facing increasing socio-economic duress, political pressures, and coercive colonial laws, especially after accommodation fails to maintain a middle ground by the mid-century. Case studies of Pawtucket-Pennacook land negotiations in the last two chapters, reveal innovative survivance strategies of litigation, and mobilization, in response to colonial violence and land loss, through creative struggle, adaptation, and persistence. I also draw on Christine DeLucia’s work, which illustrates how survivance as a theory, is useful in reinterpreting the meaning of conflict and dispossession from a Native perspective.²²

Hybridity is a primary theory which I apply to my analysis of early cross-cultural land exchange practices and legal strategies used by the Pawtucket-Pennacook and English, providing an alternative interpretation to identify the impact of settler colonialism on Native peoples as acculturation or assimilation. Hybridity emphasizes agency, cultural creativity, subversion, and ambiguity, especially between dichotomies of colonized and colonizer, according to anthropologist Stephen Silliman.²³

My application of the term, legal hybridity, to Pawtucket-Pennacook/Anglo land exchange, builds on recent work by historian Jennifer Pulsipher, which helps to counter historical narratives of territorial conquest and the duality of culture change or continuity. Legal hybridity occurs “when actors draw on each other’s land ways to legitimize purchases

²¹ Gerald Robert Vizenor, *Fugitive Poses: Native American Indian Scenes of Absence and Presence* (Lincoln: University of Nebraska Press, 1998), 15.

²² DeLucia, *Memory Lands*, 10.

²³ Stephen W. Silliman, “A Requiem for Hybridity? The Problem with Frankensteins, Purées, and Mules,” *Journal of Social Archaeology* 15, no. 3 (2015): 277-98.

of Native land and defend their possession,” says Pulsipher.²⁴ I use this model of hybridity, in order to interpret how creative misunderstandings and mutual tolerance of differences in land and legal practices were used by Pawtucket-Pennacook and English leaders in early seventeenth century Massachusetts Bay, who attempted to negotiate mutually beneficial middle ground trade and land agreements, which secured Native territorial autonomy and English title, in a period of relative power equity, during the first decades of interaction.

In the first chapter, I draw on Pulsipher’s interpretive model, in reanalysis of cross-cultural exchange, through case studies illustrating hybrid legal practices in land negotiations between the Pawtucket-Pennacook and English, which helped to legitimize transactions by all parties. While Natives and English colonists sought common ground, by utilizing and mutually tolerating each other’s land ways in an attempt to create a cooperative coexistence, this did not mean mutual acknowledgement of the legal validity of the other’s practices. Instead, it served a practical purpose in the first period, when both parties sought to legitimize land exchange, and each side had something to gain from the another.

My analysis of Pawtucket-Pennacook Anglo land and legal practices concurs with Pulsipher, Daniel Richter and others, however, that while legal hybridity was effective in many early negotiations, its benefit to Pawtucket-Pennacook groups was undermined by English population growth, territorial expansion, resource commodification, economic and political power, making the Massachusetts Bay Colony legal system dominant from an early period, leading to relations of uncommon ground.²⁵ Case studies in the third chapter, support Pulsipher’s research on how Native and colonial proprietors increasingly employed code

²⁴ Pulsipher, “Defending and Defrauding the Indians,” 94-97.

²⁵ Daniel Richter, “Intelligibility or Incommensurability,” in *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America*, ed. Brian P. Owensby and Richard J. Ross (New York: NYU Press, 2018), 95.

switching, between differing cultural land and legal systems, as a means to achieve their own interests, after early mutual accommodation and hybrid practices failed to maintain a middle ground after the mid-century. Chapter three illustrates strategic litigation utilized by Native leaders in land disputes, demonstrating the development of legal intelligibility, wherein litigants increasingly learn how to use the colonial legal system, in an attempt to retain/regain land and assert rights, relying on both Native and English land tenure systems practices.

This study's focus on Pawtucket-Pennacook strategies in land exchange and legal practices builds on recent research by legal anthropologists, including Lauren Benton, which emphasizes the importance of reconstructing "patterned strategic behavior," rather than trying to determine whether Natives and colonists fully understood laws. Benton stresses that Indigenous people's "ability to act strategically in a shifting legal field," tells us far more than does their ability to grasp legal concepts, which is not a prerequisite to negotiation or manipulation of the law.²⁶ This is illustrated in my first chapter examples of a Native/Anglo quest for common ground, using mutual accommodation in exchange practices based on creative misunderstandings, which did not rely on an accurate knowledge of Native or Anglo land/legal systems. Native legal strategy is also evident in early litigation in the General Court, as soon as it was established, whereby proprietors, who had no prior knowledge of the English legal system asserted their legal rights to protect their land, crops, and tenure.

The historiography on New England Native/colonial relations and land exchange cited in this study also relies on the work of Jean O'Brien, Lisa Brooks and Christine DeLucia, historians in the field of Native American and Indigenous Studies. Collectively these scholars have informed my methodological and theoretical approach to re-analyzing

²⁶ Lauren Benton, "In Defense of Ignorance," in *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America*, ed. Brian P. Owensby and Richard J. Ross (New York: NYU Press, 2019), 43, 277-78.

deeds and court records, in order to recover an alternative narrative field from colonial archives. O'Brien's examination of antiquarian historical narratives of "firsting and lasting," of Indigenous New England, illustrates how Native Peoples were displaced and replaced by the first "native" colonists. This has informed my interpretation of colonial accounts and early histories of Pawtucket/Anglo land exchange, helping to counter inherent English biases and historical erasure with evidence of Native agency, strategy, and persistence.²⁷

Brooks' *The Common Pot: The Recovery of Native Space in the Northeast*, provides an Abenaki perspective on the reciprocal interrelationship between land, peoples, cultural and traditional ecological knowledge (TEK), politics and legal power. DeLucia's recent article "Terra Politics in the Dawnland, Relationality Resistance and Indigenous Futures in the Native and Colonial Northeast," also illustrates Native traditional ecological knowledge, land use and ideology, interrelated to gender roles and the web of human and non-human interactions. Analysis of Pawtucket-Pennacook/Anglo land tenure and exchange furthers DeLucia's research, on how Native leaders "recurrently *negotiated* space-sharing...and deliberated about whether, how, and where to make room for colonial newcomers while maintaining authority and ecological responsibility in traditional homelands."²⁸

I also apply Brooks and DeLucia and O'Brien's approach, in my interpretation of early deeds and land negotiations, which reveal a range of agentive legal strategies and hybrid practices used by Native leaders and communities, to maintain traditional kinship networks, land tenure, resource use, territorial autonomy and ecological balance, in the wake of settler colonialism and legal dispossession. This informs my analysis of land disputes and

²⁷ Jean M. O'Brien, *Firsting and Lasting Writing Indians out of Existence in New England* (Minneapolis: University of Minnesota Press, 2010).

²⁸ Christine DeLucia, "Terrapoltics in the Dawnland: Relationality, Resistance, and Indigenous Futures in the Native and Colonial Northeast," *The New England Quarterly* 92, no. 4 (2019): 548-83.

Native litigation strategies, which attempted to preserve seasonal subsistence, usufruct rights and counter colonial livestock damage to crops and property, seen in the earliest court cases.

My assessment of Pawtucket-Pennacook land and legal disputes, in the last two chapters, furthers Pulsipher's claim that court land grants made without or before adequate payment to Native proprietors was a key cause of impoverishment, debt and dispossession. This interpretation also support Brooks' assertion that while deeds were often an attempt to justify fairness in transactions, they were not clearly understood agreements made at the beginning of negotiations, but often part of a long legal process over land rights. Pawtucket-Pennacook failed litigation and later quit-claim deeds evidence that most colonial legal land contracts were transacted long after Native lands had already been granted to towns and settlers by colonial courts, often before purchasing title and without adequate payment.²⁹ This further demonstrates early legal disparities, dominance and hierarchy of the English court system, which appropriated Native lands by eminent domain or economic coercion, undermining earlier mutual accommodation strategies and hybrid legal practices.

Pulsipher, Brooks, DeLucia and O'Brien have collectively deepened my understanding of how colonial land laws and encroachment led to growing violence between settlers and Natives, leading to King Phillip's War. Their research informs my last chapter, examining how the Pawtucket-Pennacook strove to maintain their homelands in wartime, through strategic accommodation, military neutrality, and political alliance with the English.

O'Brien's *Dispossession by Degrees : Indian Land and Identity in Natick, Massachusetts, 1650-1790*, also informs my understanding of long term changes in Massachusetts Bay Colony land laws, before, during and after this and successive Anglo-

²⁹ Lisa Brooks, *Our Beloved Kin: A New History of King Philip's War* (New Haven: Yale University Press, 2018), 19, 42; Pulsipher, "Defending and Defrauding the Indians," 89-117.

Abenaki wars, prompting many Native groups to relocate to Christian praying towns.³⁰ Her work on Native history and cultural practices provides insights which guide my interpretation of the changing relationships between kinship ties, proprietorship and land exchange by intertribal groups in Native spaces and colonized places, in and beyond Massachusetts Bay. O'Brien's place-based research has helped shape my interpretation of Native litigation and mobilization strategies, used by Native groups during a period of growing land displacement, to resist and survive violence and dispossession, by moving between praying towns, allied territories, relying on kin networks throughout New England and Canada. This analysis also supports recent scholarship, by Brooks, DeLucia and Pulsipher, which challenges historical erasure narratives, claiming that King Phillip's War spelled the end of Native New England.

Additional historiography which informs my understanding of Native strategy in land exchange and legal relations between the Pennacook Confederacy and Massachusetts Bay Colony includes works by Colin Calloway, whose extensive corpus provides a macro historical analysis of Abenaki/Anglo relations throughout the seventeenth and eighteenth centuries, across New England and Canada. I draw on Calloway's analysis of the failure of accommodation to maintain middle ground relations and his research on Pennacook wartime strategy informing my interpretation of Native mobilization as a survivance strategy, especially employed during and after the Anglo-Abenaki wars on the northern frontier.³¹

Ian Saxine's recent book, *Properties of Empire Indians, Colonists and Land Speculators on the New England Frontier* explores the relationship between power, sovereignty, and property in seventeenth and eighteenth century Abenaki territories, informs

³⁰ Jean O' Brien, *Dispossession by Degrees: Indian Land and Identity in Natick, Massachusetts, 1650-1790* (New York: Cambridge University Press, 1997).

³¹ Colin G. Calloway, "Wannalancet and Kancamagus: Indian Strategy on the New Hampshire Frontier," *Historical New Hampshire* 43 (1998): 265; Colin G. Calloway, *After King Philip's War: Presence and Persistence in Indian New England* (Hanover, NH: University Press of New England, 1997).

my analysis of Pennacook land exchange, litigation and legal relations, in the last two chapters, illustrating that the Wabanaki confederacy still held a degree of territorial autonomy and military power on the northern frontier. He calls colonial land policy “a bundle of contradictions,” echoing what many legal historians claim (and which this thesis argues)- colonial laws and practices were often paradoxical regarding Native land rights, especially during the charter crisis, in the 1680’s, when towns who had formerly dismissed Native land rights, sought to prove their own legal title, based on earlier Native deeds. My research on the intertribal Pennacook Confederacy’s northern land disputes and negotiations with Massachusetts Bay Colony, supports Saxine’s claim that powerful Abenaki alliances continued to shape the debate on land rights, despite English efforts at imperial conquest.³²

A vital source for understanding Pawtucket-Pennacook/Anglo land relations and cultural history, is David Stewart Smith’s dissertation *The Pennacook Indians and the New England Frontier, circa 1604-1733*. Smith provides the most comprehensive ethnohistorical study on the Pawtucket-Pennacook. This thesis draws heavily on Smith’s ethnographic data and analysis of the socio-economic, political, and military alliances, land transactions and legal disputes between the Pawtucket-Pennacook alliance and English. His work focuses on the northern Pennacook Confederacy frontier but also emphasizes that the Merrimack River, forming the northern border of Essex County, was once considered the frontier borderland.³³ My research on Essex County land exchange supports Smith’s assertion of the significance

³² Ian Saxine claims that the biggest difference between indigenous and colonial concepts of property was Native emphasis on reciprocity and sharing of land and resources, vs. a colonial ideal of individual, private ownership and autonomy. Ian Saxine, *Properties of Empire: Indians, Colonists, and Land Speculators on the New England Frontier* (New York University Press, 2019), 25.

³³ David Stewart-Smith, “The Pennacook Indians and the New England Frontier, circa 1604-1733,” (PhD diss., The Union Institute, 1998); Canada, where the Pawtucket Pennacook sought alliance and refuge with the French, was just above Concord New Hampshire. See David Stewart-Smith, “The Pennacook Lands and Relations: Family Homelands,” in *The Indian Heritage of New Hampshire and Northern New England*, ed. Piotrowski, Thaddeus M (Jefferson, N.C.: McFarland, 2002), 373.

of this region as one of the first places of Pawtucket/Anglo cross-cultural exchange. My analysis of Essex County land transfer and litigation, furthers Smith's research, illustrating how early land encroachment and legal displacement from the lower Molodemak led to strategic mobilization and alliance with the northern Pennacook Confederacy.

John Daly's thesis, "No Middle Ground: Pennacook-New England Relations in the Seventeenth Century," informs my analysis of the failings of the Pawtucket-Pennacook to maintain a "middle ground" with colonists, after the mid seventeenth century, leading to land dispossession. However, his work largely neglects evidence of creative misunderstandings in the quest for land and legal common ground between the Pawtucket and English colonists. My first chapter on Native/Anglo hybrid exchange practices in Essex County, modifies Daly's thesis, illustrating how early cooperative land use and resource sharing led to a brief middle ground in the first couple of decades following Massachusetts Bay colonization.³⁴

The historiography on Pawtucket/Anglo land exchange in Essex County is limited, and there has been little recent research on seventeenth century Native deeds and engagement with the colonial legal system in this part of Massachusetts. One of the earliest sources which I seek to update, is Sidney Perley's, 1912, *The Indian Land Titles of Essex County, Massachusetts*.³⁵ This edited volume of documents in the Essex County Registry of Deeds in Salem, Massachusetts is the most comprehensive to date. This serves as a primary and secondary source, including transcriptions and original facsimiles of over two dozen deeds, and a geographic overview of coastal regions, including maps annotated with Algonquian

³⁴ John Daly, "No Middle Ground: Pennacook-New England Relations in the Seventeenth Century," (unpub. MA thesis, University of Newfoundland, 1997).

³⁵ Sidney Perley, *The Indian Land Titles of Essex County, Massachusetts* (Salem, Mass: Essex Book and Print Club, 1912). For further information on Pawtucket-Pennacook deeds of Essex County see Southern Essex District Registry of Deeds "Native American Deeds," <https://salemdeeds.com/NAD/> (accessed October 29, 2020).

village names. Perley, a Salem historian, also provides the earliest analysis of Essex County deeds. My interpretation of Native/Anglo land exchange seeks to further his work, through a more comprehensive analysis of the development of the colonial legal system and impact of English law on Native land systems and rights. I seek to modify Perley's interpretation of Native tenure and proprietorship systems, by providing additional historical context and a contemporary, decolonizing theoretical lens, in order to illuminate adaptive changes in Native land exchange practices and litigation strategies over the century, as creative responses to the processes of settler colonialism, economic coercion, and legal dispossession.

Peter Leavenworth's 1999 article "The best Title That Indians Can Claim: Native Agency and Consent in the Transferal of Pennacook-Pawtucket land in the Seventeenth Century" is one of the most recent articles on Pawtucket land exchange informing this thesis. Leavenworth echoes legal historians, including Yasuhide Kawashima, that the colonial legal system and imposition of English land laws caused the Pawtucket to become "settlement Indians" within a decade of colonization of coastal Massachusetts Bay.³⁶ My research on Native/Anglo deeds supports Leavenworth's thesis that legal dispossession for the Pawtucket was accomplished with the pen, rather than the sword. He reframes the term "dispossession," asserting that while it is accurate to describe the process by which the Pawtucket-Pennacook were displaced, it also neglects Native agency. My analysis of Essex County deeds furthers his decolonizing approach, illustrating examples of Pawtucket litigation strategies and hybrid legal practices used to maintain their land rights and sustain their communities.

³⁶ Peter Leavenworth, "The Best Title That Indians Can Claim: Native Agency and Consent in the Transferal of Pennacook-Pawtucket Land in the Seventeenth Century," NEQ 72, no. 2 (1999): 275-300; Yasuhide Kawashima, *Puritan Justice and the Indian: White Man's Law in Massachusetts, 1630-1763* (Middletown, Conn: Wesleyan University Press, 1986), 58, 60, 70.

Chapter two examines the-period of trans-Atlantic trade, initial English colonization, and Native/Anglo land exchange (between 1600's-1630's) culminating with the chartering of Massachusetts Bay Colony and establishment of the General Court. During this time, European disease, intertribal warfare, and the fur trade led to the Pawtucket-Pennacook alliance, resulting in significant transformations in Native economies, political authority, kinship ties, territorial tenure, and proprietorship. This chapter demonstrates how the Native and English sought common ground, through strategic accommodation in cross-cultural economic exchange, land sharing, legal relations and political alliances of mutual trade and aid, which attempted to foster a cooperative coexistence in and beyond Massachusetts Bay.

Early deeds and land negotiations in this period illustrate the role of creative misunderstandings and mutual tolerance of differences, in forging a brief middle ground, between the Pawtucket-Pennacook and English, when there was a relative balance of power. Colonial records reveal Native/Anglo hybrid land exchange and legal practices, including usufruct clauses and tribute payments, which sought to secure Indigenous territorial authority and colonial legal title, mitigating the initial impacts of settler colonialism.

Chapter three examines the period between the English Great Migration and King Philip's War (1640's-1675), when rapid colonial population growth, land encroachment, surveying, speculation, resource commodification, ecological depletion, illicit trade, and punitive laws, led to decline in Pawtucket-Pennacook subsistence economies, territorial autonomy, political sovereignty and legal systems. Native proprietors at this time, employed strategic litigation after accommodations and protections they had attempted to incorporate into hybrid exchange practices, deeds and treaties failed to preserve land and legal rights, or middle ground relations with the English, causing power inequities and displacement.

Native deeds and land records at this time, exclude most usufruct rights and tribute payments, signaling increasing English economic coercion, legal and political dominance in land exchange, creating relations of uncommon ground. Colonial laws granting the General Court power to regulate Native/Anglo land use and transfer furthered legal dispossession by eminent domain, grants to English towns and individuals without or before adequate compensation to Native proprietors, causing impoverishment. Illicit colonial trading practices, betrayals, violence, and alcohol also led to Pawtucket-Pennacook debt, indenture, imprisonment, violence, and duress in land forfeitures.

Chapter four examines the period preceding King Philip's War, (1675-78) through the turn of the century, when pan-Native resistance against dispossession, culminated in armed conflict, furthering relations of uncommon ground with the English. Many Pawtucket-Pennacook relocated at this time to praying towns seeking to retain land, culture, and legal rights. Native leaders employed strategic mobilization, after accommodation, litigation, military neutrality, and political alliance failed to prevent violent displacement.

Successive colonial wars of attrition and Native extirpation led to English military and legal imperialism, inequitable land laws, and assimilation policies, limiting the efficacy of Pawtucket-Pennacook hybrid land and legal practices, and litigation strategies to maintain territorial autonomy, resulting in large-scale sales and seizure of northern homelands. Native proprietors, displaced from Essex County negotiated a series of quit-claim deeds at this time, attempting to gain from English political conflict and colonial charter controversies, which negated prior Native deeds and English title claims. Despite violent displacement and legal dispossession, this chapter and epilogue demonstrate how the Pawtucket-Pennacook persisted, surviving in Native spaces in and beyond the colonized places of Massachusetts.

CHAPTER 2

A QUEST FOR COMMON GROUND- MUTUAL ACCOMMODATION, CREATIVE MISUNDERSTANDINGS AND TOLERANCE OF DIFFERENCES BETWEEN THE PAWTUCKET-PENNACOOK AND MASSACHUSETTS BAY COMPANY

This chapter analyzes Pawtucket-Pennacook socio-political structures, economic, legal, land tenure and exchange systems, as well as those of English puritans of the Massachusetts Bay Company/Colony, who first traded and colonized coastal regions in the late 1620's. Cross-cultural trade and reciprocal land exchange between Native proprietors and settlers in this period, evidences what Richard White terms a mutual tolerance of differences and creative misunderstandings, which fostered an early *Middle Ground* coexistence, when there was a relative balance of socio-economic, political, territorial and legal power.¹ Native accommodation strategies and hybrid exchange practices during this time are illustrated in case studies of early trade, common pot land sharing and deeds, which include usufruct clauses, and tribute agreements, used by Sagamores and English proprietors, to satisfy Native land tenure and legal title under Massachusetts Charter law.²

¹ Richard White, *The Middle Ground Indians, Empires, and Republics in the Great Lakes Region, 1650-1815* (New York: Cambridge University Press, 2011), xii-xiii.

² This interpretation of cooperative Native/Anglo land relations during the first decade of colonization, follows Jennifer Pulsipher's research on the development of legal intelligibility and hybridity in seventeenth century Massachusetts Bay in

Early Hybrid Exchange Practices in Atlantic Trade and Early Colonization

In the early years of trade and English colonization, the Pawtucket-Pennacook were motivated to barter and share their lands, strategically accommodating settlers' desire to secure legal title, while gaining desirable alliances of exchange and aid from colonial authorities and satisfying Native land tenure. Native and English proprietors, therefore, both had to rely on what Richard White refers to as a mutual tolerance of differences and creative misunderstandings, in cross-cultural trade, hybrid land exchange and legal practices, which helped to forge early middle ground relations in Massachusetts Bay Colony, when there was a relative balance of political, legal and economic power.³

Decades before the Massachusetts Bay Company/Colony was chartered and began granting and colonizing Native places, the Pawtucket-Pennacook had engaged in Atlantic trade with Europeans, which soon led to land exchange. One of the earliest recorded encounters between Native and English traders occurred in 1602, when the Sagamore Poquanum met Bartholomew Gosnold in the coastal village, Nahant. Poquanum made a remarkable impression, donning an English suit, suggesting his prior experience and interest in cross-cultural exchange. Poquanum's group also spoke English and drew Gosnold a map of the coast, encouraging further trade in coastal territories. Years later, Poquanum transacted the first known Native/Anglo land exchanges in Nahant, which became Essex County.⁴

Trans-Atlantic trade presented opportunities for the first hybrid exchange practices, based on mutual accommodation, by which the Pawtucket and English adapted their own

"Defending and Defrauding the Indians," in *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America*, ed. Brian P. Owensby and Richard J. Ross (New York: NYU Press, 2019), 89-117; Katherine Hermes, "Justice Will be Done Us," in *The Many Legalities of Early America*, ed. Christopher L. Tomlins and Bruce H. Mann (Chapel Hill: University of North Carolina, 2001), 123-49.

³ White, *The Middle Ground*, xii-xiii.

⁴ John Daly, "No Middle Ground: Pennacook-New England Relations in the Seventeenth Century," (unpub. MA thesis, University of Newfoundland, 1997), 36-37.

cultural systems and legal interpretations, in order to reach an agreement and benefit their own interests. Reciprocal, cross-cultural negotiations were summed up by early trader and settler Thomas Morton: “This is commonly seene where two nations traffique together, the one indeavoring to understand the others meaning makes the both many times speak a mixed language, as is approved by the Natives of New England New England Natives, through the coveteous desire they have to commerce with our nation, and wee with them.”⁵

By the early seventeenth century the fur trade served as the foundation for most Pawtucket/Anglo exchange relations. While European trade brought opportunities for mutual benefit and alliance, it also had disastrous consequences for Native communities, damaging ecosystems, disrupting subsistence patterns, intertribal exchange, economic relations, and land tenure. The northern fur trade also increased resource competition between the Mi'kmaq (Tarrantines to the English) and Pawtucket, leading to war which continued until the 1630s, when Pawtucket/English pacts of protection and land sharing helped to halt retaliatory raids. Perhaps the most significant effect of intertribal war on Native leadership and exchange patterns in Massachusetts Bay, was the murder of Sagamore Nanepashemet in 1619, who brought together what may have been the largest intertribal Native confederacy to that time.⁶

Warfare and Nanepashemet's death, destabilized group affiliations, territorial

⁵ Peter Leavenworth, “The Best Title That Indians Can Claim: Native Agency and Consent in the Transfer of Pennacook-Pawtucket Land in the Seventeenth Century,” *NEQ* 72, no. 2 (1999): 285.

⁶ The present day Massachusett Tribe at Ponkapoag consider Nanepashemet to be a Massachusett Sagamore. See “The History of the Neponset Band of the Indigenous Massachusett Tribe,” <http://massachusetttribe.org/the-history-of-the-neponset> (accessed April, 2021); According to ethnohistorian David Stewart-Smith, Nanepashemet's authority stretched across vast regions, encompassing many cultural/tribal/geographic affiliations, in “The Pennacook Indians and the New England Frontier,” 92-95; Archaeologist Robert Grumet defines Pawtucket territory from the Massachusetts coastal plain, along the Merrimack River valley from Lowell to Haverhill, Cape Ann, the Ipswich River between Ipswich to Salem on the north shore of Massachusetts, in *Historic Contact*, 106; Cook, *The Indian Population of New England*, 29; Jean O'Brien, *Dispossession by Degrees: Indian Land and Identity in Natick, Massachusetts, 1650-1790* (New York: Cambridge University Press, 1997), 6, 43; Yasuhide Kawashima, *Puritan Justice and the Indian: White Man's Law in Massachusetts, 1630-1763* (Middletown, Conn: Wesleyan University Press, 1986), 12-13; Neal Salisbury, *Manitou and Providence: Indians, Europeans, and the Making of New England, 1500-1643* (New York: Oxford University Press, 1982), 56-61.

authority, economic and political alliances. This coincided with the first recorded disease pandemic, “The Great Dying,” which struck New England between 1616-1619, further threatening Pawtucket-Pennacook resistance to intertribal attacks as well as early English colonization and settlement in Massachusetts Bay. While this plague nearly wiped out coastal villages, northern Pennacook communities, suffered fewer casualties from disease and Mi’kmaq raids, becoming a geopolitical, and socioeconomic power center and nexus for many Native groups. The surviving coastal Pawtucket did not initially migrate, but sought protection under the new Pennacook *Bashaba* Sagamore, Papisseconnewa, (former tributary to Nanepashemet) unifying the heterogenous Pawtucket-Pennacook political alliance and multi-cultural kinship networks from lower and upper Molodemak territories.⁷ This intertribal Pennacook Confederacy maintained greater autonomy in northern homelands, which became increasingly important as a buffer against coastal plagues, English land encroachment and speculation. Governor Dudley claimed that by the 1620’s, the Pawtucket-Pennacook alliance was the strongest central New England group, with 400-500 warriors.⁸

The impact of disease and ongoing threat of intertribal war helps to explain why Native leaders strategically accommodated early English colonists, allowing them to settle in their homelands in return for desired trade alliances and protection against rival tribes. Papisseconnewa realized early that the English could not be opposed by force, enacting a policy of political alliance, military neutrality, and land exchange, which he used to his advantage in expanding his authority. As early as 1623, he befriended English traders and,

⁷ Like the Great Lakes Natives of the pays d’en haut, refugee communities from war with the Iroquois and disease led to the intertribal identity of the Pennacook Confederacy. David Stewart-Smith contends that the Pawtucket-Pennacook alliance was a heterogenous confederacy, along political lines, rather than tribal in Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 21.

⁸ Papisseconnewa’s political authority and influence stretched from Lake Winnepesaukee to Piscataqua (New Hampshire) south to the Mystic River (Boston), west to the Concord River and east to Pemaquid (Maine). Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 6, 83-84; Cook, *The Indian Population of New England*, 13, 31.

along with other sagamores and *saunkskwas* (female sagamore), negotiated trade and land sharing with Christopher Levett, who gained trust by acknowledging Natives' "natural right of inheritance" to the lands he wished to settle, promising to "kill all the Tarrentens" with whom they did not have trade alliances, for permission to live on Indigenous land.⁹

Papisseconnewa later reciprocated, turning over a Native who murdered an English trader.

After Nanepashemet's death, his widow, Squaw Sachem, born into a Massachusetts leadership family, became the primary *saunkskwa* in the lower Molodemak, in what became Essex County and Massachusetts Bay. Her sons, Monowampate (James) and Wenepaweequin (George), soon became leading Sagamores and married Papisseconnewa's daughters, further consolidating the Pawtucket-Pennacook alliance, kin networks and far reaching influence of the Pennacook Confederacy.¹⁰ These *saunkskwa* and sagamore proprietors allowed colonists to settle in their fur rich regions, negotiating some of the earliest cross-cultural trade and land exchanges in the 1630's, forging alliances and middle ground relations, with the English, in which they did not entirely surrender autonomy, occupation or resource use rights.

⁹ Lisa Brooks, *Our Beloved Kin: A New History of King Philip's War* (New Haven: Yale University Press, 2018), 20; Stewart-Smith, "The Pennacook Indians and the New England Frontier, circa 1604-1733," 92-95.

¹⁰ The present day Massachusetts Tribe at Ponkapoag claim Squaw Sachem as Massachusetts *Saunkskwa*. See "The History of the Neponset Band of the Indigenous Massachusetts Tribe," <http://massachusettstribe.org/the-history-of-the-neponset> (accessed April, 2021). This is supported by Lisa Brooks in, *Our Beloved Kin*, 73; Unlike the Pennacook, the Massachusetts constituted several subordinate chieftaincies, but no ethnically recognized subdivisions, according to Sherburne Cook in, *The Indian Population of New England*, 13-15; See also Grumet, *Historic Contact*, 111; Stewart-Smith, "The Pennacook Indians and the New England Frontier," 24, 29, 81-82; Daly, "No Middle Ground: Pennacook-New England Relations in the Seventeenth Century," 34; Kathleen Joan Bragdon, *Native People of Southern New England, 1500-1650* (Norman: University of Oklahoma Press, 1996), 158-59; Wood, *New England's Prospect*, 97-99.

Naumkeag- An Early Middle Ground Experiment in Mutual Accommodation and The Common Pot

Reciprocal relations between Native and English groups, prior to the chartering of Massachusetts Bay Colony, are evident in cooperative, land sharing practices and mutual accommodation in the village Naumkeag, where Squaw Sachem and her kin, including her second husband, Webcowit, and youngest son Wenepaweequin (who became sagamore of Naumkeag) often resided.¹¹ By the 1620's, disease and war had significantly depopulated coastal communities, leaving vast tracts of sparsely occupied land, and transforming political leadership and hereditary proprietorship, resulting in Squaw Sachem's widowhood and status as a Pawtucket and Massachusett saunkskwa. In 1621, Edward Winslow described a fortified stockade at Naumkeag, evidencing defenses against recent Mi'kmaq raids and Squaw Sachem's motives for inviting the English to settle on what were considered surplus lands, seizing opportunities for an alliance of mutually beneficial trade, aid, and alliance.¹²

In 1626 a small group of English fishermen from the short-lived Dorchester Company arrived at Naumkeag, after harsh conditions caused them to abandon their unsuccessful Cape Ann settlement. By 1628 the New England Company under Governor John Endecott had relieved this struggling group, paving the way for English colonization of Salem, the first permanent town in what later became the Massachusetts Bay Colony county of Essex. John

¹¹ The present day Massachusetts Tribe at Ponkapoag claim Naumkeag as Massachusett territory. See "Our History," <http://massachusetttribe.org/our-history>; This is supported in deed research by Salem historian Sidney Perley in, *The Indian Land Titles of Essex County, Massachusetts* (Salem, Mass: Essex Book and Print Club, 1912), 3-4; Daniel Gookin claims that the "Pawtucket sachemship" included the "Naamkeeks," in *Historical Collections*, 9; According to Sherburne Cook, the Pennacook were an aggregate of groups, some of which only had village status, including Agawam and Naumkeag, in *The Indian Population of New England*, 14; Neal Salisbury contends that Squaw Sachem and her followers, moved their village sites frequently, to avoid enemy raids in *Manitou and Providence*, 120-21.

¹² Perley, *The Indian Land Titles of Essex County, Massachusetts*, 8, 9, 12; Harriet Silvester Tapley, *Chronicles of Danvers (Old Salem Village) Massachusetts, 1623-1923* (Danvers, Mass.: Danvers Historical Society, 1983), 4; Evidence of Nanapashemet's fort in Salem and Marblehead are noted in Joseph B. Felt's, *History of Ipswich, Essex, and Hamilton* (Ipswich, Mass.: Clamshell Press, 1966), 13-14; Stewart-Smith, "The Pennacook Indians and the New England Frontier, circa 1604-1733," 82-83.

Higginson, son of Salem's first minister (whose relations with Natives of Naumkeag led him to learn their language and serve as a translator) recounted that when he arrived, as a boy:

then about thirteen years old, there was in these parts a widow woman, called Squaw Sachem, who had three sons, Sagamore John kept at Mistick, Sagamore James at Saugust, and Sagamore George, here at Naumkeke. Whether he was actual Sachem here, I cannot say, for he was young then about my age and I think there was an elder man yet was at least his guardian, But ye Indian Towne of wigwams was on ye north side of ye north river...and ye both ye north and ye south side of that river was together called Naumkeke.¹³

Higginson provided this important testimony, half a century later, in a quit claim deed negotiation between Salem and descendants of the original Naumkeag proprietors, attesting to Indigenous tenure, authority and political leadership structure, under Squaw Sachem.

Salem historian Sidney Perley suggested that vulnerability between the first group of English and Natives in Naumkeag helped to forge a cooperative coexistence. He credits the plantation's early survival on Pawtucket agricultural aid, allowing the English to grow unfamiliar new world crops, farm and settle Salem (the name is taken from Shalom or peace). Colonial accounts, albeit inherently biased, provide evidence of a quest for common ground between Naumkeag's depleted Pawtucket population and early English planters. Salem minister Francis Higginson, noted Native agricultural practices: "there is much ground cleared by the Indians, and especially about the plantation..."¹⁴ He also attests to reciprocal land use: "They doe generally profess to like well of our coming and planting here; partly because there is abundance of ground, that they cannot possesse nor make use of, and partly because of our being here will bee a means both a relief to them when they want, and also a

¹³ Sidney Perley, *The History of Salem, Massachusetts, 1626-[1716]* (Salem, Mass.: S. Perley, 1924), 44, 90-95, 135-41.

¹⁴ George Francis Dow, and Topsfield Historical Society, *Two Centuries of Travel in Essex County, Massachusetts: A Collection of Narratives and Observations Made by Travelers, 1605-1799* (Topsfield Historical Society, 1921), 10.

defence from their enemies.”¹⁵ Higginson further alludes to Squaw Sachem and her kin’s motives for negotiating land sharing and farming in exchange for English alliance and aid.

Humphrey Woodbury, who migrated to Salem in 1628, gave a similar account of mutual reliance to Governor John Endecott’s son, charged with evaluating Naumkeag title claims and English costs of providing Native protection, during the Massachusetts Charter controversy: “When we stled, The Indians never molested us, in our improumenl of silling downe at Salem or Beuerly sides of The ferry but shewed them selves very glad of our company, & came and planted by us & often time came To us for shelter, saying they were afraid of Their indians up in the contry, & we did shelter them when they fled To us & wee had Their free leave to build & plant where we have taken up land.” William Dixie, who arrived in Salem in 1629, provided further testimony at the General Court in 1681, of Pawtucket/Anglo land sharing, mutual trust and aid in Naumkeag:

when wee came to dwell heare the Indians bid us welcome, & shewed themselves very glad that wee came to dwell among them, & I understood they had kindly entertained the English that came hither before wee came, & the English & the Indians had a field in comon fenced in together, & the Indians fled to shelter themselves under the English offtimes, saying they were afraid of their enemy Indians in the contry in p’ticular I remember sometime after wee arrived the Agawam Indians complained to Mr. Endicott that they were afraid of other indians caled as I take it Tarrateens: Hugh Browne was sent with others in a boat to Agawam for the Indianes reliefe, & at other times we gave our neighbour Indians protection from their Inemy Indians.¹⁶

These accounts illustrate ways in which early settlers relied on their own creative misunderstandings in their paternalistic relationship with the Naumkeag, as a way to justify

¹⁵ Perley, *The Indian Land Titles of Essex County, Massachusetts*, 12; Felt, *History of Ipswich, Essex, and Hamilton*, 26; Francis Higginson, ed., Bruce Rogers, *New England’s Plantation, with the Sea Journal and Other Writings* (Salem, Mass.: Essex Book and Print Club, 1908), 107.

¹⁶ These court depositions were given in response to challenges to the Naumkeag region by heirs of John Mason, who was granted land by the crown. Joseph B. Felt, *Annals of Salem* (W. & S.B. Ives ; J. Munroe, 1845), 268-69; Stewart-Smith, “The Pennacook Indians and the New England Frontier, circa 1604-1733,” 94-95.

their aid as land payment. These testimonials also suggest cross-cultural agricultural adaptations and land use practices, illustrated by settlers planting Indigenous crops in common fields, fenced in an English manner. Although fencing was foreign to the Natives, it kept English livestock from trampling crops, helping to forge an early cooperative coexistence in Naumkeag, prior to the imposition of the Massachusetts Bay Colony legal system, which made fencing a prerequisite to land ownership, leading to disputes, economic and cultural inequities and dispossession. According to Higginson, however, the English and Natives respectfully shared in their harvest: “They will come into our houses by half a score at a time when we are at victuals, but will not ask or take anything but what we give them.”¹⁷

Salem minister Roger Williams also observed the vital relationship between Native communal land and resource practices and community nourishment: “whoever commeth in when they are eating, they offer them to eat of that which they have, though but little enough prepared for themselves... they make their neighbors partakers with them.”¹⁸ This was not purely altruistic, but essential for survival, if one person went hungry, all suffered. This is evident in early hybrid land sharing and farming practices in Naumkeag, whereby the Natives extended their traditional ecological knowledge to aid English planters. In this way, Squaw sachem and her kin welcomed the English to share in their “common pot” of land and resources, incorporating them into an extended, allied community, which served to coalesce mutually beneficial relations. This included marine resources of the Naumkeag River and Atlantic, vital conduits of sustenance and exchange, as well as a key intra-community network and vehicle of cross-cultural trade. This early resource reciprocity formed the basis

¹⁷ Higginson, *New England's Plantation*, 106.

¹⁸ Williams was instrumental in forging early trade and land exchange alliances in and beyond Naumkeag, based on his cooperative relations with the Pawtucket and other groups. Roger Williams, *A Key into the Language of America* (London: Printed by Gregory Dexter, 1643), 16.

of the quest for a common ground in Salem's settlement and the progenitor of a pattern in Essex County, whereby Indigenous villages aided the English in establishing farms, fishing stations and trading posts, leading to land exchange and colonial settlements, which quickly became interdependent with Native communities, in and beyond Massachusetts Bay.

This early middle ground experiment in Naumkeag and other coastal territories was soon threatened, however, as colonial population growth, land encroachment, rampant commodification, speculation and property laws threatened Native homelands, subsistence patterns and survival. Natives quickly learned how English land use affected fragile ecosystems. Livestock increasingly damaged Native planting fields, one of the earliest sources of land disputes and litigation. Roger Williams wrote to Governor Winthrop in defense of Naumkeag proprietors, held liable for 100 pounds for killing a cow (valued at roughly 20 pounds), by William Hathorne and the town of Salem.¹⁹ Indigenous accounts, recorded by Williams, suggest that Natives also surmised that Europeans had used up their resources and come for theirs, asking "have you no trees?" Timber from northern Pawtucket-Pennacook territories became a lucrative commodity. This supports Christine DeLucia's claim, that Indigenous groups had to carefully negotiate how to integrate colonists into the common pot, while attempting to maintain ecological stewardship and territorial autonomy.²⁰

However, an even greater threat to the quest for common ground in Naumkeag was posed by land title laws under the new colony. In 1629 the New England Company issued Salem a charter, granting English authority over Naumkeag, giving explicit instructions to Salem's first governor, John Endecott, to compensate Natives for land granted to the English

¹⁹ Virginia Anderson, "King Philip's Herds: Indians, Colonists, and the Problem of Livestock in Early New England," *The William and Mary Quarterly* 51 no. 4 (1994): 608.

²⁰ William Cronon, *Changes in the Land: Indians, Colonists, and the Ecology of New England*, rev. ed., (New York: Hill and Wang, 2003), 49, 108-12; Christine DeLucia, "Terrapoltics in the Dawnland: Relationality, Resistance, and Indigenous Futures in the Native and Colonial Northeast," *The New England Quarterly* 92, no. 4 (2019): 548-83.

by the crown, under the authority of the General Court. English magistrates specified that if any of the “savages pretend right of inheritance” to lands, colonists should purchase their titles, “that wee may avoyde the least scruple of intrusion.”²¹ While colonial authorities may not have regarded Indigenous land tenure or property rights as equal to the English, this suggests that they acknowledged their original title in the charter, in a limited manner, in order to appease Indigenous proprietors and legally secure title claims. Purchasing title also served an English moral claim of fairness in grants to colonists and diffused potential conflict, by accommodating Native proprietors, based on creative misunderstandings and a mutual tolerance of differences in the period before colonial law led to land inequities.

Although few Indigenous families remained in Salem after the 1630’s, colonial accounts evidence ongoing kin-based land tenure systems and sagamore proprietors, who continued to claim authority over these Native spaces in and beyond colonized places of greater Naumkeag. John Devereux, who came to Salem in 1630, provided a legal deposition as part of Salem’s eventual deed, that at the time Squaw Sachem’s Pawtucket kin still occupied the area, claiming “all ye lands in these parts as Salem, Marblehead, Linn and as far as Mistick.”²² Squaw Sachem maintained a degree of authority, while her sagamore sons and Masconomet, served as the patrilineal heads of intermarried Pawtucket-Massachusetts leadership families in a macro-band of extended kin, responsible for allocating subsistence areas and negotiating land exchange with the English. Governor Dudley reported that at the time of Salem’s chartering, the Naumkeag paid tribute to the Pawtucket Sagamore Masconomet, himself subject to Squaw Sachem’s son, Sagamore Monowampate (James),

²¹ Perley, *The Indian land titles of Essex County*, 18; Massachusetts Bay Company to John Endicott, April 17, 1631 (Mass. Col. Rec., I, 394), Endicott Family Papers, Massachusetts Historical Society, Boston; Nathaniel B. Shurtleff, ed., *Records of the Governor and Company of the Massachusetts Bay in New England* 1 (Boston: William White, 1853-1854): 394, 400.

²² Perley, *The Indian land titles of Essex County*, 11; Felt, *History of Ipswich, Essex, and Hamilton*, 14.

who inherited proprietorship in the region, occupying territory on the Saugus river.²³

Despite clear evidence of Indigenous agricultural use, occupation, land tenure and hereditary proprietorship in greater Naumkeag, conferring Native land rights, according to Massachusetts Charter law, no deeds or payments were initially made by the colonial government or courts for Salem's title. As settlers had been peacefully living alongside the Natives, Salem's crown grant went unchallenged by Squaw Sachem or any Naumkeag proprietors, whom the English believed were satisfied to receive protection as the sole compensation for their land. In 1631 the General Court had also banned trade in rare silver or gold with Natives, further limiting the form of compensation legally allowed in early Anglo/Native transactions. Many exchanges of this period included wampum, a cross-cultural form of currency and tribute used in the fur trade and land transfer, also signifying political alliance for Native peoples.²⁴ Governor Endecott made payments in corn and trade goods for "hoed grounds," as a form of tribute to Native proprietors on Cape Anne. In 1632 he was granted hundreds of acres in an area of Naumkeag called Wahquainesekcok, without legally purchasing his title from Indigenous proprietors.²⁵

Roger Williams argued that Salem's title should be based on fair exchange and payment to Native proprietors, rather than Crown grants or vacuum domicilium, claiming that the king "had committed an injustice in giving the Countrey to his English subjects, which belonged to the Native."²⁶ Endecott and Massachusetts Bay Colony officials, however,

²³ For a discussion of Pawtucket-Pennacook ethnology see Stewart-Smith, "The Pennacook Lands and Relations: Family Homelands"; Salisbury, *Manitou and Providence*, 103-9; Thomas Dudley, "Gov. Thomas Dudley's Letter to the Countess of Lincoln. March 1631," Joshua Scottow Papers ed. John Farmer (Concord: New Hampshire Historical Society: 1834), 9.

²⁴ Shurtleff, *Records of the Massachusetts Bay*, 1: 83; Lois Scozzari, "The Significance of Wampum to Seventeenth Century Indians in New England," *Connecticut Review* 17 (1995): 59-69; Margaret M. Bruchac, "Revisiting Pocumtuck History in Deerfield: George Sheldon's Vanishing Indian Act," *Historical journal of Massachusetts* 39, no. 1-2 (2011): 37.

²⁵ Felt, *Annals of Salem*, 57; Lepionka, "Native Agricultural Villages in Essex County: Archaeological and Ethnohistorical Evidence," *Bulletin of the Massachusetts Archaeological Society* 81, No. 1-2: 70.

²⁶ Williams in Cronon, *Changes in the Land*, 57.

continued to justify title claims to Salem, based on charter law, perceived Native decline, vacancy, and protection pacts against rival tribes. Reverend Higginson later attested: “Their subjects, about twelve years since, were swept away by a great and grievous plague...so that there are verie few left to inhabite the country... The Indians are not able to make use of one fourth part of the land; neither have they any settled places as towns, to dwell in, nor any grounds as they challenge for their own possession, but change their habitation from place to place.”²⁷ Decades after Governor Endecott was granted Salem’s charter, his son, involved in evaluating Pawtucket legal title claims and deed negotiations, during the Massachusetts charter controversy of the 1680’s, further concluded that adequate compensation was made for the region, through English costs of providing protection from enemies. He suggested that the cost of a single expedition by Salem colonists against Tarrantine raids had cost more than it would to pay Native proprietors for legal title to their land in what became Essex County.²⁸

Despite Higginson’s claim that the Natives had been “swept away,” Squaw Sachem’s youngest son Wenepawekin aka Sagamore George, became the primary hereditary heir and proprietor of Naumkeag and nearby territories, and would legally challenge English land claims in the coming decades. By that time, however, the English had granted and settled most Native land, causing impoverishment, debt, and legal dispossession. Not until after his death in 1684, was a Salem deed and title payment finally negotiated by his kin.²⁹

²⁷ Hamilton D. Hurd, *History of Essex County, Massachusetts: With Biographical Sketches of Many of Its Pioneers and Prominent Men* (J.W. Lewis, 1887), 331; Felt, *Annals of Salem*, 25; Higginson, *New England’s Plantation*, 104.

²⁸ Felt, *Annals of Salem*, 285.

²⁹ Southern Essex District Registry of Deeds “Native American Deeds,” <https://salemdeeds.com/NAD/> (accessed October 29, 2020); Perley, *The Indian Land Titles of Essex County*, 77-87; Felt, *Annals of Salem*, 268.

Mobility vs. Fixity & Commodity: An Uncivil Clash of Cultural Land Ways, Ideology, and Ecology

In order to better understand how the processes of English settler colonialism and Massachusetts Bay Colony laws impacted Pawtucket-Pennacook populations and territorial autonomy, it is essential to examine differing Native and Anglo land uses, ideologies, and legalities. For Native peoples land was understood as a common pot of shared resources, valued as a basic unit of subsistence and survival, measured for its intrinsic worth as part of an animate web of human and non-human actors, connected through reciprocal kin relations which sustained ecological balance.³⁰ This contrasts with English land use and resource commodification for profit and fee simple ownership, with legal rights for towns and individual proprietors to bound, allocate and exchange land. In England, land was a scarce commodity, long held by ancient proprietors, while in Massachusetts, it was the basis of wealth, bought and sold freely. Salem minister Roger Williams quipped that land was: “one of the gods of New England”³¹

Many environmental historians of Native New England, including William Cronon, point to another central conflict between colonial and Indigenous land ways: “English Fixity sought to replace Indian Mobility.”³² Pawtucket-Pennacook mobility countered English ideas of fixed land use, social stability and property ownership, constituting an individual’s fixed place in an orderly society, symbolized by New England towns, a succession of bounded physical and cultural landscapes perceived as divinely ordained. Mobility also challenged

³⁰ Abenaki historian Lisa Brooks coined the metaphor of the “common pot” to elucidate the Indigenous concept of reciprocal, cooperative interconnections between lands, peoples, economies and relations. She notes that the Algonquian word for dish, wlogan, is related to the word for river valleys wolhonak, which sustained and linked Pawtucket-Pennacook communities in *The Common Pot: The Recovery of Native Space in the Northeast*, 3-7.

³¹ Roger Williams quoted in Francis Jennings, “The Deed Game,” in *The Invasion of America: Indians, Colonialism, and the Cant of Conquest* (New York: Norton, 1976), 181.

³² Cronon, *Changes in the Land*, 53.

colonial assimilation policies, which sought to convert Native peoples to a puritan ideology, sedentary agricultural system, and fixed gendered division of labor. Missionary John Eliot spoke to the puritan land ethos and conflict of converting Natives, “whilst they lived so unfixed, confused and ungoverned a life, uncivilized and unsubdued to labor and order.”³³

The English defined two kinds of land ownership, natural and civil, used to justify their rights to Native land. According to an influential puritan propaganda piece, natural rights existed, “when men held the earth in common every man sowing and feeding where he pleased.”³⁴ Civil rights began with the cultivation of the land and livestock raising, which superseded natural rights. Colonial accounts and archaeological excavations, however, demonstrate that the Pawtucket-Pennacook were only semi-mobile, cultivating corn, beans, and squash for thousands of years prior to the English arrival in Massachusetts Bay. Captain John Smith described Pawtucket coastal villages and cleared hill-top agricultural fields: “rising hilles and on their tops and descents, many corn fields and delightfull groves.”³⁵

Contrary to puritan misperceptions, Pawtucket-Pennacook land use and tenure relied on fixed and mobile subsistence practices, based on mixed seasonal economies of agriculture, hunting, and gathering. Communities harvested most resources collectively, while kin groups and individuals often controlled their own nets, traps, and locales where they were placed. Native households held rights over lands where their wigwams stood, and women planted while Sagamore proprietors held authority over communal territories. This intra-village,

³³ O’Brien, *Dispossession by Degrees*, 27, 29.

³⁴ “Reasons for the Plantation in New England,” The Winthrop Society, last modified, 2015, https://www.winthropsociety.com/doc_reasons.php.

³⁵ According to Mary Ellen Lepionka, “Ample ethnohistorical data indicate mixed economies combining maize agriculture, intensive horticulture of non-cereal crops, hunting and gathering, fishing and fowling, and clamming.” “Native Agricultural Villages in Essex County: Archaeological and Ethnohistorical Evidence,” 65, 68-71; Anderson, “King Philip’s Herds,” 604; David Grayson Allen, *In English Ways: The Movement of Societies and the Transferal of English Local Law and Custom to Massachusetts Bay in the Seventeenth Century* (Chapel Hill: University of North Carolina Press, 1981), 132-33.

gendered division of labor, seasonal territories and resource use, balanced mobility, and fixity, constituting Native identity, sense of place, land tenure and proprietorship.³⁶

English perspectives on Native legal rights, however, were tied to fixed land use, and mobility was often used by colonial officials and courts to justify dispossession of what were seen as unoccupied lands under the legal edict, *vacuum domicilium* (vacant spaces).

Massachusetts Bay Colony governor, John Winthrop, famously argued that New England Natives' uncivilized, nomadic lifestyles invalidated their land rights: "That which is common to all is proper to none. This savage people ruleth over many lands without title or property...for they enclose no ground, neither have they any cattel to maintayne it, but remove their dwellings as they have occasion."³⁷ Winthrop expressed the English Common Law view that mobile subsistence meant that Natives did not claim territorial bounds or have a system of land "ownership," akin to English land tenure and fee simple, sole proprietorship.

While Winthrop and other legal minded colonists attempted to deny Indigenous rights based on the perception that they had no fixed land use or concept of ownership, early observers of Indigenous territorial tenure and exchange practices, challenged this fallacy. Colonist Edward Winslow wrote that Native Sagamores, "knoweth how far the bounds and limits of his own country extendeth." Roger Williams also refuted policies that legally denied Native land rights based on mobility, noting that, "the Natives are very punctuall in the bounds of their lands...and I have known them make bargain or sale amongst themselves for a small piece." Williams championed Indigenous autonomy, declaring that they utilized and

³⁶ O'Brien, *Dispossession by Degrees*, 21.

³⁷ Ian Saxine cites Winthrop's contradictory claims and practices in recognizing and purchasing Indian lands himself in *Properties of Empire: Indians, Colonists, and Land Speculators on the New England Frontier* (New York: New York University Press, 2019), 29-32; Stuart Banner, *How the Indians Lost Their Land: Law and Power on the Frontier* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2005), 19, 33; Cronon, *Changes in the Land*, 56, 60.

“improved” the land as the English, albeit differently.³⁸ He and other early observers noted that while Pawtucket-Pennacook settlement patterns, communal land and resource use differed from sole proprietorship, these groups had long standing tenure systems, hereditary land rights and exchange practices, before the English arrived in Massachusetts.

While the Pawtucket-Pennacook were ancient horticulturalists, their cultivation methods differed from orderly, fenced colonial fields, which ran counter to Native seasonal crop rotation and mobile resource procurement.³⁹ Colonial laws and courts, however, recognized title rights based on English land usage and required that Native and Anglo proprietors visibly “improve” the land through fencing of fields and property boundaries as a legal doctrine of ownership. Thus, fencing not only threatened Native seasonal, mixed subsistence patterns, but also legal title and land rights under the Massachusetts charter and General Court land laws, becoming one of the earliest legal disputes with settlers.⁴⁰

Despite many differences, there were some parallels between Native communal land use and the system of English commons, which included shared land for collective livestock raising and plantations, where communities farmed together within fenced fields. In Massachusetts, this commonwealth tradition also reserved woodlands, meadows, waterways and plantations for common use and informed colonial tenure throughout the seventeenth century. Legal historian, David Konig, attests, however, that in Massachusetts commonage differed from England, as it was divided and sold as individual holdings in fee simple severalty making it far more valuable and altering land practices in New England. The sole

³⁸ Kawashima, *Puritan Justice and the Indian*, 46-49; Williams, *A Key into the Language of America*, 167; Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 113-15; O’Brien, *Dispossession by Degrees*, 16.

³⁹ According to Mary Ellen Lepionka, “While keeping camps for seasonal subsistence resource procurement, they were moving their agricultural villages within arable areas for proximity to whatever fields they were planting in a given year,” in “Native Agricultural Villages in Essex County: Archaeological and Ethnohistorical Evidence,” 69-71.

⁴⁰ O’Brien, *Dispossession by Degrees*, 22, 26; Leavenworth, “The Best Title That Indians Can Claim,” 282-83; Anderson, “King Philip’s Herds,” 605-15.

proprietorship system served as a means for colonial elite in Massachusetts Bay Colony to commodify and control fixed land use and natural resources on behalf of new settlements. Through court grants to towns, proprietors had authority to assign land, including commons to freeholders or investors in towns, as well as legal rights to exchange land with sagamores.

English land and resource control and commodification is evident in the colonization of coastal Pawtucket lands of Agawam, chartered as Essex County by the Massachusetts Bay Colony. These early resource-based market economies, relied on cooperative Native/Anglo trade and labor relations, based on hybrid land exchange and legal practices. Essex County historian David Allen has illustrated, however, that this region developed an early speculative proprietor system, which exploited the commercial potential of land before most. One early English chronicler wrote that Agawam was settled by men who were used to: “having the yearly revenue of large lands in England before they came to this wilderness.”⁴¹ Speculation placed the majority of Pawtucket lands in the hands of a few colonial elites, through unequal distribution for profit, leading to a competitive economy, based on property ownership. This threatened early Pawtucket/Anglo reciprocal, common pot land and resource sharing, displacing Native peoples in and beyond Essex County.

In the few cases where payments were eventually made by the English for title to Native lands already settled, prices paid were far less than between English proprietors, one of the leading causes of debt and dispossession, as Jennifer Pulsipher’s work has shown for other Native New England groups. For example, one of Essex County’s first proprietors acquired land through grants and purchases from settlers, leasing 250 acres of undeveloped property for 46 pounds a year. The same land had recently been sold, along with thousands of

⁴¹ David Thomas Konig, *Law and Society in Puritan Massachusetts Essex County, 1629-1692* (Chapel Hill: University of North Carolina Press, 1978); Allen, *In English Ways*, 118-19, 131, 215-17.

additional acres in Agawam to colonial authorities by Sagamore Masconomet, for just 20 pounds. This disparity is due in part to differing perceptions of relative property value between Native and English proprietors. Less value was also placed on land seen by the English as unimproved, versus highly prized cultivated or fenced lands. Pulsipher notes, however, that even “wild” land sold for more between English in Massachusetts. She suggests the reason for this was colonial cultural bias against Natives, who they believed had no need for the amounts paid between Englishmen to sustain a “civilized” lifestyle.⁴²

Jean O’Brien claims that early resource commodification and land speculation in Massachusetts Bay also undermined English visions of orderly expansion of colonial towns and tenure through legal land grant and clear titles. Disorder in land exchange is also evident in higher than average property litigation in Essex County, as seen in numerous legal disputes in General and Essex County Court, between settlers and Native proprietors over fencing, bounding, selling, and seeking to privatize common land. Exclusive proprietorship combined with rapid population growth and resource commodification for agriculture and livestock, led to land scarcity and legal strife. Henry Sewall, one of Newbury’s first proprietors, engaged in frequent litigation with the town and settlers, in his quest to acquire land.⁴³ He was eventually involved with his son, in a twenty year legal dispute with Native occupants and farmers, over land he had taken without consent or title payment.

Native Territorial Tenure vs. Massachusetts Bay Colony Sovereignty, Charter Law & Title

The 1629 Massachusetts Bay Charter and colonial laws passed by the General Court, defined legal title to Indigenous lands, distinguishing between property and political

⁴² Pulsipher, “Defending and Defrauding the Indians,” 95-99; Jennifer Pulsipher, *Swindler Sachem: The American Indian Who Sold His Birthright, Dropped Out of Harvard, and Conned the King of England* (New Haven, Connecticut: Yale University Press, 2019), 99-105; Allen, *In English Ways*, 131.

⁴³ O’Brien, *Dispossession by Degrees*, 17-25; Allen, *In English Ways*, 112-16.

sovereignty or jurisdiction. Because English sovereignty was based on the authority of a monarch, it had negative consequences for Native land tenure systems and legal rights. The Massachusetts Bay Charter granted sovereignty over all English and Native occupants of lands. While technically sovereignty derived from the crown, legal property titles under Massachusetts Bay Charter law were held contingent upon General Court land grants or purchase from Native proprietors, who occupied and claimed them. In areas considered vacant, however, the charter granted both sovereignty and property rights to English settlements on lands considered “unimproved,” without title payment to Native proprietors.⁴⁴ This was the case with most Native lands, legally granted to towns which conferred exclusive rights and control over property use and transference between sole proprietors. The allocation of common land by towns contradicted English law and was later challenged by the Crown.⁴⁵

Pawtucket-Pennacook tenure systems and sovereignty were interconnected, conflicting with the Massachusetts Charter, English land laws, and exchange practices. Defining Native political and territorial authority is therefore key to any discussion of property rights and legal disputes. Pawtucket Sagamores’ political and territorial power relied on heredity (mostly passed to male heads of family bands), leadership ability and charisma to maintain the ongoing consent and support of community members and kin groups who acted as stewards of tracts of land held within vast territories. While sagamores held authority to transfer lands within designated territories, this was limited by the agreement of community members and families who occupied and used these lands for farming, hunting, fishing grounds and seasonal resource procurement areas, often shared communally. This also meant

⁴⁴ Saxine, *Properties of Empire*, 69; Cronon, *Changes in the Land*, 60-61; Kawashima, *Puritan Justice and the Indian*, 46; Banner, *How the Natives Lost their Land*, 49-51.

⁴⁵ Konig, *Law and Society in Puritan Massachusetts Essex County*, 161.

that individuals and groups who utilized and lived on these lands could not alienate them without approval of a head Sagamore. Thus, Pawtucket tenure was dependent upon both individual occupation and shared, community use and proprietorship.⁴⁶

Daniel Gookin observed: “their government is mixed, partly monarchical and partly aristocratical; their Sagamore doing not any weighty matter without the consent of his great men, or petty sagamores.”⁴⁷ A sagamore’s sovereignty over land and peoples might be roughly equated with a European monarch’s control over their nations. However, as trader Christopher Levett noted, in negotiations with sagamores including Papisseconnewa, “their sagamores are no kings.”⁴⁸ Sagamores’ position and power was not absolute and could be undermined by community disapproval or individuals who could abandon him or her. Thus, Gookin noted, sagamores acted, “obligingly and lovingly unto their people, lest they should desert them, and thereby their strength, power and tribute would be diminished.”⁴⁹

This meritorious leadership and consensus system formed the foundation of Pawtucket-Pennacook territorial proprietorship, contrasting with the coercive authority of English political hierarchy, rank, and legal systems, causing conflicts between Native and Anglo sovereignty, land tenure and exchange. Native and English land ways during early colonization would have been somewhat mutually intelligible, albeit quite different. Despite many differences in these legal/cultural systems, the Pawtucket-Pennacook learned to comprehend English land laws and how to navigate the colonial court system through hybrid legal practices, in an effort to maintain territorial autonomy and political authority.

⁴⁶ Cronon, *Changes in the Land*, 59-62; Pulsipher, “Defending and Defrauding the Indians,” 90; O’ Brien, *Dispossession by Degrees*, 21; Lepionka, “Native Agricultural Villages in Essex County: Archaeological and Ethnohistorical Evidence,” 68.

⁴⁷ Gookin, *Historical Collections of the Indians in New England*, 13.

⁴⁸ Colin G. Calloway, “Wannalancet and Kancagamus: Indian Strategy on the New Hampshire Frontier,” *Historical New Hampshire* 43 (1998): 265.

⁴⁹ Gookin, *Historical Collections of the Indians in New England*, 14.

Papisseconnewa's 1st Piscataqua Deed- a Tribute to Legal Hybridity & Usufruct Land Rights

While most coastal Pawtucket-Pennacook homelands, considered vacant by the English, as in Naumkeag, were initially granted by colonial courts and settled at the invitation of Native proprietors, without payment, in areas where tribes clearly dominated, colonial authorities were obliged by their charter to negotiate with sagamores in sovereign territories, resulting in the piecemeal purchase of titles through legal deeds.⁵⁰ Unlike the coastal Pawtucket, who had suffered a great loss of population, leadership and territorial autonomy from intertribal war and European disease, the Pennacook, under Papisseconnewa, remained in a position of power relative to the newly formed Massachusetts Bay Colony. Officials were therefore legally compelled by charter law to negotiate with and compensate Papisseconnewa, as a recognized territorial proprietor, for title rights to Pennacook lands.

This earliest known recorded deed, transacted between the Pawtucket-Pennacook and Massachusetts Bay colonists, was negotiated in 1629, with Papisseconnewa's consent, transferring large tracts of coastal land between the Molodemak and Piscataqua Rivers (later New Hampshire, bordering Maine). Because, however, Piscataqua was a disputed region claimed under the Masonian charter of 1622 and 1629 by the crown, its English title and boundaries were unclear and contested. This deed illustrates another central motive for the English securing Piscataqua title, as a means to protect against rival colonial land claims. This contract was purportedly negotiated between Rev. John Wheelwright and Englishmen of the Massachusetts Bay Colony and Papisseconnewa's tributary sagamores, Runawitt and Wahangnoawitt of Pentucket (Haverhill).⁵¹ These local sagamore proprietors executed the

⁵⁰ Kawashima, *Puritan Justice and the Indian*, 47.

⁵¹ Pennacook/Sokoki Inter-Tribal Nation, *Historical Indian/Colonial Relations of New Hampshire: Treaties, Letters of Agreement, Land Sales, Leases, & Other Pertinent Information, 17th -18th Centuries* (Manchester: New Hampshire Indian Council, 1977), 7-10; The legitimacy of this deed remains a point of historical controversy, as Wheelwright was likely in England at the time and the lands fell outside the Massachusetts Bay charter. Despite its questionable legal status and

deed on behalf of themselves and their head sachem, Papisseconnewa, providing Pennacook group authorization and consent for English access and, by implication, legal title to the land.

This deed exemplifies early legal hybridity in land exchange practices, which relied on creative misunderstandings and mutual tolerance of differences. Despite divergent land tenure and legal systems, the English grantees acknowledged the Native model in signing this contract, to the extent that it allowed them to gain lawful title. The colonists also negotiated with multiple sagamores, although this was contrary to English notions of fee simple ownership. In this and other deeds, the English soon came to recognize sagamores' authority over land exchanges, in conjunction with their community and the Pawtucket-Pennacook learned about colonial legal land tenure systems of sole proprietorship.

The terms of this agreement make explicit the Pawtucket-Pennacook understanding of sharing the land with English settlers, in exchange for the desired benefit of trade, protection and alliance. One of the primary reasons the Pennacook welcomed the English to settle nearby, as in Agawam and Naumkeag, was the threat of attack by enemies. It had barely been a decade since Nanapshemet, Papisseconnewa's predecessor, had been killed by the Mi'kmaq, who continued to raid Pawtucket-Pennacook villages. The sagamore proprietors who negotiated this deed attested that they were: "inclined to have ye English inhabit amongst us, as they are amongst our countrymen in the Massachusetts Bay, by such means wee hope in time to be strengthened against our enemyes, the Tarratens, who yearly doth us damage, likewise being perswaided yt itt will bee for the good of us and our posterity."⁵²

presence of all English claimants, David Stewart Smith argues that even if Wheelwright's presence is doubtful, the Native signatures were legitimate and it serves as a valuable ethnographic and historical document for understanding the basis for Pawtucket-Pennacook land tenure, exchange practices and relations with English settlers when Massachusetts Bay Colony charter, laws and borders were newly established and disputed. In 1638 another deed was transacted with Wheelwright present, who emigrated to Piscataqua and founded Exeter. See Stewart-Smith, "The Pennacook Indians and the New England Frontier," 115.

⁵² Pennacook/Sokoki Inter-Tribal Nation, *Historical Indian/Colonial Relations of New Hampshire*, 7.

This protection pact became an increasingly familiar pattern of Native/Anglo mutual accommodation and alliance in cross-cultural land exchange and legal practices.

The deed also specifies what the Pawtucket expected from the English in return for their gift of land. This included the condition that every English township established within the deeded tract: “shall paye to Papisseconnewa, oue chief Sagamore, that is now and to his successors forever if lawfully demanded, one coate of trucking cloath a year and every year...” Additionally, the sagamores received “compitent valuation in goods already received in coats, shurts and victuals.”⁵³ These terms can be seen as a way in which Pawtucket-Pennacook proprietors adapted their own land ways in order to strategically accommodate the English, while benefiting their communities. While payment in trade goods seems to represent colonial exploitation, Papisseconnewa and the sagamores saw themselves profiting, by securing English alliance and trade, while maintaining political and territorial authority.

The English had legal structure and the Natives, gift traditions that relied upon an accurate understanding of relative value, status and mutual interests of the parties involved to establish reciprocity, but creative misunderstandings led to the interpretation of the processes and gifts from their own cultural perspectives. Native proprietors sought gifts as a way to bring the English under their sphere of influence, interpreting these as traditional tribute and signifying that the English submitted to their authority in exchange for allowing them settle. The Native practice of tribute as a continuum of sovereign relations was likely not the intent of the English grantees, who negotiated this deed to gain legal access to the lands in question for settlement and commodification of resources for profit. The colonists viewed their gifts as payments for title rights, provided by their charter’s grant. These divergent views and relative

⁵³ Pennacook/Sokoki Inter-Tribal Nation, *Historical Indian/Colonial Relations of New Hampshire*, 7.

power equity in this period, allowed English and Native leaders to rely on their own legal systems and mutual agreement to forge a middle ground between two cultures' land ways.

The usufruct agreements in this deed are also a significant example of how Pawtucket-Pennacook sagamores sought to maintain territorial autonomy, land use, and resource access, illustrating legal hybridity. This included provisions that preserved continued occupancy and shared land rights, theoretically, for the Pawtucket: "Wee the aforesaid Sagamores and our subjects are to have free liberty (within the aforesaid tract of land) of fishing, fowling, hunting, and planting."⁵⁴ In addition to horticulture, hunting, fishing, and trading were essential for Native survival, relying on mobility and access to diverse resources throughout vast territories for procuring adequate subsistence. These clauses support Christine DeLucia's research on Native land exchange, demonstrating how sagamores and saunkskwas attempted to retain ecological stewardship of their communities, while strategically accommodating settlers' desire for land.⁵⁵ These terms also suggest an early intelligibility by Pennacook sagamores of English land laws, which used to diffuse the potential threat to Native territorial autonomy, subsistence, and legal rights in Massachusetts.

Whether or not they were fully aware of it, the English signaled acknowledgement of Pawtucket-Pennacook land ways by accommodating usufruct rights in this deed. As William Cronon's work on Native/Anglo land exchange has shown, however, most colonists believed they were buying "not a bundle of usufruct rights applying to a range of different territories, but the land itself, an abstract area whose bounds in theory remained fixed no matter what the use to which it was put."⁵⁶ These usufruct agreements, relying on a mutual tolerance of

⁵⁴ Pennacook/Sokoki Inter-Tribal Nation, *Historical Indian/Colonial Relations of New Hampshire*, 9.

⁵⁵ Delucia, "Terra Politics in the Dawnland," 12.

⁵⁶ Cronon, *Changes in the Land*, 68.

differences in territorial tenure systems, helped to mitigate the initial impacts of settler colonialism and speculation, which increasingly sought land and resources as commodities, separate from the common pot of ecology, kinship, and human relations.

The provisions in this first Pawtucket-Pennacook deed paved the way for cooperative settlement, mitigated land disputes and dispelled fears of dispossession in the early period of colonization for both the Natives and English, when there was an abundance of land and a relative power balance. These territorial and resource sharing agreements were one way in which Pawtucket-Pennacook and English proprietors quite literally sought common ground, through mutual accommodation in hybrid exchange practices.⁵⁷

Masconomet's Middle Ground- Diplomats, Traders, Raiders, and the Lost Ark in Agawam

Pawtucket/Anglo land sharing practices in Agawam, followed the pattern of reciprocal trade and alliance, seen in Naumkeag. Soon after his election as Massachusetts Bay Colony Governor in 1629, John Winthrop took the charter aboard the *Arbella*, ensuring his authority over it. Before departing England, Reverend John Cotton delivered his “Sermon on God’s Promise to His Plantations,” to Winthrop’s company, extolling the virtue of taking “possession of vacant countries” as God’s preordained plan. Winthrop’s perception of an empty landscape, following plagues and intertribal war, as well as amiable relations between his predecessor Endicott and the Naumkeag Pawtucket, gave him hope for peaceful settlement: “If we leave them sufficient for their use...wee may lawfully take the rest, there being more than enough for them and us... and we shall come in with good leave of the natives.”⁵⁸ Winthrop’s biographers suggest that he was lost when he sailed into the

⁵⁷ Pulsipher, “Defending and Defrauding the Indians,” 91-94; Pulsipher, *Swindler Sachem*, 98.

⁵⁸ Banner, *How the Indians Lost their Land*, 45; Kawashima, *Puritan Justice and the Indian*, 47.

Pawtucket region, Agawam (Ipswich Bay, near Salem) in 1630. While the Natives had a chance to repel the wayward ship, Winthrop recounted a warm welcome from Sagamore *Masconomet* and his group, who paddled out to greet them: “In the morning, the Sagamore of Agawam and one of his men came aboard our ship and stayed with us all day.”⁵⁹

Masconomet and his Naumkeag kin had received English aid against Mi’kmaq raids and he likely sought a similar pact of mutual trade, land sharing and protection with Winthrop. Emboldened by his new alliance, Masconomet mounted raids on the Mi’kmaq, resulting in counter-attacks on the new English plantation and his banishment by the General Court from entering any Englishman’s house for a year. Winthrop recounted the deadliest raid on Agawam in 1631 when 100 Mi’kmaq warriors killed seven Pawtucket, wounding Masconomet’s kin, sagamores Wonohaquaham (John) and Monowampate (James), sons of Squaw Sachem and Nanepashemet, killed by Mi’kmaq. While settlers played a passive role in repelling this and other attacks, their presence and alliance dissuaded further raids, helping to maintain peaceful coexistence between the Agawam Pawtucket and English.⁶⁰

Despite Governor Winthrop’s legal rhetoric which in theory negated Native land rights, in practice, he and his son forged some of the earliest territorial agreements with the Pawtucket and other groups, relying on a mutual tolerance of differences in hybrid legal practices, by which both parties sought to benefit in their quest for common ground. Regional sagamores reciprocated English aid, encouraging Native groups to strategically accommodate

⁵⁹ According to Mary Ellen Lepionka, Sagamore Masconomet’s name was likely honorific: “Named for the black bear.” Lepionka, *Native Americans of Cape Ann*, “Masconomet and Nanepashemet,” last modified, 2018, <https://capeannhistory.org/index.php/masconomet-and-nanepashemet/>; John Winthrop, *A Journal of the Transactions and Occurrences in the Settlement of Massachusetts and the Other New-England Colonies, from the Year 1630 to 1644* (Hartford: Printed by Elisha Babcock, 1790), 50; Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 79; DeLucia, *Memory Lands*, 37.

⁶⁰ Shurtleff, ed., *Records Mass. Bay*, 1: 89; Monowampate’s wife, Wenuhus, (Papisseconnewa’s daughter) was taken hostage and her ransom paid by an English fishing captain in wampum and beaver pelts. Winthrop, *A Journal of the Transactions and Occurrences in the Settlement of Massachusetts and the Other New-England Colonies, from the Year 1630 to 1644*, 66; Salisbury, *Manitou and Providence*, 184.

colonists through trade and land exchange. Sagamore Wonahaquahan (John) served as a diplomatic emissary between English fur traders and neighboring tribes, becoming a close associate of the governor, who desired to extend his political and trade contacts with Native leaders. Winthrop and other Massachusetts Bay Company investors expected most of their profits to come from the fur trade, relying on Native hunters for peltry, shipped from coastal villages to Boston and Europe. In 1631 sagamores Wonahaquahan and Monowampate received Winthrop's legal aid in recovering stolen beaver skins from a crooked English trader.⁶¹ This mutual alliance initially created a cooperative middle ground coexistence.

Colonial courts were limited in their ability to enforce laws, depending on officials like the Winthrops to establish trade, obtain land and forge economically beneficial relations. John Winthrop Jr.'s early association with Pawtucket sagamores was also crucial in establishing trading posts and settlements, enabling him to obtain land grants and legal title to Agawam. In 1632 he was made a magistrate and given authority by the General Court to charter the town Ipswich, "being the best place in the land for tillage and cattle, lest an enemy, finding it void, should possess and take it from us."⁶² This articulates the English desire for highly valued land for agriculture and animal husbandry and also speaks to the common colonial creative misunderstanding (intentional or not) that Agawam, like most Pawtucket territories, were void and open to legally grant and settle. This also alludes to English fear of rival colonial claims to land. Furthermore, Winthrop Jr. was ordered to evict prior English settlers who might claim title, based on vacancy or early negotiations with the

⁶¹ Winthrop *A Journal of the Transactions and Occurrences in the Settlement of Massachusetts*, 61, 65; Stewart-Smith, "The Pennacook Indians and the New England Frontier," 98-99; Joshua Marshall, "Settling Down: Labor, Violence and Land Exchange in the Anglo-Indian Settlement Society of 17th Century New England, 1630-1692," (PhD diss., Brown University, 2003), 5-6.

⁶² Currier, *History of Newbury*, 23; Allen, *In English Ways*, 119.

Pawtucket.⁶³ This illustrates the growing legal power of Massachusetts Bay, hierarchy of charter law and crown grants, overriding prior reciprocal Native/Anglo land sharing.

As a result of mutual accommodation between the Agawam Pawtucket and Winthrops, Ipswich, like Salem and most Essex County towns, was chartered through a General Court land grant, at the invitation of the Natives without legal title payment. However, Winthrop Jr. soon negotiated the earliest recorded legal deeds in Essex County, with Masconomet. As Pulsipher notes, he had a reputation of recognizing Native land ways, including ongoing tribute payments to sagamores and all proprietors.⁶⁴ These hybrid land exchange and legal practices satisfied Native tenure in Agawam, while securing colonial title.

In 1633 the General Court issued a license for Winthrop Jr. to set up a trucking house and fishing station near the mouth of the Molodemak, to facilitate commercial trade and export of resources, by which he and Massachusetts Bay Company stock-holders profited.⁶⁵ Ipswich also established one of the first resource based market economies, selling surpluses of corn throughout New England as far as the Caribbean. Winthrop Sr. noted that Ipswich farmers had “many hundred quarters to spare yearly, and feed, at the latter end of summer, the town of Boston with good beefe.”⁶⁶ These early commercial enterprises established an economic pattern which was replicated in other towns which became Essex County, commodifying Native land and resources for profit, resulting in gradual displacement.

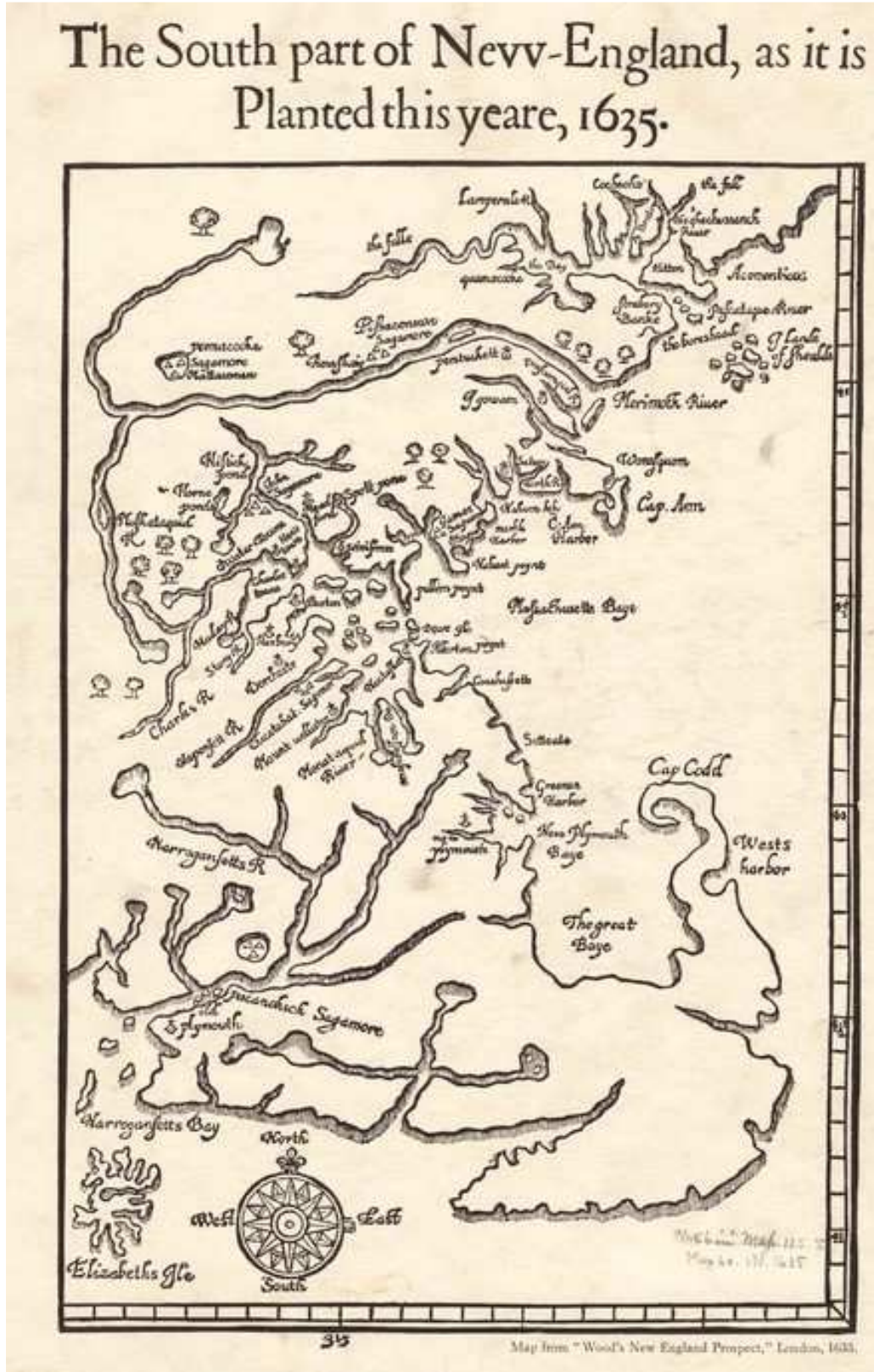
⁶³ Hurd, *History of Essex County, Massachusetts*, 1291; Thomas Franklin Waters, *Ipswich in the Massachusetts Bay Colony* (Ipswich, Mass.: Ipswich Historical Society), 429.

⁶⁴ Pulsipher, “Defending and defrauding the Indians,” 93.

⁶⁵ Currier, *History of Newbury, Mass.*, 24-25. Allen, *In English Ways*, 132.

⁶⁶ Winthrop, *A Journal of the Transactions and Occurrences in the Settlement of Massachusetts*, 98.

2. William Wood, *The South part of New England, as it is planted this year, 1635.*



William Wood, one of Ipswich's first settlers, penned *Wood's New England's Prospect*, which became successful secular propaganda, attracting English colonists to emigrate and populate the new town with settlers from the mercantile and laboring classes, aiding Winthrop Jr.'s mission in establishing diverse commerce and exchange with the Pawtucket in Agawam. Wood wrote in glowing terms about the friendly Pawtucket Natives and abundant natural resources: "*Agowamme* is nine miles to the North from *Salem*, which is one of the most spacious places for a plantation, being neare the sea; it aboundeth with fish, and flesh of fowles and beasts, great Meads and Marshes and plaine plowing grounds, many good rivers and harbours and no rattle snakes. In a word, it is the best place but one."⁶⁷

The Winthrops and colonial elites relied on Pawtucket labor in their land and resource based economy. Servants were expensive and hard to obtain due to a shortage of people and surplus of land, allowing settlers of modest means to own and work on their own farms. Winthrop and the gentry needed free or cheap labor to maintain their fortunes, which often came from Native indentured servants/slaves, working as domestics, hunters, translators, guides, and surveyors.⁶⁸ Court records show that Winthrop Jr. had a servant Pequanamquit, aka Ned, bound to him for several years, who was likely involved in the fur trade. Like most magistrates, Winthrop lacked the desire or skills of Native hunters, like Ned, who, according to records, provided him game. When Winthrop returned to England in 1634, Pequanamquit continued to work on his farm. In a letter to his son, Winthrop Sr. claimed that Ned remained a valuable servant in his absence: "Mr. Clerk finds much fault with your servants John and Sarah, and tells me they will not earn their bread, and that Ned is worth them all."⁶⁹

⁶⁷ William Wood, *New-England's Prospect. Being a True, Lively, and Experimental Description of That Part of America, Commonly Called New-England* (Boston: Printed for the Society, 1865).

⁶⁸ Shurtleff, ed., *Records of Mass. Bay*, 1: 82; Marshall, "Settling Down: Labor, Violence and Land Exchange," 14-16.

⁶⁹ Winthrop, *A Journal of the Transactions and Occurrences in the Settlement of Massachusetts*, 34.

Winthrop's account suggests long term relations of mutual accommodation, evident in Ned's loyalty to Winthrop's family, who recognized his exemplary service and provided him protection. Pequanamquit may have served Winthrop Jr. until 1637. While Ned's work for the Winthrops may have involved some reciprocity, Pawtucket/Anglo economic and labor relations rapidly deteriorated, causing his eventual debt, indenture, corporal punishment, imprisonment, and land forfeiture to colonists, as in the case of many Pawtucket who remained in Essex County and lived as wards in English towns.

Poquanum's Saugus Suits- Creative Misunderstandings and Hybrid Exchange in Nahant

Native/Anglo land and resource sharing during the first period of English settlement, as seen in Naumkeag, Piscataqua and Agawam, often relied on creative misunderstandings, whereby Indigenous and English proprietors negotiated based on their own cultural practices and land ways. As Native leaders gained intelligibility of English law, they increasingly employed adaptive, hybrid land exchange practices, in order to strategically accommodate both Native and English land tenure and legal systems, achieve their own interests, and seek benefit for themselves and their communities.

Sagamores' use of legal hybridity is evident in a series of land negotiations transacted after 1630, in what became the towns of Saugus, Nahant and Lynn. Sagamore Poquanum (aka Duke William) along with his kin, Sagamores George (Poquanum's son-in-law and heir), James and Masconomet, transacted many informal, land sharing and trade agreements with English settlers, including cattleman Thomas Dexter. These exchanges were cited by settler and author William Wood, who noted that Poquanum "out of his generosity gave this

place in general to this plantation...so that no other can appropriate it to himself.”⁷⁰ Decades later these transactions became subject to litigation in Essex County Court, between English proprietors and the towns of Lynn and Nahant, over title rights derived through early cross-cultural negotiations between Dexter, Poquanum and other Native sagamores (see chapter 2).

Poquanum had a long history of exchange with English colonists, dating back to his 1602 meeting with trader Bartholamew Gosnold on the Nahant coast, whom he had greeted wearing an English suit. His prior experience and penchant for English clothing, likely informed Poquanum’s cross-cultural land exchange strategies, when thirty years later he transferred Nahant lands to Dexter in exchange for new English clothes and trade goods. Poquanum, like other Native proprietors, may be thought of as naïve for selling land to colonists for trifles.⁷¹ Seeing Poquanum as a colonial dupe, however, neglects his agency, as he transacted multiple exchanges by which he sought to gain while maintaining authority over land and trade relations, and alliances, which also accommodated colonists’ land needs.

Poquanum’s strategic negotiations exemplify the practice, seen in other early land agreements (including the Piscataqua deed) which relied on creative misunderstandings to interpret English trade goods as ongoing tribute payments. Poquanum’s kin, Sagamores George and Masconomet, later attested that “Duke William sold all Nahant to Thomas Dexter for a suit of clothes which Dexter took again and gave him two or three coats for it.”⁷² This suggests the sagamores’ understanding of Dexter’s ongoing gifts of clothing as tribute payments, by which he sought to preserve his continued authority over Nahant lands, gain long term profit and maintain relations with Dexter. Dexter, on the other hand, likely

⁷⁰ Southern Essex District Registry of Deeds “Native American Deeds,” <https://salemdeeds.com/NAD/> (accessed October 29, 2020); Wood, *New England’s Prospect*, 46.

⁷¹ Francis Jennings suggests this transaction as an example of European legal trickery in *The Invasion of America*, 128-45.

⁷² George Francis Dow, ed., *Records and Files of the Quarterly Courts of Essex County, Massachusetts 2* (Salem: Essex Institute, 1911): 128.

interpreted his gifts to Poquanum as title payments for Nahant, based on his legal understanding of fee simple land tenure and the Massachusetts Charter land laws.

Additionally, Poquanum's exchanges illustrate the concept of legal hybridity, shown also by Jennifer Pulsipher's research, wherein differing Native/Anglo tenure systems and transfer practices are combined in territorial negotiations.⁷³ Accounts by Poquanum's kin and colonists attest to how he bartered lands with multiple colonists, on different occasions, receiving additional trade goods as forms of tribute payment. This includes Poquanum's first known transaction with an English settler, William Witter, who claimed to have bought Nahant, Swampscott and Sagamore Hill from Poquanum for two pestle stones, in 1630, prior to Dexter's deals. Witter attested that during the same period as Poquanum's negotiation with Dexter, Sagamores George, James, John and Masconomet of Agawam, all came to his house with Poquanum, "which was two or three miles from Nahant when Thomas Dexter had bought Nahant of him for a sutt of clothes, the said Black will asked me what I would give him for the land my house stood upon, itt being his land..." Poquanum explained to Witter that this was where his father's wigwam had stood and "Sagamore Hill" and all of Nahant, belonged to Poquanum and his kin.⁷⁴ In this interaction, we see evidence for Poquanum's possible awareness of Massachusetts charter law, requiring settlers to pay for legal title to lands which were previously occupied or "improved" by Native proprietors.

Legal testimonials by Poquanum's kin further suggest that he and Dexter's property transactions were consensual and condoned by the head sagamore, his community and English colonists, signifying cross-cultural land ways, ongoing reciprocity, and middle

⁷³ Jennifer Pulsipher discusses legal hybridity in, *Swindler Sachem*, 96-100; Pulsipher, "Defending and Defrauding the Indians," 96-99.

⁷⁴ Dow, ed. *Records and Files of the Quarterly Courts*, 2: 43, 48, 130; Perley, *The Indian Land Titles of Essex County*, 49.

ground relations. Authorization by multiple sagamores was often used by the English as proof of Native consent in acquiring legal land title, as evidenced in deeds and agreements involving multiple proprietors (as in the Piscataqua deed). Poquanum's navigation between Native and English cultural, legal systems, and land exchange practices, accommodated colonists, while satisfying himself and his community's consensus based, hereditary tenure.

These early hybrid exchanges were transacted by Poquanum, as well as other sagamore proprietors, who held joint use rights to Saugus/Nahant territories. Settler Nathaniell Bacor claimed that "he saw Dexter pay Sagamore George in corn for his portion of Nahant."⁷⁵ Settler William Dixy claimed that at the same period as Dexter had negotiated with Poquanum, he arrived with his master who appealed to Governor Endicott for lands and, "he gave them leave to go wherever they would. They went to saugust, now Linne, where they met with Sagamore James and some other Indians, who gave them leave to dwell thereabouts and they and the rest of his master's company cut grass for their cattle, keeping them on Nahant, and had quiet possession."⁷⁶ Squaw Sachem's son Sagamore James (whom Masconomet paid tribute to) was proprietor of Saugus, abutting Nahant. These accounts further attest to kin ties and communal land use and exchange practices, based on consent of individual proprietors who utilized specific tracts as well as head sagamores. English accounts also suggest that goods given to Poquanum in the 1630's were later inherited by Sagamore George, his son-in-law heir to Nahant, further evidencing Native land tenure, whereby descendants claimed rights and benefitted from prior exchanges.

Poquanum and his kin's land deals and seeming recognition of colonial property laws can hardly be interpreted as the actions of naïve Natives conned into selling land for English

⁷⁵ Dow, ed. *Records and Files of the Quarterly Courts*, 7: 126.

⁷⁶ Dow, ed. *Records and Files of the Quarterly Courts*, 7: 127.

clothes and trinkets. On the contrary, perhaps Poquanum played the trickster in this remarkable series of exchanges, by which he succeeded for a time in profiting by strategically accommodating and perhaps conning the colonists by utilizing legal hybridity. Poquanum and his relatives' negotiations are significant examples of how Native proprietors successfully engaged in strategic accommodation, in cross-cultural land exchanges with settlers, by which they sought to preserve their political autonomy and legal rights.

Despite the initial benefits of tribute payments and hybrid exchange practices for Native groups, these were soon negated by the dominance of Massachusetts Bay charter law and the court system, which granted fee simple title to towns and English proprietors, leading to loss of Native lands and legal rights. Soon after Poquanum's transactions, legal hybridity would be limited by new laws requiring court consent for all Native/Anglo trade and land sales, negating earlier informal negotiations by Poquanum, his kin and English settlers.⁷⁷

Shortly following his exchanges with Dexter, Poquanum was wrongly accused of murdering trader Walter Bagnall and hanged at Richman's Isle Maine without trial. Governor Winthrop conceded Poquanum's innocence for the murder, which occurred years earlier, but failed to intervene legally, when his death went uninvestigated, and his executioners set free. Poquanum served as a convenient scapegoat in this act of frontier justice by settlers on the outskirts of Massachusetts Bay and jurisdiction of colonial courts. His death portended increasing violence in trade and legal disparities between Natives and the English.

Governor Dudley reported roughly a dozen Natives remained in Saugus territory at the time of Poquanum's untimely murder.⁷⁸ Despite this small population, Poquanum's

⁷⁷ Massachusetts (Colony), and William Henry Whitmore, ed. *The Colonial Laws of Massachusetts. Reprinted from the edition of 1672, with the supplements through 1686* (Boston: Rockwell and Churchill, City Printers, 1890), 74-75.

⁷⁸ Governor Winthrop affirmed that Bagnall was a notoriously crooked trader and had previously offered legal advice to Poquanum's kin, Sagamores John and James, who Bagnall robbed of beaver skins. See Winthrop, *A Journal of the*

children and heirs continued to claim rights to territories and engage in diplomacy and land negotiations with colonists. His son, Queakussen aka Captain Tom, Thomas Poquanum became a military leader at the praying town Wamesit, aiding the English during King Philip's war. His daughter Joane Ahawayet, married Sagamore George, who became hereditary proprietor of Nahant, Lynn, Saugus, Naumkeag and nearby territories, and would be part of land and legal disputes with towns and settlers until the latter half of the century.

Early trade and hybrid land exchange practices in Naumkeag, Agawam, Piscataqua and Nahant provide ample evidence of how Native strategies of accommodation, mutual tolerance of differences and creative misunderstandings, helped to forge middle ground relation with English settlers in the initial period of colonization. The chartering of Massachusetts Bay Colony and new laws, however, soon began to erode these early reciprocal land sharing practices, portending legal dispossession and relations of uncommon ground between Indigenous groups, and rapidly expanding English settlements.

General Court Land Laws and the Origin of Pawtucket-Pennacook Legal Disputes and Displacement

During the Great Migration, approximately 21,000 English poured into Massachusetts Bay Colony, 3,000, between 1630-1633, alone. According to some estimates, there may not have been more than several hundred surviving coastal Pawtucket at this time, although more remained on the upper Molodemak in northern Pennacook territories. During this period, the Pawtucket of greater Agawam (Ipswich) followed Sagamore Masconomet. The remainder, living in Massachusetts Bay, were under the authority of Sagamores Wonohaquaham (John)

Transactions and Occurrences in the Settlement of Massachusetts, 98. Perley, *The Indian Land Titles of Essex County*, 12, 50; Stewart-Smith, "The Pennacook Indians and the New England Frontier," 23.

near the Mystic River and Monowampate (James) between the Saugus and Naumkeag Rivers, commanding thirty to forty warriors between them.⁷⁹

English population explosion and new land laws led to demographic disparities and political power inequities, prompting sagamores to increasingly employ hybrid legal strategies to negotiate the sudden influx of settlers in their homelands. Legal disputes erupted as colonists settled on nearly all territories previously allocated by courts or transferred to them by Native proprietors. Sagamores began to require and seek greater compensation for crop damages and dwindling land, increasingly granted to settlers by the General Court, before or without adequate payment to supplement the loss of vital subsistence resources. English encroachment and speculation made it increasingly difficult for Indigenous proprietors to accommodate settlers' desire for land, while maintaining territorial autonomy.

While English livestock presented some of the earliest threats to Pawtucket land ways, colonial laws often did greater harm to Pawtucket land use and rights, legislating treatment of livestock, where fences could be and court control over Native resources. Sagamores were held legally liable for injury done to livestock by themselves or their followers and Native leaders were constantly brought to court for damages done by their kin, placing inequitable legal burdens on them. This is seen in the earliest General Court cases involving Sagamores John and Chickataubott. In May 1631 they: "Promised unto the Court to make satisfaction for whatsoever wronge that any of their men shall doe any of the Englishe, to their Cattell or any other Waires."⁸⁰ A month later they were made to compensate for hurt done to cattle and Chickataubott was fined a beaver skin for shooting

⁷⁹ Salisbury, *Manitou and Providence*, 184; Daly, "No Middle Ground," 36; Stewart-Smith, "The Pennacook Lands and Relations," 123-124.

⁸⁰ Shurtleff, ed. *Records of Mass. Bay*, 1: 87, 215.

magistrate Richard Saltonstall's swine.⁸¹ William Cronon notes that legal disputes over fences and livestock were common whether or not Natives recognized colonial property laws.⁸²

Despite legal bias in favor of English land ways, Pawtucket-Pennacook sagamore proprietors quickly learned about colonial laws and how to use the court system to seek damages for their crops and homes. Sagamores brought settlers to the General Court, as soon as it was established, showing a remarkably early intelligibility of the English legal process. The court often accommodated Natives, holding colonists liable for destruction to fields and property, as seen in a 1631 case which found a settler guilty of arson, ordering him to compensate “John and Peter Indians” for having their wigwams burned.

Because Massachusetts Bay Colony land law and practices differed from English, in stipulating policies requiring fencing commons, colonial laws inherently favored fixed agricultural practices. This is seen in a 1632 court verdict in favor of the plaintiff, Sagamore John, requiring Richard Saltonstall to compensate him a “hogshead of corne for the hurt his cattel did him in his corn.”⁸³ However, the court required John to fence his fields against damage by roaming livestock, which he agreed to, despite asserting that this should have been Saltonstall’s responsibility. The court also ruled in favor of a case brought by Sagamore Masconomet for crop damages by Charlestown livestock, finding settlers responsible.⁸⁴ These verdicts illustrate that although early colonial laws purported to neutralize conflicts and recognize Native territorial rights to farmed and occupied territory, these were based on adherence to colonial land use practices and tenure. Policies holding sagamores liable for

⁸¹ Anderson, “King Philip’s Herds,” 608-610; Marshall, “Settling Down: Labor,” 21.

⁸² Cronon, *Changes in the Land*, 130, 131.

⁸³ Shurtleff, ed. *Records of Mass. Bay*, 1: 84, 99, 102, 133.

⁸⁴ Whitmore, *The Colonial Laws of Massachusetts*, 135; Anderson, “King Philip’s Herds,” 611; Alden T. Vaughan, *New England Frontier: Puritans and Indians, 1620-1675*, (Norman: University of Oklahoma Press, 1995), 99.

livestock damages and requiring Native proprietors to fence their fields, not only conflicted with Native mobile land ways, seasonal subsistence practices, and crop rotation, but also presented excessive legal and economic burdens, limiting Native land rights under the law.

The smallpox epidemic of 1632-33 struck just in time to delay growing land disputes that accompanied the rapidly expanding Massachusetts Bay Colony. This was at least as devastating as the plague of 1616-19 and may have killed close to 90% of the remaining Native population of coastal New England within a short period. Winthrop declared coldly, “God hath hereby cleared our title to this place.”⁸⁵ By 1633 smallpox had killed most remaining Pawtucket leaders, including Sagamore Wonohaquahan (John) and Monowampate (James).⁸⁶ Winthrop’s journal entries, suggest his concern for Wonohaquahan. On his death bed John is said to have declared that although “the God of the English ... destroy me... yet my child shall live with the English and learn to know their God.”⁸⁷ A Boston Reverend Wilson and his wife in Winnisemet (Charlestown/ Chelsea), cared for the dying sagamores and their kin, arranged for burials and found homes for their orphaned children, including Wonohaquahan’s son, who was instructed in Christianity, before he too died of the plague. Other Native children were taken into English homes as servants.⁸⁸ These accounts evidence abiding relations between Native and English leadership families, based on early trade and land exchange. The proximity of habitation between these communities, however, was one reason the epidemic took such a toll, ending an era of close Native/Anglo coexistence.

The smallpox epidemic and impacts of the great migration caused most Pawtucket to become “settlement Indians” within a decade, diminishing their autonomy over homelands,

⁸⁵ Winthrop quoted in Brooks, *Our Beloved Kin*, 74.

⁸⁶ Cook, *The Indian Population of New England*, 14-26; Salisbury, *Manitou and Providence*, 176, 191.

⁸⁷ Winthrop, *A Journal of the Transactions and Occurrences in the Settlement of Massachusetts*, 115.

⁸⁸ Brooks, *Our Beloved Kin*, 79; Stewart-Smith, “The Pennacook Indians and the New England Frontier, 101-104.

which became Essex County. The few remaining coastal groups had little choice but to adapt to English society, exchanging their remaining furs, labor, and lands to survive. Sagamore Masconomet was one of the few Pawtucket leaders who survived smallpox, moving for a time to the territory Winnisemet (Charlestown), to grow corn near his kin. This area was also part time home to Sagamores Chickatawbut, Squaw Sachem and Webcowit, who farmed together. The Pawtucket increasingly mobilized, as a survival strategy, seeking safety from English disease and land encroachment in the upper Molodemak villages of Wamesit/Pawtucket Falls (later Lowell), Amoskeag (later Manchester New Hampshire) and Pennacook (later Concord New Hampshire). This refugee diaspora furthered the political authority of Papisseconnewa and the consolidation of the Pennacook Confederacy, while four decades later officials counted only roughly 150 surviving coastal Pawtucket.⁸⁹

In the wake of the devastation wrought by smallpox on Indigenous groups, Governor Winthrop continued to defend the legal rights of English claims to newly “void” Native lands, challenging charter critics like Roger Williams on ideological grounds. In a 1633 letter to Endecott in Salem he asks:

But if our title be not good, neither by Patent, nor possession of these parts as vacuum domicilium, nor by good likinge of the natiues: I mervayle by what title mr. Williams him selfe holdes. and if God were not pleased with our inheriting these parts, why did he drive out the natiues before vs? and why dothe he still make roome for vs, by deminishinge them as we increace? why hathe he planted his Churches heere? why dothe he declare his favourable presence amonge vs by makinge his Ordinances effectuall to the savinge of many soules? If we had no right to this lande, yet our God hathe right to it, and if he be pleased to give it us (takinge it from a people who had so longe vsurped vpon him, and abused his Creatures) who shall controll him or his termes? But this point will require a particular Treatise.⁹⁰

⁸⁹ Kawashima, *Puritan Justice and the Indian*, 9-11; Daly, “No Middle Ground,” 37-44; Leavenworth, “The Best Title That Indians Can Claim,” 279.

⁹⁰ “The occasion for this communication to Endecott was Roger William’s” treatise,” wherein he attacked the validity of the royal patent.” John Winthrop, letter to John Endecott, January 3, 1634, Winthrop Family Papers, Massachusetts Historical Society, Boston, <http://www.masshist.org/publications/winthrop/index.php/view/PWF03p146> (accessed, March 2020).

Winthrop's religious rhetoric, used to justify granting "vacant" Massachusetts territories, his disparaging view of Native land use and interpreting plagues as divine sanction for English settlement, also led to the passage of new laws, further codifying legal grounds upon which the Massachusetts charter and courts negated Indigenous land rights.

Roger Williams continued to rail against Winthrop and colonial policies which displaced Natives, publicly denouncing *vacuum domicilium* and challenging charter law, which legally dispossessed Natives of their homelands. Williams made a key moral distinction between purchasing title at bargain basement prices after lands were granted and settled by towns, and ethical practices, which he proposed, recognizing Indigenous territorial sovereignty. His liberal views on Native land rights ignited a political and legal firestorm, as his criticisms were seen as a direct assault on the government and charter's legitimacy in granting title to Native lands. His writings were burned, and he was removed as Salem's minister, then banished from Massachusetts. His critiques, paradoxically, influenced colonial land policy, as the General Court enacted new laws, further protecting the Massachusetts charter and legal rights to grant land to towns and individuals, considered vacant, before or without paying Native proprietors.⁹¹

Laws passed by the General Court in 1634, further limited Pawtucket-Pennacook land rights, providing the legal basis for colonial policy on Indigenous title for the next few decades. These earliest assimilation policies, codified that Native rights were recognized, only when they utilized the land like the English: "It is Declared and Ordered by this Court and the Authority thereof: That what Lands any of the Indians in this Jurisdiction have possessed or improved, by subduing the same, they have just right unto." This, however, was

⁹¹ Kawashima, *Puritan Justice and the Indian*, 48; Salisbury, *Manitou and Providence*, 199.

antithetical to Native semi-mobile subsistence practices of hunting, gathering, and fishing, as well as crop rotation, seasonal territorial occupation, use and resource procurement.

These laws also required Natives to conform to English cultural and religious practices in order to secure land rights and grants: “And for the further encouragement of the hopeful work amongst them, for the civilizing and helping them forward to Christianity, if any of the Indians shall be brought to civility, and shall come among the English to inhabit, in any of their plantations, and shall there live civilly and orderly, that such Indians shall have allotments amongst the English, according to the custom of the English in like case.”⁹² Courts used these to coerce Natives to convert and use land like English subjects, as a legal prerequisite to own property in colonial towns.

Massachusetts Bay Colony land laws also attempted to transform autonomous Native villages into English settlements by, ironically, offering grants of their former lands, which they had long planted, occupied and “improved,” before being usurped under charter law: “Further it is ordered, that if, upon good experience, there shall be a competent number of the Indians brought on to civility, so as to be capable of a township upon their request to the General Court, they shall have grant of lands undisposed of, for a plantation, as the English have.” It was rare for land grants to be made to Native groups by the court, however, regardless of their cultural, religious, or territorial practices, once they were legally allocated and settled as English towns. It would take many years, under the missionary John Eliot and Indian Superintendent Daniel Gookin before Christian “praying towns” were established to “civilize” Native people and regain some of their lands as English plantations. These allotments were controversial with settlers who were reluctant to return any land and Natives

⁹² Nathan Dane, ed., *The Charters and General Laws of the Colony and Province of Massachusetts Bay* (Boston: T.B. Wait, 1814), 132-33.

who were hesitant to relinquish autonomy.

Ultimately, any Pawtucket claims of land rights or title outside of the few cited exceptions under these laws, were negated by the primacy of the English legal system, which claimed jurisdiction over all lands and peoples in Massachusetts Bay Colony:

And further it is ordered by this Court and the authority thereof, and be it hereby enacted, That all the tract of land within this jurisdiction, whether already granted to any English plantations or persons, or to be granted by this Court (not being under the qualifications of right to the Indians) is, and shall be accounted the just right of such English as already have, or hereafter shall have grant of lands from this Court, and the authority thereof, from that of Gen. 1. 28, and the invitation of the Indian.⁹³

This gave the court exclusive legal rights to grant all lands, restricting any private Native/Anglo land exchange outside court jurisdiction: “And it is ordered that no person whatsoever, shall henceforth buy land of any Indian without license first hand and obtained of the General Court, and if any offend herein, such land so bought shall be forfeited to the country.”⁹⁴ This last clause is important to understanding one primary mechanism of legal dispossession of the Pawtucket, by nullifying early land sharing agreements with English settlers. Any lands sold without court permission, reverted automatically to the possession of the colony, which in turn granted them to new English towns, evicting both earlier English and Native proprietors, as in Naumkeag, Agawam, Nahant and elsewhere.

While in theory, these new laws purported to protect Natives from unauthorized land sales and unscrupulous prospectors and slow the loss of territories, increasingly sold to English speculators, they mostly benefitted colonial authorities, increasing legal control over trade and labor and land exchanges between settlers and Native subjects alike. These policies primarily protected the Massachusetts charter, justifying claims of moral and consensual

⁹³ Dane, ed., *The Charters and General Laws of the Colony and Province of Massachusetts Bay*, 132-33.

⁹⁴ Dane, ed., *The Charters and General Laws of the Colony and Province of Massachusetts Bay*, 132-33.

transfer of Pawtucket title, furthering legal dispossession, through land grants to towns by courts, often without sufficient payment to Native proprietors.

Jennifer Pulsipher and Jean O'Brien note that these laws operated on several levels, codifying English land and resource use practices as well as establishing a legal hierarchy in land tenure from crown grant to General Court to town to individuals. These laws acknowledged some legal basis for Native land rights, albeit extinguished through vacuum domicilium or by English grants of title. General Court oversight also provided a level of moral obligation and legal protection for Native interests in land transactions, as a way to build trust and prevent conflict, title disputes, and illicit means of Native dispossession. Court regulations included penalties for fraud whereby illegal sales forfeited land back to the colony.⁹⁵ These purportedly equitable land laws, however, soon led to legal imperialism, which severely limited hybrid legal strategies and land exchange practices based on mutual accommodation, as utilized by Pawtucket-Pennacook and early English proprietors.

Lower Molodemak Fur Decline and Its Impact on Pawtucket Land Exchange

In addition to new colonial laws, English disease and encroachment, resource commodification and exploitation had deleterious impacts on Native homelands of the lower Molodemak. The demise of coastal beaver populations, after the Great Migration and smallpox epidemic, affected the fur trade and threatened this vital economic resource for the surviving Pawtucket. The fur decline, caused by overkilling because of European demand and habitat disruption, especially along the heavily colonized coast, depleted ecosystems, and threatened Native autonomy. Additionally, Native population decline from disease and threat of attack by rival northern groups disrupted hunting practices, former trade patterns,

⁹⁵ Pulsipher, "Defending and Defrauding the Indians," 101; O'Brien, *Dispossession by Degrees*, 71.

territorial control, and subsistence. The dwindling fur trade increased Native impoverishment, debt, and indenture as hunters and communities could no longer pay for English goods with furs, leading to land sales made under economic duress, between Indigenous proprietors and English traders, furthering Native displacement.⁹⁶

The decline in the coastal fur economy was a primary factor causing Squaw Sachem and her kin to exchange land with trader Simon Willard in 1635, establishing the first English settlement beyond the tidewater on the Concord River, a new inland source of peltry. While not a formal deed, Native and colonial witnesses describe a cross-cultural land transfer ceremony in which the Sunsquaw, Tohattowan, and their kin received tools, weapons, clothing and Wompumeag. After the said bargain was concluded, Willard, “poynting to the four quarters of the world declared that they had bought three miles from that place, East, West, North and South,” according to Jethro, a Natick Native. The other Native eye witness recounted that Squaw Sachem and the other proprietors declared themselves “fully satisfied,” and told the English they were welcome to share their land.⁹⁷

While there are no accounts of Squaw Sachem’s motives for negotiating this land deal, or how satisfied she and her followers truly were, in the wake of the English Great Migration, she likely attempted to retain some territorial autonomy and benefit from trade with Willard in exchange for accommodating colonial desire for land and fur. Squaw Sachem’s land exchange strategies, likely maintained usufruct rights allowing her and her kin to remain on their lands, as she had in other hybrid legal negotiations. Concord Natives also chose Willard to draft their consensual community code, evidencing trust and reciprocity. He

⁹⁶ Kawashima, *Puritan Justice and the Indian*, 72-79; Salisbury, *Manitou and Providence*, 201-2.

⁹⁷ Leavenworth, “The Best Title That Indians Can Claim,” 281; Daly, “No Middle Ground,” 39.

later played a key role in establishing trade in northern Pennacook territories.⁹⁸

Settlement of the Concord River soon had negative consequences for the coastal Pawtucket, however, allowing furs to be sent to Boston ports directly, bypassing lower Molodemak trade routes. As a result, the Pawtucket became increasingly indebted to settlers, turning to labor and land sales to fill the void. In 1641, Willard diverted the fur trade from Ipswich to Concord, impacting Natives, as well as middle-men, like Roger Williams, who built early exchange networks in Naumkeag and Agawam. The rise of Concord River trade may have also prompted Governor Winthrop to negotiate the first Native deed in Suffolk County, purchasing title to 1,260 acres on the Concord River, in 1642.⁹⁹ In practice, he had relaxed his legal stance against buying “void” Native land, when it served his own interests.

The decline in the fur trade also affected the use of wampum as a medium of exchange, marking an important transition from an earlier middle ground period of adaptive, hybrid modes of payment in land exchange practices, relying on Native forms of currency and English trade goods used as tribute. The exchange of English currency for Native land became more common after 1650, when European specie increased, and wampum ceased to serve as the basis of the colonial economy. Pawtucket proprietors increasingly came to rely upon English currency to support their diminished capacity to sustain themselves in their ecologically damaged territories and faced growing economic pressures to sell their lands.¹⁰⁰

⁹⁸ Squaw Sachem negotiated for Cambridge and other lands in Massachusetts Bay, wherein she retained usufruct rights. She also ensured that her village of Missitekw be respected and that her people have ongoing access to resources on the headwaters pond. The same year she allowed for the establishment of Charlestown, maintaining her right to remain there as well as permission for her followers to hunt, fish and procure resources until her death. By the end of the decade she and her followers had relinquished the majority of their territory in the Massachusetts Bay. See Brooks, *Our Beloved Kin*, 73; Salisbury, *Manitou and Providence*, 200; Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 145.

⁹⁹ Salisbury, *Manitou and Providence*, 201-2; Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 138; Jennings, *The Invasion of America*, 138; Banner, *How the Indians Lost Their Land*, 34.

¹⁰⁰ Leavenworth, “The Best Title That Indians Can Claim,” 286; Cronon, *Changes in the Land*, 103; Scozzari, “The Significance of Wampum to Seventeenth Century Indians in New England,” 59-69.

Masconomet's Agawam Deeds and Winthrop's Ipswich Departure

By 1637, both Masconomet and Winthrop Jr. reappear in records of the earliest known legal land deeds, in what became the Essex County town Ipswich, chartered through a 1633 colonial land grant under Winthrop's leadership. Winthrop continued to depend on Pawtucket labor, and the General Court granted: "leave to imploy an Indian to shoote in a peece to fowle for him."¹⁰¹ He derived his diplomatic influence from local patron-client relations and trade alliances between the English and Pawtucket, enabling the early settlement of the town and this deed, with the consent of Sagamore Masconomet.

In the first deed, Masconomet sold Winthrop Jr. his land between Labor in Vain and Chybacko Creek, including Winthrop's estate, which had rarely been occupied by him and his family (who resided near Boston). Like most deeds of the period, this was initially unrecorded in court records and Winthrop did not sign it, due, perhaps, to his duties as a magistrate, commercial and political interests which often kept him away from Ipswich. Soon after this transaction, he sold his estate to his brother in law and left for Connecticut, suggesting his motives and timing in gaining legal land title which he could then sell.¹⁰²

Masconomet's decision to legally sell this land was likely prompted by the impacts of disease, diminished fur trade and economic opportunity, along with increasing settler encroachment and legal displacement by way of land exchange laws and court grants, without payment. One notable difference between this and earlier hybrid Pawtucket/Anglo exchange practices, is that Masconomet transferred these territories as the sole proprietor and signatory to this deed, a departure from Pawtucket customs requiring the consent of multiple

¹⁰¹ Shurtleff, *Records of the Massachusetts Bay*, 1: 206.

¹⁰² Southern Essex District Registry of Deeds "Native American Deeds"; Perley, *The Indian land titles of Essex County*, 25-29; Thomas Franklin Waters, *A Sketch of the Life of John Winthrop the Younger, Founder of Ipswich, Massachusetts in 1633* (1900), 11.

Sagamores, as evidenced in the Piscataqua deed as well as earlier, informal land sharing agreements requiring community consensus, as in Nahant and Naumkeag. Winthrop was known for his efforts to obtain the signatures of all sagamore proprietors, whom he compensated, often making ongoing payments to multiple Native claimants, sometimes years after initial negotiations. These practices recognized Native land autonomy, tenure, and exchange, requiring authorization by sagamores and consent by their kin, diminishing the possibility that legal trickery was at play.¹⁰³

That this deed was signed by Masconomet alone, is evidence of the declining Pawtucket population and impacts of colonial disease, land commodification, and speculation on Native leadership and communal proprietorship, leaving him as the only surviving sagamore with authority over Agawam. Additionally, English creative misunderstandings in legal recognition of Native land tenure increasingly equated the position of sagamore to that of colonial leaders, granting them greater unilateral autonomy in land exchanges, which secured title. This may also account for Masconomet's elevated status as sole proprietor in this deed, signifying a marked difference from all known prior Native/Anglo deeds.

Masconomet's deed included some of the typical, cross-cultural forms of tribute in English trade goods and Native wampum, as seen in earlier hybrid land exchanges made by Pawtucket Sagamores, including Papisseconnewa, Squaw Sachem and Poquanum. Significantly, additional payment was made in pounds, making this the first deed to record a monetary transaction in English currency between colonists and Pawtucket in Agawam/Essex County, since the General Court had banned trade in rare silver or gold with Natives, further distinguishing this contract as a departure from prior cross-cultural land exchange practices.

¹⁰³ Pulsipher, "Defending and Defrauding the Indians," 93.

Masconomet acknowledged: “to have received full satisfaction in wampampeage ... also for the sum of twenty pounds to be paid unto me by the said John Winthrop.”¹⁰⁴

This form of payment was likely due in part to the rapidly declining fur trade and wampum as the basis for economic exchange in Agawam. It also suggests Masconomet’s recognition of the relative economic value of English currency and increasingly scarce and coveted Pawtucket land in this region. His prior land negotiations, based on trade and tribute payments with the English and his kin in Naumkeag and Nahant exchanges, would have made him savvy of the difference. In the wake of increasing English settlement and limited access to subsistence resources, Masconomet clearly required and perhaps requested more than trade goods to sustain himself and his kin, under a growing colonial market economy, legal system, and population, which had largely occupied Agawam lands. Winthrop Jr.’s authoritative position may have allowed for this exception to prior laws prohibiting monetary exchange with Natives, enabling him to compensate Masconomet, based on his recognized status and these leaders’ long standing relations of mutual accommodation.

The geographical and topographical descriptions in this deed also provide important information about new ways in which Pawtucket and colonial proprietors negotiated the dimensions of land being exchanged. Masconomet agreed to release: “all the woods meadowes, pastures and broken up grounds unto the said John Winthrop in the name of the rest of the English there planted...”¹⁰⁵ While the territorial features described are natural rather than surveyed boundaries, they are largely indicative of English land use, tenure, and resource commodification. The reference to “broken up grounds,” literally and symbolically

¹⁰⁴ Shurtleff, ed., *Records of Mass. Bay*, 1: 83; Southern Essex District Registry of Deeds “Native American Deeds”; Perley, *The Indian Land Titles of Essex County*, 26.

¹⁰⁵ Perley, *The Indian Land Titles of Essex County*, 27.

alludes to colonial agriculture practices, including plowed fields, livestock husbandry and fenced, bounded lands. This further illustrates how English property ownership was closely equated with intensive land and resource use in Agawam and a colonial economic system that diverged from Native seasonal, mixed subsistence practices.

This may be interpreted as both the first example and precursor to the last known Essex County quit-claim deeds, signaling a change from earlier informal Pawtucket/Anglo negotiations, based on cooperative, usufruct land sharing agreements. The emergence of the fee simple, sole proprietorship legal system in Agawam is also evident in the terms of this deed, which makes it clear that Masconomet was expected to relinquish his community's use rights and tenure, granting clear title to these lands, against any future claims by his kin or heirs who might assert ownership or seek payment: "I do fully refigne vp all my right of the whole town of Ipvwch as farre as the bounds thereof shall goe... and I doe bind my felfe to make it cleere from the claime of any other Indians whatsoever."¹⁰⁶ Based on his long standing relations with Winthrop and land exchange experience, Masconomet was likely aware of the legal rights he was releasing. Perhaps he viewed this sale as a formality, hoping to gain whatever compensation he could for long settled lands, benefitting himself and his remaining kin, while continuing to accommodate Winthrop and attempting to maintain middle ground relations with the English.

One year later, in June 1638, Masconomet sold his remaining title rights to tens of thousands of additional acres in Agawam to Winthrop Jr., for twenty Pounds. This second deed was also signed by Masconomet alone, but formally executed in the General Court.¹⁰⁷

¹⁰⁶ Perley, *The Indian Land Titles of Essex County*, 26.

¹⁰⁷ Shurtleff, ed., *Records of Mass. Bay*, 1: 252; This deed was witnessed by John Joyliffe of Boston who later helped oust Governor Andros, who called into question the validity of land titles obtained by early Native deeds. Stuart Banner, *How the Indians Lost Their Land: Law and Power on the Frontier* (Cambridge, Mass.: Belknap Press of Harvard University Press, 2005), 41.

Significantly, this agreement includes no English trade goods or wampum, as in the prior year's transaction, further evidencing the extent to which it was executed strictly in English legal terms and severalty, differing from earlier hybrid exchange payments. The land described in this deed included all coastal territories from the Chebacco River (Ipswich/Essex) to the Molodemak River (Newbury):

I Mufcononimet, Sagamore of Agawam, doe by theife prfents acknolegde to haue receiued of Mr. John Wintrop the some of twenty poundes in full fatiffacon of all the right, property and cleame, I haue or ought to haue, vnto all the land lying and being in the bay of Agawam, alls ipfwich being foe called now by the English, as well alfuch land as I formerly referued vnto my own vfe at Chibocco as alfoe all other land belonging unto me in those parts mr. Dummers farme excepted only.¹⁰⁸

The clause exempting Dummer's farm refers to land granted to proprietor Richard Dummer at Newbury, for livestock, which later became subject to Pawtucket/Anglo legal disputes. This deed also suggests that Winthrop and town officials sought to secure legal title and territorial expansion in Agawam, which included the towns of Ipswich, Newbury, and Essex, settled through court grants without payment to Masconomet or other Pawtucket proprietors. Ipswich's early commercial economy, resulting in large part from Native trade, labor and sharing of the common pot soon led to rapid resource appropriation by land hungry colonists. In just three months of the year of this deed, the Massachusetts Bay English population increased by almost three thousand, helping to explain Winthrop's motives for securing land which would soon be granted to new settlers for farming, livestock, timbering and other commercial enterprises for market export and profit. English encroachment and resource commodification in Agawam led to rampant speculation and further Pawtucket displacement as land became increasingly scarce, settled, and farmed in and near Ipswich.¹⁰⁹

¹⁰⁸ Perley, *The Indian Land Titles of Essex County*, 27.

¹⁰⁹ Hurd, *History of Essex County, Massachusetts*, 173-75.

This deed clearly stipulates that Masconomet was expected to resign his authority over all Pawtucket territories of Agawam and Chebaco, including those he used and occupied. This represents a significant departure from earlier land sharing agreements, suggesting that Masconomet and his kin were now expected to relinquish all legal usufruct rights and autonomy. The description of lands and waterways transferred leaves nothing to the Sagamore or his people: “I herby relinquish all the Rhight [*sic*] and intereft I haue vnto all the Hauens Rivers Creekes Ilands huntings and fishings with all the woodes swampes Timber and whatfoeever ells is or may be in vpon the faid ground to me belonging..”¹¹⁰ Most significant in this passage is the exclusion of hunting, fishing and resource rights, a stark contrast to the Piscataqua deed or Squaw Sachem’s exchanges, which preserved subsistence procurement and reciprocal stewardship of the common pot. Ipswich divided and sold more lands to sole proprietors, for commercial farming and livestock, earlier than most towns, transferring commons from public to private control.¹¹¹

This deed provides one the earliest examples of changing patterns of legal exchange, stipulating that Pawtucket proprietors and their kin release all title rights forever, signaling the end of an era of mutual accommodation in hybrid land sharing practices. This contract made it clear that Masconomet was releasing all of his own or any of his Pawtucket kin’s legal title claims to the lands being sold: “... I doe herby acknowledge to haue received full Satiffacon, from the faid Jon. Wintropp for all former agreements touching the prmifes or any part of them. And I do herby bind my Selfe, to make good the forefaid bargaine and Saile vnto the Said John Wintrop his heires and affignes for euer, and to Secure him againft the

¹¹⁰ Perley, *The Indian Land Titles of Essex County*, 28.

¹¹¹ Cronon, *Changes in the Land*, 72-74; Allen, *In English Ways*, 119-31.

title and Claim of all other Indians and natiues what foeuer.”¹¹²

Less than a year after signing the second deed with Winthrop Jr., Masconomet appeared in General Court, affirming that he was paid twenty pounds and “fully satisfied.” It is impossible to ascertain the Sagamore’s true level of satisfaction or larger motives in transacting these deeds. However, in addition to increasing population, legal disparities, land encroachment, disease, declining fur trade and labor relations, violence between colonial and Native groups may also have prompted the sagamore’s decision. These deeds coincided with the Pequot War, one of the earliest armed clashes between the English and their allies against the Pequot. News of the conflict, including the slaughter of women and children, quickly spread through English and Native communities. Pawtucket/Pequot relations were strained, since Sagamore Wonohaquahan and Chickatawbut supported the Narragansett against the Pequot in 1632. Nevertheless, war increased tensions and suspicion, marking a turning point in the eroding middle ground between the English and Natives in Massachusetts. This may have motivated Masconomet to strategically accommodate Winthrop through this deed, conveying continued alliance. The war may also have prompted Winthrop Jr. to execute legal deeds to Agawam, which had heretofore been peacefully occupied by Masconomet and his English neighbors. Not long after these deeds, Winthrop sold his farm and was made guardian of Pequot War survivors. He had to repeatedly petition the court for reimbursement of his payments to Masconomet, signaling growing reluctance by authorities to compensate Native proprietors for legal title and portending increasing relations of uncommon ground.¹¹³

¹¹² Perley, *The Indian land titles of Essex County*, 28.

¹¹³ Shurtleff, ed., *Records of Mass. Bay*, 2: 160-161; Winthrop was appointed governor of the Connecticut colony and became a speculator in the Atherton Company, acquiring Native lands beyond Massachusetts. Brooks, *Our Beloved Kin*, 60. November 5, 1639 it was “ordered that Ipswich should satisfy Mr. Winthrope for the 20 paid the Indian for his right.” He was not repaid as the matter resurfaced decades later when Ipswich voted to settle with the deceased Winthrop’s son Wait. See Shurtleff, ed., *Records of Mass. Bay*, 1: 279; Perley, *The Indian Land Titles of Essex County*, 26-30; Winthrop, *A Journal of the Transactions and Occurrences in the Settlement of Massachusetts*, 64-65.

3. Masconomet's Further Release of the Territory of Agawam, 1638.

I Masconomet Sagamore of Agawam doe by this
 present acknowledge to have received of Mr John Winthrop
 the some of Twenty pounds in full satisfaction of
 the right property and title of land which
 ought to have beene at the hand by me and my
 in the 24th of December last by force beinge
 taken away by the English, at which time I was
 forcibly taken out of my own right and possession
 as also of other lands belonging unto me and the
 parts and Dismutes thereof together with other
 lands belonging unto the Right and Interest of mine
 wife and the said Kinge in the said parts
 and feelinge with all the said lands and
 one whole forever all as in and by the said
 Deeds to me shewing, and I doe hereby
 to have received the said Deeds, from the said
 Mr Winthrop for all further agreement touching the
 said parts in any part of time, and I doe hereby
 bind my selfe to make good the said Deeds and
 unto the said John Winthrop his heirs and assigns for
 ever, and to stand the said Deeds against the said
 and his heirs and assigns with full power
 my hand this 20. June 1638.

Masconomet
 Witnessed by
 James Downing
 Robert Johnson

This Deed is to be read in the presence of the
 said John Winthrop and his heirs and assigns
 and the said Deeds are to be kept in the
 said John Winthrop's house and assigns for
 ever.

From the Winthrop Papers.
 Given to Esq. Salist by R. B. Winthrop, Jr. 1870

Mapping the Molodemak Frontier- Surveying & Dividing Pawtucket Spaces & Colonized Places

In 1638, the same year that Masconomet signed over his Agawam lands, the General Court ordered the first official survey of Massachusetts Bay Colony's northern border, carried out by two Ipswich colonists and a Pawtucket.¹¹⁴ It is ironic that English surveyors depended on Native guides, whose homelands were being divided and bounded, increasingly without consent or payment by colonial authorities and speculators, hastening the demise of ecosystems, economies, subsistence patterns and legal land rights. It is also significant that the mighty Molodemak came to demarcate the northern border of Massachusetts Bay Colony, used to establish the political division of Essex County, and legal jurisdiction of regional courts, soon after surveying. This river was as a lifeline of subsistence, trade, and mobility, connecting distant kin networks, from coastal villages of the lower Molodemak valley to northern Pennacook lands. It was also a central artery of Native/Anglo exchange.¹¹⁵

Surveying was also an important legal measure protecting Massachusetts Bay Colony against rival European powers which staked their claims in New England. The Massachusetts charter had been granted by the Crown without knowledge of the geography of the region. An arbitrary line three miles north of the Molodemak, from its mouth to its source (which many thought was Champlain's "Lake of the Iroquois") was established as the original boundary with the disputed Masonian grant (New Hampshire), although much of this territory was unexplored. Massachusetts bordered this contested claim granted to John Mason in 1622 and 1629 by King James, including all lands three miles north of the Molodemak, to

¹¹⁴ James Kimball, "Exploration of the Merrimack River in 1638 by Order of the General Court of Massachusetts, With a Plan of the Same," *Essex Institute Historical Collections* 14, no.3 (Salem, Mass: Essex Institute, July 1877): 158-159.

¹¹⁵ Shurtleff, *ed.*, *Records of Mass. Bay*, 1: 236; Currier, *History of Newbury*, 167; DeLucia, *Memory Lands*, 40; Gookin, *Historical Collections of the Indians in New England*, 57.

the Kennebec River. After Mason died in 1635, there was no clear heir to this territory, not under the legal control of any colonial authority, leading to further land competition.¹¹⁶

Mapping the Molodemak became a primary objective of Massachusetts Bay, as this knowledge was key to geo-political power and legal control of land and resources as the colony expanded northward. Surveying allowed colonial courts to impose English tenure, boundaries, and speculative land practices within Pawtucket-Pennacook territories, as property became scarcer. Surveying protected Massachusetts' northern border against any legal attempts by Native proprietors to claim title or land rights in this contested region. This legal appropriation of Indigenous homelands and labor signaled important changes from an earlier period of mutual accommodation and reciprocity between Pawtucket-Pennacook and colonial proprietors in negotiating cooperative land sharing negotiations and informal border agreements, which acknowledged Native original tenure and original legal title.

The Penacook Confederacy under Papisseconnewa, however, continued to assert authority on the upper Molodemak, serving as a refuge for displaced coastal groups. While this “northern frontier” was closer than we might think, it took years for colonists to establish trade and towns beyond this riverine border, which created a buffer against colonial encroachment. Until this time, Pennacook sagamore proprietors had selectively limited northern trade and land exchange with settlers.¹¹⁷ The Molodemak increasingly became a symbolic borderland frontier, representing a political, cultural, and legal division between Native spaces and colonized places in and beyond Massachusetts Bay.

¹¹⁶ Currier, *History of Newbury*, 151,160-61; Jennings, *The Invasion of America*, 188-89; It was not until 1652, that Massachusetts Bay Colony surveyed and definitively mapped the source of the Molodemak, which was found to originate from Lake Winnepesaukee, in northern Pennacook territory. Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 111-12, 142. When New Hampshire was created a royal province in 1679, Norfolk County ceased to exist. The border between Massachusetts and New Hampshire was disputed until 1741, long after the source and extent of the Molodemak river was mapped.

¹¹⁷ Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 131, 136, 198.

Papisseconnewa's 2nd Piscataqua Deed- English Exiles and Adverse Possession in Borderland Frontiers

Mapping the Molodemak initiated a new era of northern Pennacook/Anglo land exchange and legal disputes. Territorial transactions in the frontier borderland, Piscataqua, are evident in 1638 deeds, negotiated by Papisseconnewa's tributary sagamores. Formerly part of the Masonian grant, this disputed area between the Molodemak and Piscataqua rivers was not firmly under Massachusetts' control at the time of this land exchange with Reverend John Wheelwright (also named in the 1629 Piscataqua deed). After relocating to Piscataqua, with other outcasts, Wheelwright independently negotiated a deed with Papisseconnewa's tributary Sagamores Wehanownowit (also signatory to the 1629 deed) and James (his son) for thirty square acres of land, which later became Exeter New Hampshire.¹¹⁸

In this agreement, the Pennacook proprietors acknowledged that they were paid an unspecified tribute amount of: "certen comodys which I have received have graunted and sould...all the right title & interest in all such lands, woods, meadows, rivers, brookes, springs as of right belong unto me." This transaction was made in trade goods as payment. Although the sagamores released legal title to their land, it is significant that (as in 1629) they also preserved usufruct rights, including agricultural: "ground which is broken up" and permission to "hunt and fish and foul in the said limits."¹¹⁹ These tribute payments and use rights are reminiscent of earlier mutual accommodation, in deeds and hybrid land sharing

¹¹⁸ Pennacook/Sokoki Inter-Tribal Nation, *Historical Indian/Colonial Relations of New Hampshire*, 11-12; David Smith claims that while Massachusetts banished religious dissidents like Wheelwright to New Hampshire, it assumed they would eventually conform to colonial land law and authority in, "The Pennacook Indians and the New England Frontier," 127.

¹¹⁹ Shurtleff, ed., *Records of Mass. Bay*, 1: 205, 211-12; "Timeline of New Hampshire History," New Hampshire Historical Society, <https://www.nhhistory.org/Timeline> (accessed November 9, 2020); Wheelwright (Anne Hutchinson's brother) had been living in Boston, during his clash with Puritan leaders in the Antinomian controversy, causing his exile from Massachusetts Bay. Currier, *History of Newbury*, 38, 43; William Hubbard, *A General History of New England, from the Discovery to MDCLXXX* (New York: Arno Press, 1972), 242; Jeremy Belknap, *The History of New-Hampshire, Comprehending the Events of One Complete Century from the Discovery of the River Pascataqua*, 1 (Philadelphia, 1784), 20, 23, 33.

practices, used by sagamores and English proprietors to negotiate colonization.

Shortly after negotiating these deeds, however, a legal dispute ensued between Wheelwright, prior English settlers in Piscataqua and Massachusetts Bay Colony courts over the disputed Masonian boundary and Native title purchased by Wheelwright. General Court records reveal that Wheelwright sought to evict English squatters, who had not legally bought title from Pennacook proprietors. The court, however, wrote its official position, that Natives only held title to lands which they “improved” and “vacant” territory outside the Massachusetts charter patent was open to any English settlers who occupied it. This ruling illustrates the legal hierarchy of English land policy, upholding title rights of settlers first, in unchartered regions, over Native proprietors, as well as Wheelwright’s deed, unsanctioned by the General Court. This verdict also contrasts with legal orders given by the court to evict earlier settlers in Naumkeag, Agawam and Nahant, after these were chartered to towns, based on the legal primacy of Massachusetts Bay Colony land grants, conferring title rights, which usurped all prior Native or Anglo title claims, land use, deeds, or exchange agreements.

The court’s position negating Wheelwright’s deed and upholding settler title rights also alludes to colonial laws of adverse possession, stipulating that land occupation for over five years constituted legal ownership.¹²⁰ Jonathan Chu’s research on early English land disputes in Salem shows how this legal doctrine of improvement was used successfully by English settlers to litigate land claims, based on use and occupancy, amounting to fee simple title rights.¹²¹ In Wheelwright’s case, and most legal disputes involving unchartered land, English occupation took legal precedence over Native land use, tenure, occupation, deed

¹²⁰ Pulsipher, “Defending and Defrauding the Indians,” 97; Leavenworth, “The Best Title That Indians Can Claim,” 292.

¹²¹ Jonathan M. Chu, “Nursing A Poisonous Tree Litigation and Property Law in Seventeenth-Century Essex County, Massachusetts The Case of Bishop’s Farm,” *The American Journal of Legal History* 31, no. 3 (1987): 221-52.

negotiations or original proprietorship. The doctrine of improvement worked to the advantage of settlers in unchartered territories, like Piscataqua, where the General Court legally voided unauthorized Native/Anglo deeds, as seen in the Wheelwright verdict.

Furthermore, the court ruled that Wheelwright's Piscataqua deed overlapped with lands claimed by Massachusetts Bay Colony, within contested borderlands, still not firmly under Massachusetts Bay legal control, along the Molodemak frontier, forcing him to negotiate a second deed, designating his title three miles north of this riverine boundary, established by recent mapping and survey. The court also warned him not to attempt to claim any land within these newly surveyed borderlands claimed by Massachusetts Bay, voiding any Native/Anglo deeds or title rights.¹²² This legal ruling further demonstrates the process by which Massachusetts Bay secured legal rights to territories within Pawtucket-Pennacook homelands north of the Molodemak, without regard to Native propriety, occupation, improvement, or deed negotiations with settlers, allowing for northern colonial expansion.

This disregard for Pawtucket-Pennacook land rights and Wheelwright's deeds in this contested region was subsidiary, however, to Massachusetts Bay primary motive, to secure legal title against other rival colonial claims. In the wake of controversy over the Masonian charter boundaries and Wheelwright's deed, Massachusetts Bay Colony initiated what amounted to an eminent domain land grab in 1641, claiming jurisdiction over disputed borderlands north of the Molodemak, to the Piscataqua River. This was contested unsuccessfully by both Wheelwright and heirs of John Mason. In 1643 after Exeter petitioned twice to be under Massachusetts' legal and territorial control, the town was annexed and

¹²² Hubbard, *A General History of New England*, 242-44.

Wheelwright was again forced to depart (he was later pardoned and returned to Exeter).¹²³

As Wheelwright's deeds and other Pawtucket-Pennacook/Anglo land transactions and disputes in this chapter illustrate, there were many factors which complicated legal title in Massachusetts Bay Colony. General Court magistrates, continued to argue that vacuum domicilium provided legal rights for the English to claim, grant and settle land considered unchartered and unimproved, without payment to Pawtucket-Pennacook proprietors. Massachusetts Bay charter and land laws soon negated Native legal rights, title, and autonomy, leading to impoverishment and displacement.

By the end of the 1630's, colonial law and land encroachment had significantly undermined earlier Native/Anglo middle ground trade and land sharing relying on creative misunderstandings and mutual accommodation in a period where both benefited from the other, based on their own cultural and legal perspectives, and neither dominated by force. Therefore, both sides had to compromise in their quest for common ground, utilizing adaptive, hybrid land exchange and legal practices, which helped to mediate the initial impact of colonization on Native groups, as in Naumkeag and Nahant.

English cursory legal recognition of Pawtucket-Pennacook title rights helped pave a path of peaceful coexistence and mutual alliance in the first decades of colonization. This was not, however, an attempt by Massachusetts Bay Colony authorities to equate Native sovereignty, territorial autonomy, or tenure as equal to English legal tenets of proprietorship, which recognized the crown as the ultimate authority in granting land rights. Rather, as Jennifer Pulsipher, Peter Leavenworth and others assert, it was a practical measure, aiding early settlers and officials in gaining clear title and access to resources, while serving English

¹²³ Shurtleff, *Records of the Massachusetts Bay*, 2: 67; "Timeline of New Hampshire History"; Stewart-Smith, "The Pennacook Indians and the New England Frontier," 127; Currier, *History of Newbury*, 160-61.

claims of ethical fairness and legality in what they perceived as “consensual” purchases.¹²⁴

It is highly debatable whether or not colonial officials truly considered what might constitute an equitable payment for Pawtucket lands, taken by courts and granted to settlers for the “commonwealth” of Massachusetts, under charter law, in turn for meager compensation in trade goods. Yasuhide Kawashima notes that “the price of the tribal land was never assessed in accordance with the idea of fair contract between the parties.”¹²⁵ Land was the basis of Indigenous livelihoods and therefore any prices paid would be insufficient to supplement the loss of invaluable resources, which were their primary means of subsistence. Natives rarely could refuse outright to sell their land, especially after it was legally granted and settled, limiting access to vital resources. When offers to buy land became irresistible to Pawtucket-Pennacook sagamores, who relied on diminishing trade and English aid, they had little economic or legal bargaining power, facing mounting pressures to sell land in order to survive and attempt to maintain alliances, as in the Agawam and Piscataqua deeds.

While Massachusetts Bay Colony passed laws and made limited efforts to buy title rights to some “improved” Pawtucket-Pennacook lands, colonial policy obscured the more common and perhaps most detrimental practice, granting land to towns before or without proper compensation to Native proprietors.¹²⁶ This is evident in the founding of most Essex County towns, initially granted by courts and settled informally at “the invitation of the Natives,” as in Naumkeag, Agawam and Nahant. Essentially a form of displacement by eminent domain, authorized under the charter, these laws ultimately overrode both Native and English title rights and hybrid land exchange and legal practices, often failing to pay

¹²⁴ Leavenworth, “The Best Title That Indians Can Claim,” 278; Pulsipher, “Defending and Defrauding the Indians,” 89-90.

¹²⁵ Kawashima, *Puritan Justice and the Indian*, 70.

¹²⁶ Kawashima, *Puritan Justice and the Indian*, 58, 60; Pulsipher, “Defending and Defrauding the Indians,” 96.

either for their forfeited property, which courts claimed to own and allocate. This amounted to legal dispossession of both Pawtucket proprietors and early English settlers, who had previously agreed to share land, during a brief middle ground period.

Colonial encroachment and commodification increasingly furthered land and legal disputes, leading to relations of uncommon ground between the Natives and English in and beyond Massachusetts Bay. As Pawtucket-Pennacook proprietors gained a greater understanding of colonial laws, they could not fully abide policies which were antithetical to their cultural values, land ways, tenure systems, legal rights, and often best interests. This soon led Native sagamore proprietors to utilize strategic litigation, in the General and Essex County Courts, in an attempt to retain land, gain title compensation and resist dispossession.

CHAPTER 3

GROUNDS FOR LITIGATION- PAWTUCKET-PENNACOOK LEGAL STRATEGIES AND LAND DISPUTES

This chapter examines land disputes, litigation, economic and legal coercion in exchanges between Pawtucket-Pennacook proprietors and English towns and individuals, which led to the erosion of the middle ground after the mid-seventeenth century. Early Native accommodation strategies in hybrid land sharing practices, including tribute and usufruct agreements, became increasingly limited by English population growth, territorial expansion, land speculation, resource commodification and laws, threatening Native subsistence, tenure systems and legal title rights. Prohibitions against trade in firearms, boats, alcohol, and horses, along with curfews on Pawtucket-Pennacook presence in English towns after nightfall further divided Native spaces from colonized places in Massachusetts Bay.¹

The decentralized nature of English Common Law created great variations between Massachusetts colonial policy and practices regarding Native land rights and title acquisition. Brian Owensby and Richard Ross call the resulting legal interactions: “an admixture of law and legal procedure, negotiation and contractual haggling, and diplomacy and saber

¹ Nathan Dane, ed., *The Charters and General Laws of the Colony and Province of Massachusetts Bay* (Boston: T.B. Wait, 1814), 133; Nathaniel B. Shurtleff, ed., *Records of the Governor and Company of the Massachusetts Bay in New England*, 3 (Boston: William White, 1853-1854): 398, 424; Shurtleff, ed., *Records of Mass. Bay*, 4: 277.

rattling.”² All of these can be seen in changing Native/Anglo land exchange practices and litigation strategies, which illustrate increasing mistrust, coercion, and violence, signaling relations of increasingly uncommon ground. This includes Native land sales made under economic pressure, political duress, and inequitable legal circumstances, pressuring Pawtucket-Pennacook proprietors to transfer their lands to colonial authorities and relocate.

Sagamores in this period attempted to maintain sovereignty and English alliance through new forms of diplomacy, including the earliest treaty signed between Native and colonial leaders in Massachusetts Bay Colony in 1644. While this and other legal strategies allowed sagamores to sustain some mutually beneficial alliances of exchange and protection, it failed to prevent increasing debt, colonial encroachment and dispossession through illicit trade practices, court land grants, punitive laws and transfers made under threat, furthering legal, economic, and political power imbalances. Litigation strategies employed by Native proprietors, demonstrate increasing knowledge of English law and active engagement with courts, through adaptive legal practices, furthering Jennifer Pulsipher’s research on hybridity.

Legal contracts and court rulings at this time, however, support historian Daniel Richter’s claim, that hybridity “only reinforced the incommensurability of aims,” increasingly benefitting colonial interests as their law became dominant, revealing a core problem of “fundamentally incompatible aims” between differing land tenure and legal systems. Terms like “justice” and “rights,” therefore, must be evaluated on profoundly differing scales of relative value.³ Incommensurability can be seen in General and Essex County Court verdicts in land and legal disputes during this period further illustrating

² Brian P. Owensby and Richard J. Ross, “Making Law Intelligible in Comparative Context,” in *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America* (New York: NYU Press, 2019), 12.

³ Daniel Richter, “Intelligibility or Incommensurability,” in *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America*, ed. Brian P. Owensby and Richard J. Ross (New York: NYU Press, 2018), 291-92, 296.

growing biases of English laws, demonstrating legal factors which undermined hybrid land exchange practices used by Native litigants to benefit and prevent dispossession.

Essex County Legal Jurisdiction and Regional Quarterly Courts

Massachusetts Bay Colony officially designated new county boundaries and legal jurisdictions, in 1641, including Essex, south of the Molodemak river and Norfolk to the north (Salisbury, Hampton, Haverhill, Exeter, Dover, Strawberry Bank, and Portsmouth). Although the General Court had passed a land recording act in 1634, towns had not been required to make accurate mathematical surveys: "All grants [were] to be recorded.. (fairely written in words att lenght, & not in ffigures,) with the seull bounds & quantities, in the nearest estimacon,..." Following recent surveys, the court claimed legal jurisdiction over all Pawtucket-Pennacook lands within these new county bounds.⁴

During the period when Massachusetts Bay Colony was mapping the Molodemak, surveying Pawtucket-Pennacook territories and creating legal land boundaries, regional courts were created to hear mounting cases brought by colonial and Native litigants. Following the new district designation of Essex County, population growth and recent annexation of Piscataqua, additional sessions were held at Salisbury and Hampton, north of the Molodemak, which fell under the legal jurisdiction of Ipswich. The quarterly courts were formed by order of the General Court, which appointed magistrates, living in these counties to preside over local cases. Essex County courts heard all civil and criminal cases, except violent crimes, divorce, or banishment. They held power to summon juries, appoint officers,

⁴ Shurtleff, ed., *Records of Mass. Bay*, 2: 38; Stewart-Smith, "The Pennacook Indians and the New England Frontier," 125; David Grayson Allen, "Vacuum Domicilium: The Social And Cultural Landscape Of Seventeenth Century New England," http://americancenturies.mass.edu/classroom/curriculum_12th/unit1/lesson2/allen.html (accessed November 1, 2020).

lay out roads, license ordinaries, appoint clergy, adjudicate wills, probate cases and property disputes by English and Native litigants.⁵

During the first decade of these Quarterly courts, the few recorded cases involving Natives, reveal increasing debt, alcohol use, servitude, imprisonment, and land forfeiture. Liquor sales to Natives had been banned by the General Court in 1633, with varying degrees of efficacy. Rum, however, distilled and widely available in New England became an increasing detriment to Pawtucket-Pennacook communities. Unscrupulous traders gave liquor on credit, causing debts that could not be repaid by Natives who often relinquished their most valued furs, trade goods and eventually land, leading many to live as impoverished wards of the state. Illicit trade further deteriorated socio-economic conditions and autonomy for many Natives, who became “settlement Indians” in Essex County towns.⁶

The 1640s also signaled a sea change in Pawtucket/Anglo land and legal relations, marked by growing territorial contestation, suspicion of Native rebellion, threats of violence and punitive laws, furthering land disputes and dispossession. Evidence of increasing Native/Anglo litigation is recorded in Essex County court cases. In 1641 Sagamore George, who claimed proprietorship over Naumkeag, Saugus, Lynn, Nahant, and other lands in and beyond Essex County, was sentenced in Salem court to be jailed in Boston for an unspecified offense. In 1642 he appeared again in Salem court as a plaintiff in a land dispute with Frances Lightfoot, aka Ned of Wight, which was referred to the General Court.⁷

⁵ George Francis Dow, ed., *Records and Files of the Quarterly Courts of Essex County, Massachusetts*, 1 (Salem: Essex Institute, 1911): v.

⁶ Cases of Pawtucket-Pennacook alcohol use and indenture are recorded in early Essex County court records, including a servant Hope, sentenced in Salem to be whipped for running away from her English master and drinking. Salem court records describe a Native man, Sampson, found intoxicated and beating his head on the ground for unknown reasons. Dow, ed., *Records and Files of the Quarterly Courts*, 1: 11, 73.

⁷ Shurtleff, ed., *Records of Mass. Bay*, 2: 29; Dow, ed., *Records and files of the Quarterly Courts*, 1: 43.

Papisseconnewa's Pentucket Land Exchange- Fear and False Rumors in Molodemak

Borderlands

Despite mounting legal and land disputes between Pawtucket-Pennacook and English in the Molodemak borderland frontier, Papisseconnewa attempted to sustain cooperative relations with colonial authorities, negotiating a strategic policy of accommodation, military neutrality, alliance, and land exchange. He had thus been able to maintain some authority over Pennacook land, negotiating independent deeds with colonists in Piscataqua. This began to change, however, following the 1638 survey of the northern boundary of Massachusetts, and the 1641 General Court title claim to the Pennacook region north of the Molodemak. Giles Firmin, a friend of Governor Winthrop's and among Ipswich's first settlers (witness to Masconomet's Agawam deeds) desired to start a plantation in this contested border zone. Writing to Winthrop in 1639, he expressed doubt that Papisseconnewa would willingly release title to this Pentucket territory on the northern bank of the Molodemak.⁸

In addition to recent border and title disputes, growing fear of Native rebellion and violence began to surface throughout Massachusetts Bay Colony at this time. The General Court banned the sale or possession of guns by Natives. In 1642 Winthrop received word that a pan-Native uprising would occur across New England. That year Newbury ordered a barrel of powder and the General Court sent forty militia to Pennacook, to disarm and seek Papisseconnewa's compliance suspecting his leadership in a potential coup. When they could not locate the sagamore, they seized his son Wannalancet, who escaped and instead took his wife and daughter as prisoners to Newbury. Fearing retaliation, the English sent Sagamore

⁸ Hamilton D. Hurd, *History of Essex County, Massachusetts: With Biographical Sketches of Many of Its Pioneers and Prominent Men* (J.W. Lewis, 1887), 1908.

Cutshamekin to apologize and ask Papisseconnewa to appear at the General Court. He refused to do so, however, demanding his family's release before treating with the English. Papisseconnewa's kin were released, fearing reprisal. He then sent his firearms to Boston with his son Nanamocomuck, as a sign of alliance.⁹

While Papisseconnewa's diplomacy kept a fragile peace, suspicions of rebellion and retaliation likely prompted settlers to seek secure legal title to his Pennacook lands. This is evident in a deed transacted on November 15, 1642, with Papisseconnewa's consent, for the Pawtucket territory, Pentucket. This negotiation may have been further motivated by false rumors of a pending massacre of English settlers in Pentucket around harvest time. Settled in 1640 through a General Court land grant, this was the first time colonists had entered into a legal deed with Pentucket proprietors, with whom they had no recorded conflict and had not paid for their title. Colonial grantees included Pentucket's first Reverend John Ward, whose birthplace Haverhill England became the name of the new town.¹⁰

The Pawtucket-Pennacook proprietors in this deed were Papisseconnewa's tributary Sagamores Passaquo and Saggahew. It is noteworthy that two sagamores claimed proprietorship of Pentucket, contrasting with the deeds signed by Masconomet as sole proprietor of Agawam. This suggests a larger surviving Pennacook population and more intact leadership remaining in this territory north of the Molodemak, less impacted by colonial disease and encroachment and under Papisseconnewa's authority. However, perhaps

⁹ Shurtleff, ed., *Records of Mass. Bay*, 2: 23-25, 270-72; Hurd, *History of Essex County, Massachusetts*, 1908; Stewart-Smith, "The Pennacook Indians and the New England Frontier," 129; John Winthrop, *A Journal of the Transactions and Occurrences in the Settlement of Massachusetts and the Other New-England Colonies, from the Year 1630 to 1644* (Hartford: Printed by Elisha Babcock, 1790), 74-75, 407.

¹⁰ Sidney Perley, *The Indian Land Titles of Essex County, Massachusetts* (Salem, Mass: Essex Book and Print Club, 1912), 31. Witness Tristram Coffin's son Peter was later involved in illegal alcohol trade, leading to violence with the Pennacook on the northern frontier; Winthrop warned that colonial laws would be "repugnant to laws of England." The Body of liberties allowed the General Court to grant Ipswich and Salem courts grand juries and jurisdiction equal to court of assistants. See David Thomas Konig, *Law and Society in Puritan Massachusetts Essex County, 1629-1692* (Chapel Hill: University of North Carolina Press, 1978), 35.

even more than Masconomet before them, these sagamore proprietors faced greater economic and political pressures to legally forfeit their increasingly threatened land. In the wake of recent colonial betrayal and violence, this sale was likely made under duress and these sagamores may have consented in order to appease colonial official's desire for legal title as a gesture of ongoing alliance, gaining what little compensation they could for their dwindling territories, from which they were soon displaced.

It is significant that the Pentucket proprietors received just £3 10s for the land, and no tribute in trade goods or wampum, seen in Papisseconnewa's earlier deeds. This amount was far less than Winthrop paid Masconomet for Agawam, however, which may be partly due to differing market value between long occupied, cultivated lands of Agawam and Pentucket, a sparsely settled wilderness. However, this compensation also contrasts with the 1629 and 1638 Piscataqua deeds, where colonists paid ongoing tribute to Papisseconnewa and Pennacook sagamores for largely wild lands, which satisfied both parties. This payment suggests diminished reciprocity in land exchange practices north of the Molodemak, recently claimed under the legal jurisdiction of Massachusetts Bay Colony. This deed also demonstrates growing English reluctance to fairly compensate sagamores for rapidly dwindling land, exemplifying economic coercion disguised as legal consent, as Native proprietors faced mounting political pressures to accommodate colonial expansion.

While natural features are mentioned, boundaries are specified strictly in colonial measures, within these newly surveyed borders of Massachusetts Bay Colony, and English miles are clearly delineated for the first time in a Pawtucket-Pennacook deed:

Paffaquo: and Sagga hew wth the confent of Paffaconnoway Haue fold unto the Inhabitants of Pentuckett all the lands we haue in Pentuckett; that is eyght myles in lenght from the little riuier in Pentuckett weftward: six myles in length fro the aforfaid river northward: Six miles in length fro the forfaid

river eftward wth the Ileland and the River that the Ileland ftand in as far as length as the land lyes by in formerly expreffed, that is fourteene myles in length.¹¹

Unlike Papisseconnewa’s earlier deeds, preserving usufruct land sharing rights, the terms are unequivocal that these Sagamores and occupants release all rights of themselves and their kin, or any other Natives who might claim title to the territory, further signaling the erosion of Pawtucket-Pennacook/Anglo middle ground relations in Essex County: “and Wee the said Paffaquo and Saggahew wth the confent of Paffaconoway haue fold unto the faid Inhabitants all the right that wee or any of us haue in the faid ground Ileland and Riuer: and do warrant it againft all or any other Indeans whatfoeue.”

Nothing else is known about Passaquo and Saggahew or if they and their kin departed Pentucket after their transaction. The deed was not copied in the Haverhill Town Records until 1680, along with a note by Nathaniel Saltonstall Esquire, who attested, “Which land wee have ever since enjoyed peaceably without any Indian molestation from ye grantors of their heirs.”¹² This brief historical footnote in later records, indicates that these sagamores’ accommodation strategy of land exchange may have succeeded in keeping peace between any remaining Pawtucket and settlers in the area for several decades, despite increasing colonial suspicion, land disputes and violence, leading to relations of uncommon ground.

Pawtucket Submission, Religious Conversion, Cultural Assimilation and Political Subversion

In 1644, shortly after the Pentucket deed transaction, a number of Pawtucket-Pennacook and Massachusetts sagamores, including Papisseconnewa, his son Nanamocomuck, Masconomet, Squaw Sachem, Cutshamkin and others, formally submitted

¹¹ Perley, *The Indian Land Titles of Essex County*, 31-34.

¹² John J. Currier, *History of Newbury, Massachusetts, 1635-1902* (Boston: Damrell & Upham, 1902), 77.

themselves to the Massachusetts Bay Colony authority, seeking political alliance, protection from tribal enemies and preservation of lands and legal rights. The terms of the agreement required these sagamores to take Christian oaths and attend church services, though none had received religious instruction. That year, the General Court passed a law banning Natives from English towns on Sundays, except to attend church.¹³

Religious conversion policies created greater division between Native spaces and colonized places in Massachusetts Bay and were increasingly used morally to legitimize legal displacement and surrender of Native cultural and territorial autonomy to English political authority. Cultural assimilation policies furthered puritan ideologies of redemption and predestination. Discriminatory land use laws were increasingly used to justify and avert attention away from cultural genocide and legal dispossession.¹⁴

Although conversion was a culturally transformative element of colonization, it can also be seen as an adaptive survivance strategy, syncretic religious practice and form of legal hybridity and political subversion, challenging binary concepts of acculturation and authenticity. Colonial sources claim that Masconomet was the first Pawtucket sagamore to convert to Christianity, as part of his 1644 submission. His strategy of subtle subterfuge is evident, however, in replies to questions posed by authorities, revealing how he adopted aspects of Christianity which fit his own cultural beliefs and practices: Q: “Will you honor your parents and all your superiors?” A: “It is our custom to do so, for inferiors to honor superiors.” While his answer implies submission to colonial authority, it also affirms adherence to existing Pawtucket social codes, not that he believes English customs to be

¹³ Shurtleff, ed., *Records of Mass. Bay*, 3: 6-7; 1644 Covenant. Massachusetts Archives, 30: 3. Massachusetts State Archives, Boston (henceforward referred to as Mass. Archives).

¹⁴ Amy E. Den Ouden, *Beyond Conquest: Native Peoples and the Struggle for History in New England* (Lincoln: University of Nebraska Press, 2005), 17.

superior. Q: “Will you deny yourselves fornication, adultery, incest, rape, sodomy, buggery, or bestiality?” A: “Though some of our people do these things occasionally, yet we count them naught and do not allow them.” Here we also see Masconomet assert Native religious mores and legal traditions as equal to the English, while avoiding direct answers.¹⁵

While early Essex County historian Hamilton Hurd claimed that Masconomet’s “replies could hardly be excelled by any civilized adept in adroit evasiveness,”¹⁶ his answers may better be understood as political subversion and strategic accommodation, satisfying colonial officials, while maintaining extant Pawtucket cultural values and legal codes of conduct, asserting moral equality with the English. His testimony also implies that he chose to adapt elements of these Christian vows, based on his own creative misunderstandings of puritan ideology. This interpretation supports Colin Calloway’s research, demonstrating how the Abenaki often selected aspects of Christianity to adopt.¹⁷ His oath, therefore, suggests a creative legal and religious hybridity, designed to appease colonial authorities, in order to benefit from English alliance, maintain Pawtucket cultural identity and political authority.

Following their covenant with Massachusetts, these sagamores presented twenty-six fathoms (5,200 shell beads) of wampum to court magistrates, constituting a legal agreement of ongoing alliance. They received English cloth and a jug of wine. Lisa Brooks suggests that this exchange of shells and red coats were Native symbols acknowledging “a bond of alliance among equals,” which “solidified in wampum a relationship of mutual benefit, with their English neighbors in Massachusetts, pledging to protect them from enemy attacks and

¹⁵ *Annual Reports of the Town Officers of Hamilton, Mass*, 1971, <https://archive.org/details/townofhamiltonan1977unse>; (accessed November 1, 2020); Gordon Harris, “The Bones of Masconomet,” *Historic Ipswich*, last modified May 13, 2014, <https://historicipswich.org/2014/05/18/the-bones-of-masconomet/>.

¹⁶ Hurd, *History of Essex County, Massachusetts*, 1154.

¹⁷ Colin G. Calloway, *After King Philip's War: Presence and Persistence in Indian New England* (Hanover, NH: University Press of New England, 1997), 3.

land encroachments.”¹⁸ Cape Ann historian and anthropologist, Mary Ellen Lepionka, imagines both parties perspectives in this reciprocal exchange: “The Puritan ministers wrote home that a new age of spreading the Gospel among the Indians had begun, and the Native Americans went home with word that a new age had begun of living under the protection of English laws.”¹⁹ In 1645, these leaders reaffirmed their oaths in General Court.²⁰

The sagamores who took Christian vows and submitted themselves to Massachusetts Bay clearly faced few choices in the wake of colonization and land loss. However, their covenant and conversion should not be seen as a complete surrender of sovereignty, territorial or cultural autonomy. This pact may instead be interpreted as one of the earliest treaties, reaffirming Native/Anglo alliance, based on mutual accommodation and legal compromise. I concur with Brooks and Christine DeLucia, that these leaders likely viewed their oaths differently than colonial authorities, based on their own creative misunderstanding of this agreement, which included typical forms of cross-cultural exchange of wampum and goods, expecting to gain protection, maintain land and legal rights. The English, however, undoubtedly understood this as a legal agreement of Native political and territorial submission to Massachusetts Bay authorities, to whom they swore allegiance as subjects.

Hybrid legal strategies used by sagamores in these diplomatic negotiations, however, failed to maintain equal political power, territorial rights and middle ground relations between the Pawtucket and English in Massachusetts Bay. As legal anthropologist Lauren

¹⁸ Lois Scozzari, “The Significance of Wampum to Seventeenth Century Indians in New England,” *Connecticut Review* 17 (1995): 59-69 59-39; Margaret M. Bruchac, “Revisiting Pocumtuck History in Deerfield: George Sheldon’s Vanishing Indian Act.” *Historical Journal of Massachusetts* 39, no. 1-2 (2011): 37; Lisa Brooks, *Our Beloved Kin: A New History of King Philip’s War* (New Haven: Yale University Press, 2018), 109.

¹⁹ Mary Ellen Lepionka, *Native Americans of Cape Ann*, “Masconomet and Nanepashemet,” last modified, 2018, <https://capeannhistory.org/index.php/masconomet-and-nanepashemet/>.

²⁰ Shurtleff, ed., *Records of Mass. Bay*, 2: 73; Winthrop, *A Journal of the Transactions and Occurrences in the Settlement of Massachusetts*, 49.

Benton suggests, mutual protection pacts were often ambiguous, and alliances of reciprocity based on gift exchange could give way to inequitable tribute. For the Pawtucket sagamores who signed this covenant, their gifts to Massachusetts Bay Colony, did not sustain equitable land and legal relations for long. Brooks' research also points to a direct connection between this agreement with Native leaders and opening of new northern trade routes, resource commodification and further land speculation in Pawtucket-Pennacook territories.²¹

While these sagamores likely sought more reciprocity than colonial authorities were willing to grant, court records indicate that they gained some tangible benefits by their agreement, which other Natives were not allowed, including the right to maintain arms, land grants and aid. Following Masconomet's oath of allegiance, the General Court allocated one hundred Pounds to secure his former Agawam fort on Castle Island with 150 tons of lumber from Nantucket, a garrison, artillery, and a commander.²² True protection remained elusive, however, as increasing attacks by Mohawk rivals, colonial land laws and speculation, coupled with growing fear and conflict, led to litigation and legal power inequities, furthering land loss and uncommon ground between the Pawtucket and English.

Masconomet's Lot in Quasacunqud- English Land Allotment to a Pawtucket Proprietor

One example of how Masconomet's oath to Massachusetts Bay officials may have briefly succeeded in gaining some Pawtucket land rights is evident in a 1644 grant made to him by the town of Newbury, shortly after he legally swore allegiance to the English. Town

²¹ Christine M. DeLucia, *Memory Lands: King Philip's War and the Place of Violence in the Northeast* (New Haven: Yale University Press, 2018), 46; Lauren Benton, "In Defense of Ignorance," in *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America*, ed. Brian P. Owensby and Richard J. Ross (New York: NYU Press, 2019), 282; Jennifer Pulsipher, *Swindler Sachem: The American Indian Who Sold His Birthright, Dropped Out of Harvard, and Conned the King of England* (New Haven, Connecticut: Yale University Press, 2019), 102-5; Brooks, *Our Beloved Kin*, 109.

²² Shurtleff, ed., *Records of Mass. Bay*, 2: 36-37, 162-63; Mary Ellen Lepionka, personal communication to the author, 2020. See also, Rufus Choate, "Indian Life at Chebacco," *Echo* (July 31, 1890); Rufus Choate, "Masconomet and His Foes: Where the Chief Lived," *Echo* (September 8, 1893).

records document this first ever recorded Anglo/Native land transfer in the Agawam territory Quasacunqud, chartered as Newbury in 1635 through a court land grant, before Winthrop Jr. made title payment to Masconomet in the 1637-1638 deeds. Early settler William Wood judged this area of Agawam superior to all others, encouraging English settlement in this resource rich, coastal region on the banks of the Molodemak: “where is a river twenty leagues navigable, all along the river side is fresh Marshes, in some places three miles broad. In this river is Sturgeon, Sammon, and Basse, and divers other kinds of fish.”²³

In 1642, as a result of rapid land encroachment and speculation for large scale agriculture and husbandry, the Newbury village parish expanded north from the banks of the Quasacunqud (Parker) River, closer to the Molodemak. In exchange for lands originally granted to town proprietors at the previous village center, lots were allocated in the new parish. Town records reveal a land grant of lot # 61, to “John Indian,” Aka Masconomet, the original Pawtucket proprietor of Quasacunqud.²⁴ While the record is silent on the circumstances leading to this grant, including the location of lot #61, this is the first known case of Essex County officials reallocating lands back to a Pawtucket sagamore proprietor.

The timing of this grant coinciding with the Masconomet’s recent oath to Massachusetts, suggests a potential recognition on the part of colonial officials, of long standing alliance and land exchange with Agawam settlers. This may be seen as an accommodation, made for his covenant, granting him new rights under the law, as a subject

²³ The Algonquian name, Kwaskwaikikwen (Quasacunqud as spelled on William Wood’s 1635 map) has been recently re-interpreted as best place for planting, attesting to its desirability by early colonial farmers, by Mary Ellen Lepionka, “Where are Agawam and Wenesquawam?” in *Cape Ann History*, last modified 2018, <https://capeannhistory.org/index.php/2018/04/>; William Wood, *New-England's Prospect. Being a True, Lively, and Experimental Description of That Part of America, Commonly Called New-England* (Boston: Printed for the Society, 1865), 49.

²⁴ An original copy of Newbury’s Town Proprietor Records is in the Newburyport Public Library Archive. See also Joshua Coffin, *A Sketch of the History of Newbury, Newburyport, and West Newbury, from 1636 to 1845* (Boston: Samuel G. Drake, 1845), 52; Currier, *History of Newbury, Mass., 1635-1902*, 30-31, 88-89.

of the colony, to receive land grants like English settlers in colonial towns. While this could have been intended to prevent conflict it was more likely a gesture of goodwill, based on the diminished condition of the surviving Pawtucket and Masconomet's loss of land and political power. It is a sad irony, that just a few years after legally deeding thousands of acres to Agawam settlers all the sagamore was allotted was a scrap of his former territory in return.

While town records in 1644 include "John Indian" as an original land grantee, his name is conspicuously absent from proprietor lists naming freeholders with rights in town commons and resources, despite the irony that he had recently sold the entire town to colonial proprietors. As David Allen's research has shown, in Newbury, more than most Essex County towns, proprietorship was extremely limited and controlled by the wealthiest members, who owned privileges in common land. While in Ipswich proprietorship was not a prerequisite to land rights and commoners had access to undivided public lands, Newbury proprietors (freeholders), selected in 1642, retained exclusive rights to commons and government participation. While proprietorships could be sold, they rarely were.²⁵

The tightly guarded, socially stratified Newbury land tenure system created conditions where speculation by elite English proprietors rapidly appropriated all common lands and resources that might have been shared amongst settlers and Pawtucket, as in earlier usufruct agreements. Newbury town records do not indicate whether Masconomet ever occupied or accepted his lot in Newbury. This rare case of a town granting lands back to an original Native proprietor symbolizes a token vestige of mutual accommodation in land

²⁵ David Grayson Allen, *In English Ways: The Movement of Societies and the Transferal of English Local Law and Custom to Massachusetts Bay in the Seventeenth Century* (Chapel Hill: University of North Carolina Press, 1981), 215-17; Konig, *Law and Society in Puritan Massachusetts*, 53.

exchange, which had all but vanished in the few years since Masconomet's fateful meeting with Winthrop aboard the *Arbella* when he welcomed the English to settle Agawam.²⁶

Cutshamakin's Cochicawick- Roger's Usufruct Rights and the Vanished Middle Ground Monument

Court records reveal one last Essex County land exchange, preserving limited usufruct rights, as in earlier negotiations, which occurred in 1646, for the territory of Cochicawick, which became Andover. The boundaries of the new town were chartered and mapped strictly in English terms, surveyed as six miles southward to North Andover Village, east to Rowley (now Boxford line) and northward to the Molodemak River. This region bordered with the Massachuset, under the proprietorship of Cutshamakin, who had recently taken an oath of allegiance to Massachusetts Bay, with Masconomet, Papisseconnewa and other sagamores. He lived mostly near Dorchester, but paid tribute to Papisseconnewa and inherited his position from his late brother, Sagamore Chickataubut, Squaw Sachem's brother. He had been allowed gunpowder to hunt fowl by the General Court in 1636 and aided the English as a guide and translator in the Pequot War. He was given a coat by Massachusetts Bay officials in 1642, shortly before submitting himself. He served as a colonial messenger and continued to accommodate the English through diplomatic service.

This land transfer agreement was not formally signed as a deed but was verbally confirmed by Cutshamkin in General Court on May 6, 1646, who attested that he had

²⁶ He was later granted six acres on his former land, now Ipswich, where he spent his last days with his wife, on *Winthrop Hill* (now *Sagamore Hill*) a Native space, renamed as a colonized space. According to legend, Masconomet was buried on *Sagamore Hill* with his tomahawk, rifle and a few personal items. Despite legal bans on Natives being allowed to trade or carry guns, he was granted court permission to do so, illustrating his status. Shurtleff, ed. *Records of Mass. Bay*, 2: 162-63; Hurd, *History of Essex County, Massachusetts*, 1258.

received six pounds and a coat from Rev. Jonathan Woodbridge on behalf of Andover.²⁷ The compensation for this title represents a cross between earlier tribute in English trade goods and recent deeds, in severalty, as in Pentucket. This payment is slightly more than given to Pentucket proprietors, perhaps due to Cutshamkin's status and awareness of relative economic value, in a more heavily settled location with greater commercial land potential. This was far less than Winthrop paid for Ipswich, however, almost a decade earlier, illustrating growing economic inequity in English land payments. As in Masquenomet's deeds, Cutshamkin was the sole proprietor consenting to this sale, indicating changing patterns in Native communal tenure systems and legal authority.

Significantly, this agreement was the last in Essex County to include limited usufruct rights for the remaining Native proprietor Roger and his kin, allowing them to hunt, fish and procure resources on the land. Perhaps, like Masconomet, Cutshamkin's recent oath afforded him this small gesture of reciprocity. The terms included a caveat, however, that: "ye Indian Roger and his company may have librtty to take alewives in Cochichawick River for their own eating; but if they ether spolie or steale any corne or othr fruite to any considerable value, of ye inhabitants there, this librtty of taking fish shall forever cease; and ye said Roger is still to enjoy foure acres of ground where now he plants..."²⁸

While Cutshamkin attempted to incorporate hybrid legal and land sharing practices, allowing the English title, while benefiting himself and his kin, these terms are clear that Native occupant's legal rights will be forfeited if they glean colonist's valuable crops as they gathered natural resources, such as fish and fowl. That English authorities felt it necessary to

²⁷ Court Order of Land Sold by Cutshamkin to Woodbridge, 1646, Mass. Archives, 11: 252; Perley, *The Indian land Titles of Essex County*, 35-37; Alden T. Vaughan, *New England Frontier: Puritans and Indians, 1620-1675* (Norman: University of Oklahoma Press), 19.

²⁸ Shurtleff, ed., *Records of Mass. Bay*, 2: 159-60; Perley, *The Indian Land titles of Essex County*, 36-38.

add this warning to their agreement, further indicates growing mistrust and a departure from earlier land sharing, which had sustained the common pot and middle ground relations. These punitive terms indicate a diminished form of usufruct rights, seen in earlier agreements, suggesting Native/Anglo relations of increasingly uncommon ground.

The Native proprietor Roger's name was later memorialized in *Roger's Brook* and *Roger's Rock*, a monument in Andover, removed for unknown reasons in the nineteenth century. This physically and symbolically eradicated the memory of Roger and Sagamore Cutshamkin's seventeenth century Cockickawick land exchange. This speaks to the narrative of erasure, discussed by Jean O'Brien, during a time when Massachusetts Natives were thought to have vanished and their early land exchange with colonists largely forgotten.²⁹

Pawtucket-Pennacook Conversion, Praying Towns Controversies and Native Courts

Shortly after Cutshamkin's Cochickawick land exchange and oath to authorities along with Masconomet and other sagamores, missionary John Eliot was granted permission by the General Court to establish Christian plantations, to convert Natives to English religious, cultural and land use practices in designated praying towns, which would be granted land in the following decades.³⁰ Eliot's first attempts to convert Native leaders met with little success, however, and Sagamores Cutshamkin and Papisseconnewa rebuked his early efforts, likely seeing this as a threat to their cultural, political and territorial authority. Eliot recalls, Cutshamkin "openly contested with me against our proceeding to make a town; and plainly told me that all the Sachems in the Countrey were against it."³¹ The General Court also outlawed Powowing, central to Native religious practices and a source of supernatural power

²⁹ Jean M. O'Brien, *Firsting and Lasting Writing Indians out of Existence in New England* (Minneapolis: University of Minnesota Press, 2010).

³⁰ Shurtleff, ed., *Records of Mass. Bay*, 2: 167.

³¹ O'Brien, *Dispossession by Degrees*, 27.

and prestige for Papisseconnewa and other sagamores, presaging later assimilation policies.

Conversion and early proposals to create praying towns were controversial amongst Native leaders, who also feared and resisted loss of Native homelands and legal rights. John Speen, an early leader of the praying town Natick, spoke of his motives to convert to prevent dispossession: “I saw the English took much ground, and I thought if I prayed, the English would not take away my ground.”³² Eliot’s vision was to convert Native spaces into geographically and culturally bounded colonized places, where religious accommodations could occur. English legal institutions, land ways and gender roles would prevail in praying towns, however, instructing Natives as to their position in the social order.

Despite early resistance by many sagamores, Cutshamkin became a leader of Natick. When Eliot first preached at the seasonal gathering at Pawtucket Falls, Papisseconnewa and his sons departed, while others stayed to listen. Eventually Papisseconnewa invited Eliot to teach at Wamesit Village and by 1649 the Pawtucket-Pennacook were regularly listening to his sermons, the same year that *the Corporation for Promoting and Propagating the Gospel among the Indians in New England* was founded to fund Eliot’s missionary work.³³

Papisseconnewa and Squaw Sachem’s kin became leaders at Wamesit, Nashobah and Natick. Eliot’s plan also appealed to young Natives whose prospects and land security were uncertain and who were more open to conversion as a new generation of praying town leaders.

According to Jean O’Brien “the praying town was a metaphor for an early form of cultural accommodation.”³⁴ One significant accommodation was made in 1647, when the General Court granted Eliot permission to establish Native tribunals, allowing civil and

³² Brooks, *Our Beloved Kin*, 173.

³³ John Eliot, and Company For Propagation Of The Gospel In New England The Parts Adjacent In America. *A Brief Narrative of the Progress of the Gospel Amongst the Indians in New-England, in the Year 1670* (London: Printed for J. Allen, 1671).

³⁴ O'Brien, *Dispossession by Degrees*, 32, 42, 49.

criminal cases to be heard on meeting days, in Native courts under colonial supervision in tribal gathering places. This was an important legal concession, requested by sagamores who had submitted themselves to Massachusetts Bay and desired an exclusive Indigenous court. This tribunal system allowed sagamore judges and Native officials to issue warrants and bring community members to court for minor offenses in monthly sessions where they could prosecute offenders and issue fines for small crimes. Fines would be used to erect a meeting house or school for religious and legal instruction under the supervision of Eliot or other colonial magistrates “to make ye Indians understand our most usefull lawes and those principles or reason, justice and equity, whereupon they are grounded.”³⁵ While these courts were aimed at assimilating Natives into the colonial cultural and legal system, they also allowed for a vestige of mutual tolerance of differences in hybrid legal practices, between English and Native systems. These tribunals countered resistance, built trust, and paved the way for permanent courts and praying towns, where legal matters were administered jointly.

Great Tom’s Best Defense Against Dispossession of Fenced Fields in Quasacunqud

As discussed, Newbury was highly valued by colonists for its commercial potential for agriculture and husbandry. The Abenaki name and location of Quasacunqud village bespeaks the fact that it was some of the best farmland, long cultivated by the Pawtucket, who grew the “three sisters,” corn, beans and squash on its fertile southerly facing slopes.³⁶ In 1650, a few years after Masconomet was granted his small lot, the first legal Native deed

³⁵ Winthrop, *A Journal of the Transactions and Occurrences in the Settlement of Massachusetts*, 160; Shurtleff, ed., *Records of Mass. Bay*, 2: 189; Shurtleff, ed., *Records of Mass. Bay*, 3: 106; Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 130.

³⁶ Mary Ellen Lepionka proposed this translation for Kwaskwaikikwen (Quasacunqud as spelled on William Wood’s 1635 map). See “Native Agricultural Villages in Essex County: Archaeological and Ethnohistorical Evidence,” *Bulletin of the Massachusetts Archaeological Society* 81, No. 1-2.

in Newbury was negotiated by “Great Tom Indian,” who sold thirty acres of fenced fields at Indian Hill to town proprietors (today West Newbury). This is the only deed for fenced land cultivated by Pawtucket proprietors in Agawam/Essex County, specifying exact acreage.

Fencing was a practical measure against livestock damage, but quickly became a prerequisite for ownership of “improved,” cultivated lands under the Massachusetts charter law and a source of legal dispute, as seen in the earliest litigation between Native sagamores and settlers in the early 1630’s. By the time of this deed, the only legal recognition and protection for Pawtucket planting grounds was fenced fields. Colonists and Natives alike, were responsible for fencing fields and could not recover damages if they failed to comply. By 1648 laws required colonists to pay for livestock damages to Native crops, as long as their fields were fenced. Settlers were encouraged to assist in fencing Natives’ fields, representing a vestige of mutual accommodation in land use.³⁷ Most Essex County towns were settled on unfenced Pawtucket lands deemed void, however, making them a target for legal seizure and reallocation through grants to colonial proprietors, furthering dispossession.

Evidence suggest that Pawtucket farmers, like Great Tom, gained an understanding of colonial land and adopted fencing to retain legal title. Fencing, thus, was likely Great Tom’s best legal defense against dispossession, whereby he maintained rights to one of the last tracts of Pawtucket farm land in Agawam, until he sold it, for unknown reasons, stating: “in consideration of three pounds in hand paid by and received of the townsmen of Newbury, have given, granted and covenanted, and fully bargained, and for and by these presents do give, grant, convey, confirme, bargain and sell all that my thirty acres of planting land that as

³⁷ Konig, *Law and Society in Puritan Massachusetts*, 118; Virginia Anderson, “King Philip’s Herds: Indians, Colonists, and the Problem of Livestock in Early New England,” *The William and Mary Quarterly* 51 no. 4 (1994): 611; Yasuhide Kawashima, *Puritan Justice and the Indian: White Man’s Law in Massachusetts, 1630-1763* (Middletown, Conn: Wesleyan University Press, 1986), 62-65.

it is fenced in one entire fence in Newbury, Lying neere Indian Hill... ”³⁸

It is noteworthy that Great Tom sold thirty acres for three pounds, the same amount paid just a few years before to Pennacook proprietors for thousands of acres of Pentucket territory (in Haverhill). Pulsipher and others have noted that these disparities are partly due to differing values between Native lands perceived by the English as vacant and more highly coveted cultivated land. As discussed, Newbury speculators made large profits from buying and selling prized agricultural land. While colonists paid pennies on the pound, this payment likely indicates an awareness by Great Tom of the greater value of his fenced fields in this more densely settled, economically viable and intensively farmed region of Newbury.

Like the deeds for lands in Pentucket and Cochicawick, however, this included no trade goods, wampum, or other forms of Native currency, further indicating a departure from hybrid land exchange practices. Great Tom also released not only his fenced lands, but: “all my right, title and interest in all the woods, commons and lands that I have in the township of Newbury to have and to hold all the said premises.”³⁹ Here we see a clear legal restriction on any usufruct rights or sharing of common land, as was preserved in Cochickawick and Piscataqua deeds. Great Tom also did not receive any allotment after selling his fenced land, according to court and town records (as Masconomet, recently granted a lot in Newbury). It is unlikely that Great Tom had previously been allowed the same rights or privileges to town common lands, he legally released, as enjoyed by freeholders. Town records indicate that Newbury common land was increasingly controlled by a few elite proprietors.⁴⁰

³⁸ Perley, *The Indian Land Titles of Essex County*, 41.

³⁹ Perley, *The Indian Land Titles of Essex County, Massachusetts*, 42.

⁴⁰ David Allen’s research reveals changes in allocation of common land and disputes amongst the original Newbury proprietors (freeholders) during this time. After some proprietor rights were sold due to population and market growth, in 1651 (shortly after this deed) the town forbid anyone to, “sell nor give away any of the townes land or timber without the townes consent and to look that the Freeholds may have their priviledg and such as have not a Freehold that they should have no liberty in the Common.” See Allen, *In English Ways*, 216.

The terms of this deed also suggest that Great Tom pledged allegiance on behalf of himself and his heirs, to these proprietors, against any future land title claims:

Respectively to bee to the proper use and behoof of the said inhabitants of the said Towne of Newbury, their heirs, executors, administrators and assignes for ever, and I, the said Great Tom Indian, do hereby engage and bind myself, mine heirs, executors and assignes unto Mr. William Gerish, Abraham Toppan, and Anthony Somerby, being Townsmen in the behalf of Said Towne, to warrantize the said bargained premises to the said Towne and for ever defend.⁴¹

The Newbury proprietors who negotiated this deed were prominent men, including William Gerrish and William Titcomb, who served as General Court magistrates. Some Essex County historians claim that the language and terms in this deed indicate a legal indenture, binding Great Tom and his family to work for these proprietors.⁴² Court records support this interpretation, evidencing increased Pawtucket indenture in Essex County in this period of declining trade and increasing debt, leading many to forfeit their lands and labor and enter into short and long term service contracts. The records are also silent as to Great Tom's status. He is not recorded as holding the title of sagamore, seen in all earlier deeds. As in Masconomet's Agawam deeds, he was the sole signatory and we can assume that he was the only remaining Pawtucket proprietor, with authority to transfer what remained of the village and his planting grounds at Indian Hill. Or perhaps, the Newbury proprietors did not recognize or bother to obtain signatures of other remaining proprietors or sagamores. Nothing else is known about Great Tom or his kin, from extant records or how long he stayed in Newbury and where he resided after selling his fenced fields in Quasacunqud.

While Great Tom may have succeeded for a time in preserving some of the last autonomously controlled fenced Pawtucket agricultural land in Agawam, his eventual

⁴¹ Perley, *The Indian Land Titles of Essex County, Massachusetts*, 43.

⁴² Mary Ellen Lepionka, personal communication to author, October 2020.

forfeiture and possible indenture reveal a growing pattern of mounting debt and dispossession in greater Agawam/Essex County. Good fences did not always make good neighbors, as evidenced by increasingly inequitable land laws, legal disputes and court cases in which Pawtucket proprietors were forced to adopt English land use and exchange practices, including fencing fields, to counter the loss of their lands. These laws placed increasingly inequitable regulations on Native land tenure systems, proprietorship, and legal rights, further threatening territorial autonomy and cultural survival. This led many sagamore proprietors to employ strategic litigation in order to resist legal dispossession.

Sagamore Wenepaweequin aka George Rumneymarsh's Disinheritance, Debts, and Dispossession

By the mid-seventeenth century, Sagamore Wenepaweequin (George), the youngest and only surviving son of sagamores Nanapeshemet and Squaw Sachem, had become the primary hereditary proprietor of vast regions stretching from north of the Mystic river (Chelsea, Saugus, Lynn, Nahant) to Naumkeag (Salem, Marblehead, Beverly) and west to Cochickawick (Andover). He was also the only known Sagamore in Essex County, who had not legally submitted himself to Massachusetts Bay colonial authorities in 1644, as most Native leaders had, suggesting his independence. Court records evidence a series of land disputes, debts, and legal cases, in which Wenepaweequin attempted to assert his traditional territorial authority and reclaim proprietary title to Pawtucket homelands through litigation.

Wenepaweequin's legal strategy to regain Native land is first evident in a May 1651 petition to the General Court, regarding land: "being wrongfully detaynd from him on the Mysticke side."⁴³ He claimed rights by inheritance from his late brother Sagamore John, in

⁴³ Shurtleff, ed., *Records of Mass. Bay*, 3: 233; Wenepaweequin petition to the General Court, 1651, Mass. Archives, 30: 19.

the territory Rumney Marsh (Chelsea and Saugus). Wenepaweequin's alias, Rumney Marsh, denoted his part-time occupation in the area. In a letter to the court, Wenepaweequin stated that his brother willed him land before his death, requesting that title now be conveyed to him as heir, based on both Native and English inheritance laws and tenure systems. Another letter to the court provided testimonials by Sagamore Cutshamkin and "Egawam" (likely Masconomet of Agawam) confirming that the late Sagamore John wanted Wenepaweequin to inherit his land at Powderhorn Hill (Chelsea) if his own son did not survive smallpox.⁴⁴ The court, however, refused to accept this evidence or hear Wenepaweequin's case, replying: "In answer to the petition of George, the Indian at Lynn, this court refers him to bring his account in some inferior court against any that withhold any land unjustly from him."⁴⁵

By mid-century most Native/Anglo land disputes and civil cases were referred by the General Court to county courts. In October of that year, however, before Wenepaweequin could appeal his case in county court, the General Court responded directly and favorably to a petition by English settlers of Rumney Marsh: "for releife in respect of unjust molestation, as they conceiue, from sagamore George, ptending a tytyle to certayne land..."⁴⁶ The colonists' petition stated that Rumney Marsh had been settled for sixteen years through a General Court land grant and that Sagamore George had made repeated, false claims to the title of their farms. They complained that he had brought them twice into General Court, which rejected his claims. Unsatisfied, however, Sagamore George then brought his case to a county court, which also rejected his case. Despite this verdict, he brought another petition, appealing again to the General Court, according to the colonists, who now sought the court's

⁴⁴ Wenepaweequin petition to the General Court, 1651, Mass. Archives, 30:19, 19a; Later court records further suggest his regional mobility: "...Sometime of Rumney Marsh and sometime at or about Chelmsford... sometimes here and sometimes there..." See Perley, *The Indian Land Titles of Essex County*, 68.

⁴⁵ Shurtleff, ed., *Records of Mass. Bay*, 3: 23; Shurtleff, ed., *Records of Mass. Bay*, 4: 52.

⁴⁶ Shurtleff, *Records of Mass. Bay*, 3: 252.

assistance to settle the matter, “to vest them and other inhabitants of the colony in the possession of their holdings in such a manner as would serve to protect them from illegal and unjust claims to proprietorship put forward by Indians.”⁴⁷

The English petitioners made a compelling legal argument that Sagamore George’s land claims represented an affront to charter law itself and a larger threat to all settler titles:

this is not our case alone, but the case of many other towns...by consequence of the whole countrye’ for if he can draw us... to any composition or get any of our land...his intents to do to Like to Lynne...as he hath threatened... and according to his success other Indians will be encouraged to lay clayme not only to the farmmes belonging to other townes but to the townes themselves, as some have bine forward enough to exprefse...therefore...if not timely prevented may prove of very bad consequence to divers towneships, if not the whole country.⁴⁸

These arguments speak to growing settler fears of further title claims by Natives and increasing conflicts of interest and litigation over contentious land ownership laws based on court grants made by towns to colonists, without deeds or payment to Native proprietors. In response to the settler’s persuasive legal appeal, the General Court rejected Wenepaweequin’s petition and confirmed the colonists’ title rights to their farms on the condition that they:

lay out twenty acors of good plantinge land in some convenient place, such as this Courte shall approue off, for Sagamore George to make use off: but if George sagamore sell it, the petitioners are to haue the refusall of it. And it is also further ordred that if the petitionrs shall refuse to lay out twenty acors of good planting land...then the sd Sagamore is pmitted the benefit of the law to recouer what right he hath to the land.⁴⁹

Twenty acres of “good planting ground” seems a small concession, however, considering the vast tracts of Native land granted to towns and settlers by courts, largely without compensation. Furthermore, the fact that settlers were free to choose where the

⁴⁷ Petition by English settlers of Rumney Marsh, 1651, Mass. Archives, 30: 26.

⁴⁸ Shurtleff, ed., *Records of Mass. Bay*, 3:252.

⁴⁹ Shurtleff, ed., *Records of Mass. Bay*, 3: 252.

twenty acres would be, without directly negotiating with Wenepaweequin about his land needs, signaled increasingly inequitable laws. While the court could justify this decision as legally recognizing George's land rights, it signifies an inherent incommensurability between Native hereditary tenure systems and colonial law, furthering relations of uncommon ground.

This case provides further evidence of how land grants previously made to towns by courts before or without payment to Natives led to land disputes and litigation and were ultimately the greatest factors leading to legal displacement. It is significant that the General Court upheld settler claims of legal harassment and their legal title but refused to grant Sagamore George his day in court to defend his title against unauthorized settlement by way of colonial grants without payment. The court decision speaks to the growing power imbalances between English law and Pawtucket territorial rights, showing clear bias towards colonial title claims based on the legal precedence of eminent domain and court grants over Native inheritance. This verdict illustrates the increasing inequities faced by Pawtucket proprietors, who employed litigation strategies in an attempt to resist legal dispossession.

Wenepaweequin's rejected title claims by the court were followed by his further loss of Nahant lands in Essex County, due to increasing financial debt. In April 1652, he appeared in General Court to sign a legal affidavit bond, acknowledging a debt to the late Mathew Craddock, London merchant and former deputy Governor of the New England Company.⁵⁰ Niccolas Davison, a Charles Towne merchant and lawyer, served as legal agent for the deceased Craddock, representing Massachusetts Bay Company, for an unspecified debt owed by Wenepaweequin in the amount of twenty pounds sterling. While the records are unclear,

⁵⁰ Wenepaweequin was also the rightful heir to lands in Nahant, based on inheritance from his late brother Sagamore James and Poquanum, his father-in-law, whom he had joined in land exchange with early settlers, before his murder by colonists. Craddock was one of the original stock-holders in the Massachusetts Bay Company, although he never set foot in North America. Shurtleff, ed., *Records of Mass. Bay*, 1: 65.

this debt may have resulted from a combination of land loss, increased dependency on an English market economy and the declining fur trade in Essex County. As collateral for his debt to the late Craddock, Wenepaweequin forfeited to Davison:

all that tracke or necke of land commonly called Nahant lying and scittuate, neere adjacent unto the town of Lynne aforesaid for the sd: davison to have and to hold: the sd: Nahant to him his heires execcutors Administrators. For euer provided I the said George do not pay the aforesd some of. Twenty. Pounds. Sterl. Within twenty dajes next after the date of these presents In witness of the Truth.⁵¹

This affidavit suggests that Sagamore George hoped to repay the debt and retain his Nahant title, despite the short repayment time. However, on May 21, Secretary Edward Rawson recorded this as a mortgage, suggesting that Wenepaweequin defaulted, forcing him to relinquish his lands to Massachusetts Bay Colony legal officials.⁵²

Wenepaweequin's disinheritance illustrates a growing pattern of Native lands retaken by Massachusetts Bay Colony, resulting from economic impoverishment, debt, and displacement. Sagamore George's cases demonstrate increasing legal disparities and the failure of colonial laws and earlier hybrid land exchange practices to protect Indigenous proprietors from dispossession. Wenepaweequin would soon join in further lawsuits with early English settlers, whom he and his kin had agreed to share land with, and who also lost their title rights, due to the hierarchy of court land grants to towns and individuals, claimed by Massachusetts Bay Colony under charter law. These cases and verdicts are illustrative of important legal precedents, demonstrating the failure of Pawtucket and colonial litigants, alike, to prove title to lands transferred through earlier hybrid practices, illustrating the legal processes of dispossession by colonial courts of both Native and English proprietors.

⁵¹ William Blake Trask, et al., eds., *Suffolk Deeds*. Lib. I, 1652 (Boston, 1880): 204-5.

⁵² Trask, et al., eds. *Suffolk Deeds*. Lib. I, Index, 682.

Dexter's Dispossession- Pawtucket/Anglo Code Switching & Hybrid Litigation in Nahant

Several years after Sagamore George's loss of inherited Nahant lands, a series of lawsuits were brought by Thomas Dexter and his heirs against the town of Lynn, in 1657, 1659 and 1678, claiming title to Nahant territories, based on prior exchanges with Poquanum and his kin, Sagamores George, James and Masconomet in the 1630's. These court cases signify important changes between earlier, informal land sharing practices relying on mutual accommodation and the later land laws and court grants to towns, leading to legal disputes, dispossession, and litigation by Native and Anglo proprietors alike. Dexter's court cases also support Jennifer Pulsipher's research on the development of legal hybridity, which was increasingly employed by Indigenous and English litigants in land claims based on prior title and deed negotiations with Native proprietors.⁵³

After the General Court issued new laws, regulating land exchange between Natives and colonists in 1634, Dexter's previous land negotiations with Sagamores in Nahant were legally nullified, following a pattern seen in Salem, Ipswich and other Essex County towns. This is evident in the charter of the town Lynn in the late 1630's, which claimed eminent domain, then granted Nahant land to new colonists, previously exchanged between Native proprietors, Dexter and other colonists, forcing prior settlers off their land. This also legally displaced any remaining sagamore proprietors of their original title. Nahant settler Edward Holyoke gave a deposition in Dexter's court case, that in 1642-3, after the courts had granted Nahant land to the town of Lynn, he was approached by previous proprietors, Dexter, and Humphrey, to join them in a lawsuit against Lynn, but refused.⁵⁴ It took over a dozen years before Dexter, along with Sagamores George and Masconomet, had their day in court.

⁵³ Pulsipher, "Defending and Defrauding the Indians," 99-107.

⁵⁴ Dow, ed., *Records and Files of the Quarterly Courts*, 7: 127.

Dexter's case was eventually brought in Salem court in 1657 against town proprietors of Lynn "about tittle to Nahant for trespass by keeping cattle, cutting wood, and building houses there etc." Among the witnesses, were early English settlers who had been evicted, including Christopher Lindsey, who testified that he had helped to fence the land Dexter purchased from Poquanum, where cattle were kept in commons.⁵⁵ Another witness claimed that "all those that fenced at Nahant had proprietorship there and when Captn. Turner with the rest made the fence he said to make haste lest the country take it from them."⁵⁶ This testimony illustrates the impact and apprehension of Charter land use law, including fencing, as prerequisites to legal ownership, as well as fear of dispossession by order of the General Court. Witness claims of "improvement," supported Dexter's case for legal title, based on utilizing the land for farming and husbandry, according to the colonial charter and laws.

The testimony of Sagamores George and Masconomet in Dexter's case demonstrates the development of increasing Native legal intelligibility, hybridity, and strategic litigation, from their prior negotiations with Dexter and other colonists in the 1630's, relying on creative misunderstandings, to Dexter's 1657 court case, in which these Native proprietors further drew on their knowledge of colonial law and Indigenous land tenure systems in order to benefit and assert their original title and legal rights. Perhaps these sagamore proprietors thought they might stand a chance to regain use rights in their former territories or at least some compensation, if they sided with Dexter and he won his case, based on their original title, tenure, and prior exchanges. Sagamore George had recently lost his Nahant title, due to debt, shortly before he testified in Dexter's court case. He and Masconomet took oaths in support of Dexter, attesting that he had fairly negotiated land title with sagamore Poquanum

⁵⁵ Dow, ed., *Records and Files of the Quarterly Courts*, 2: 43.

⁵⁶ Dow, ed., *Records and Files of the Quarterly Courts*, 7: 128-29.

in exchange for many fine suits of clothing and goods over several years. This evidences long term relations of mutual accommodation between Dexter and Poquanum, as well as Sagamores George and Masconomet, who decades later reaffirmed these early cooperative, hybrid land exchanges. This was Masconomet's last legal action, as he died the next year, as a landless ward of Ipswich, on a small allotment in Agawam, which he sold in 1638.

Depositions by English witnesses in Dexter's 1657 case further attested to ongoing, cooperative relations between these sagamores and Dexter. Richard Church testified that he had recently heard Sagamore George tell Dexter that although he bought Nahant from Poquanum "all the pay was not given to his cousin, for George being the heir, received the remainder of the pay."⁵⁷ This further supports Dexter's case, corroborating Sagamore George's own testimony as a hereditary proprietor and eye-witness, who also swore that Poquanum and his heirs (including himself) were duly compensated by Dexter. These testimonials also exemplify kin based land tenure systems, requiring community consent and payment to multiple Native proprietors in land exchange with settlers.

Despite testimony by multiple colonial and Native witnesses in Dexter's lawsuit, the Salem County court found in favor of Lynn and new proprietors, based on the legal primacy of court land grants and laws over earlier Native/Anglo agreements. Dexter and his son-in-law appealed their case to the Court of Assistants, shortly thereafter, which also dismissed their claims. Dexter's heirs again pleaded their case, shortly after his death, in 1678 at Salem court. Testimonials in these cases further attest to how Poquanum and other sagamores negotiated with multiple settlers. Captain Richard Walker testified that he was among the first settlers of Saugus/Lynn who bargained with Poquanum and his kin for Nahant land.

⁵⁷ Dow, ed., *Records and Files of the Quarterly Courts*, 7: 126-28.

Nathaniell Bacor claimed that he met Poquanum wearing “a stuff suit of clothes that were pinked and he said he had them of farmer Thomas Dexter Sr. who then lived at Saugus, now called Linn, giving him Nahaunt for them.” He stated that Dexter had also compensated Sagamore George.

Despite much testimony by English and Pawtucket witnesses in the Dexters’ cases claiming title based on early transactions with Poquanum and his kin, the courts found them illegal.⁵⁸ This ruling upheld Lynn’s rights to claim land by eminent domain through General Court grants, without title payment to previous Native or colonial proprietors. This case illustrates how Massachusetts land law dispossessed English and Natives proprietors, alike.

Pequanamquit’s Deeds and Misdeeds- Alcohol, Indenture, Debt and Displacement in Essex County

Colonial land encroachment, speculation, resource commodification and laws impacting Native subsistence and autonomy, led increasingly to Native debt, indenture, alcohol use and land loss. The Pawtucket who survived in Essex County as “settlement Indians,” were largely landless state wards by the mid-century. Bans on selling horses, boats, guns, powder, and liquor, further limited Native legal rights. The declining fur trade, a primary medium of colonial exchange, also impacted Native proprietors, who were forced to mortgage their land and indenture themselves to repay debts to traders. Francis Jennings and other scholars have pointed to debt and alcohol as important contributors to Native

⁵⁸ While multiple witnesses in these cases supported Dexter’s heir, others claimed that he had released his legal rights to Lynn decades earlier. George Keser stated that he heard Dexter at a town meeting thirty five years ago agree to forfeit his portion of Lynn after Mr. Humphrey offered to relinquish his own rights. This echoed earlier testimony of Clement Couldam who swore that Dexter told him after the same town meeting that he agreed to release “his right in Nahant to Line and the town had given him a considerable tract of land on the back side of his farm which would be of more advantage to him.” See Dow, ed., *Records and Files of the Quarterly Courts*, 7: 124-27.

dispossession.⁵⁹ While these factors have not been widely acknowledged as primary causes of Pawtucket land loss, there is evidence to the contrary in General and county Court records.

Essex County Court cases reveal a series of legal disputes, debts, indenture agreements, alcohol sales and land deeds involving Pequanamquit “Ned Indian” aka Ned Ackocket aka Edward Cocket. After serving Winthrop Jr.’s family for many years in Ipswich, Pequanamquit worked in the Ipswich household of Zacheous Gold, prior to 1652, and was later indentured to Sargeant Jeremiah Belcher, who kept an ordinary tavern in Ipswich. Court depositions reveal that in 1652, Pequanamquit mortgaged a tract of land on the north side of the Molodemak river, eight to ten miles from Andover and eight miles square, “between ye lands of his unkle William and his brother Humphrey” to Henry Bartholmew of Salem for thirty pounds. The terms of Ned’s mortgage required payment in “merchantable beaver...or else to stand in full power, force and virtue and ye land to be valued for payment.”⁶⁰ While records of Pequanamquit’s land forfeiture to Bartholmew do not specify the factors leading to his debt, the decline in the lower Molodemak fur trade likely contributed to Ned’s inability to repay Bartholmew and his ongoing indenture, forcing him to eventually transfer his inherited land.

A series of further legal disputes suggest that alcohol may have also played a role in Ned’s impoverishment, debts, and land forfeitures, as seen in Essex County Court records of illicit liquor sales to Pequanamquit and other Natives by Belcher and other colonists. In 1654 Belcher brought charges against Pequanamquit in Ipswich court for an unspecified debt, recorded as withdrawn. Belcher was fined the same year by the county court for selling

⁵⁹ Shurtleff, ed., *Records of Mass. Bay*, 3: 398, 424; Shurtleff, ed., *Records of Mass. Bay*, 4: 277; Francis Jennings, “The Deed Game,” in *The Invasion of America: Indians, Colonialism, and the Cant of Conquest* (New York: Norton, 1976), 40.

⁶⁰ Peter Leavenworth, “The Best Title That Indians Can Claim: Native Agency and Consent in the Transfer of Pennacook-Pawtucket Land in the Seventeenth Century,” *NEQ* 72, no. 2 (1999): 289; Essex County Deeds, 1639-1866, Vol. 1-3, 13, *Massachusetts Land Records*, Mass. Archives.

Natives liquor, but appealed his case to the General Court, which reduced his fine.⁶¹

In 1657, the impact of alcohol on Massachusetts Bay Natives became subject to legislation, when the General Court moved to ban liquor sales:

Whereas this court hath made severall orders for the pventing of excessive drinking and drunkenness amongst the Indians and not wthstandinge there is little or no reformation in that kind, but it appeareth by complaynts from all pts of the country, and that by frequent experience, that no moderation can be attained to pvent drunkenness amongst them, the fruits whereof are murther and other outrages, this Court doth therefore, the pmises considered herby wholly prohibite all psns of wt qualitie soeur, henceforth to sell, truck, barter or giue any strong liquors to any Indian directly or indirectly.⁶²

The main motive of the court seems to be fear, in enacting laws to prevent criminal acts by Natives against colonists, without due acknowledgment of the many negative consequences of alcohol on Indigenous peoples and communities, including debt and economic duress, leading to legal dispossession.

Alcohol and debt likely contributed to Pequanamquit's legal troubles and also impacted his kin. In May 1657 Frances Jordon paid twenty shillings to Belcher for a debt on behalf of Pequanamquit. That November Pequanamquit acknowledged judgement to both Belcher and his former master Zacheous Gould, for an unspecified charge. The Essex County court then sentenced him be: "severely whipped and returned to the house of correction until he give bond of good behavior, and to keep the child. Such security as the magistrates and Mr. Hubart shall see fit." In December, Pequanamquit's brother Humphrey, John, Old William's son and Jeremy Netecot were all "bound to good behavior of Ned and to pay six pounds year towards the keeping of the child as long as the court sees meet."⁶³ While the

⁶¹ Dow, ed., *Records and Files of the Quarterly Courts*, 1: 336.

⁶² Shurtleff, ed., *Records of Mass. Bay*, 3: 425.

⁶³ Dow, ed., *Records and Files of the Quarterly Courts*, 2: 55, 58, 61, 70.

record is mute as to the identity or relation of the child to Pequanamquit or any connection to his debts or land loss, prior court cases suggest that alcohol and debt likely played a role in his economic, legal, territorial, personal, and family hardships.

Despite court legislation against liquor sales, alcohol continued to be sold to Natives in greater Agawam, possibly contributing to Pequanamquit's further debt and land transfers, as revealed in subsequent court cases. In September 1658 Belcher was fined in Ipswich court and "confessed that he sold strong water to Ned Indian, three gallons at two times, which was so fusty that the English would not buy it; further that he let Ned Indian have a pound of powder and shot sufficient to kill some fowl for him while he was servant and lived in his house." At the same court session, Belcher accused another settler of selling fifty gallons of liquor to Natives, suggesting the frequency of this practice in Essex County.⁶⁴

Ongoing cases of alcohol, debt, and indenture between Pequanamquit and Belcher seem to have led to his eventual necessity to forfeit land to Belcher in 1659. The tract transferred by Pequanamquit was on the north side of the Molodemak River, between Pawtucket Falls (Chelmsford/Wamesit) and the territory of Pentucket/Haverhill (sold by Pawtucket proprietors in 1642). The deed transcript states that Pequanamquit inherited this land from his late father and uncle, Old Will, which he now relinquished: "for a debt due to Jeremiah Belcher of Ipswich in New England which hath been owing to him about seaven or eight years of about twenty six pounds: do give and fully grant and make over and sell all my right of that land of mine which lyeth on the other syde of Merrimack River butting against Pawtucket and so running along to Haverhill Ward as farr as to Old William wigwam and...up ye cuntry to a hill called Jeremiah's Hill..."⁶⁵ It is significant that

⁶⁴ Dow, ed. *Records and Files of the Quarterly Courts*, 2: 117.

⁶⁵ Pequanamquit's deed to Jeremiah Belcher, 1659, Mass. Archives, 45: 214.

Pequanamquit's legal right to release title to his inherited land was upheld by the court. As this frontier borderland region had not yet been legally granted by Massachusetts Bay to a township, the court permitted this private exchange. This contrasts with Sagamore George's rejected legal claims to his inherited Nahant land title by the General Court, as well as Dexter's, due to the fact that the land was legally granted and settled as a chartered township.

Following Pequanamquit's land transfer to Belcher, court records reveal his ongoing debt to Essex County settlers. In 1660 Salem court he was charged by Edmund Batter for a debt of eight pounds, which another colonist claimed he heard Pequanamquit acknowledge. Like Belcher, Batter was licensed to sell strong liquors (also treasurer of Essex County), and based on Pequanamquit's record, alcohol may have been behind this debt also. Testimony by local officials also suggests that he resisted arrest: "I sent Ned the Endian to prison by me sonn Samuell Archard (marshall of Salem) & he run away from him."⁶⁶ A 1666 Ipswich court case reveals that Pequanamquit appeared the year before, with his brother Humphry, acknowledging judgement to John Gold (relative of Zacheous, Ned's former master to whom he was indebted). That year, Salisbury town records state: "there was granted to Ned, an Indian, the right to set up a fish-ware, in the town creek to catch fish for the summer following."⁶⁷ This suggests that Pequanamquit continued to live near the Molodemak, perhaps engaging in fishing as a means of support.

Nothing further is recorded about Pequanamquit's residence, activities, or land exchange with settlers until 1671, when he reappears in Ipswich records, revealing that he had become a town ward: "granted Ned two or three acres to plant, during his lifetime, in

⁶⁶ Dow, ed., *Records and Files of the Quarterly Courts*, 2: 212; Dow, ed., *Records and Files of the Quarterly Courts*, 3: 18.

⁶⁷ Dow, ed., *Records and Files of the Quarterly Courts*, 3: 299; Hurd, *History of Essex County, Massachusetts*, 1452.

some convenient place, if he fence it sufficiently with stone wall.”⁶⁸ Ned ‘s story provides undeniable evidence of the interconnection between Pawtucket debt, alcohol, indenture, land forfeiture made under economic duress and legal dispossession in Agawam/Essex County.

Falling Out in Newbury– Old Will’s Planting Grounds and The Case Against Judge Henry Sewall

A decade after Great Tom Indian sold his fenced fields at Indian Hill in Newbury to English proprietors, the first evidence of ongoing Pawtucket occupation, land use and litigation is recorded in a court case between Native proprietors and English settlers, which would take decades to resolve (see chapter 3). In 1661, two years after Pequanamquit’s transfer of land inherited from Old Will, his uncle, Old Will’s daughters (Kate and Mary) and grandson (Job) petitioned the General Court, claiming title as legal heirs to Old Will’s planting grounds at Newbury Falls, which he had long occupied and farmed with his kin.

These lands included five hundred acres claimed and granted by the town of Newbury in 1636 to Henry Sewall Sr., along with those he purchased for livestock raising. Sewall had a litigious reputation, unsuccessfully petitioning the town for more land, suggesting his speculative interests.⁶⁹ The Pawtucket plaintiffs attested that these “improved” agricultural lands belonged legally to the proprietor and farmer Old Will and his kin and had been wrongfully granted to Sewall and inherited by his son Henry Jr., who became a prominent Massachusetts magistrate, serving on the General Court between 1661 and 1670.⁷⁰

The General Court, to which magistrate Sewall Jr. had recently been appointed,

⁶⁸ Joseph B. Felt’s, *History of Ipswich, Essex, and Hamilton* (Ipswich, Mass.: Clamshell Press, 1966), 5.

⁶⁹ Allen, *In English Ways*, 114.

⁷⁰ Sewall Sr. had been living in Rowley in 1657 when he died and his son, from Newbury, was living in England. Henry Jr.’s son Samuel became Chief Justice of Boston. See Currier, *History of Newbury*, 64-65; Perley, *The Indian Land Titles of Essex County*, 43.

dismissed the petition by Old Will's kin, leaving it to the prominent judge and proprietor's discretion whether to pay the Pawtucket claimants for legal title:

Whereas some Indians as we are informed pretend an interest in some parts of the land of Henry Sewall which lyeth at Newbury Falls sometimes Mr. John Spencer's which lands were purchased of ye said Mr. Spencer and also have been confirmed by the towne. It is therefore ordered by this court that if it shall appeare unto the said Henry Sewall that the said Indians or any other haue any legal right unto any part of the said land, that the said Henry Sewall shall hereby haue liberty to purchase the same of the said Indians.⁷¹

This language, suggesting a "pretended" claim by Old Will's heirs, shows clear bias of the General Court in Sewall's favor, based on inherited rights to land legally claimed by Newbury and granted to his father. Court records reveal that the Sewalls did not relinquish any of this land or compensate the Pawtucket proprietors for title rights.

In 1663, shortly after Old Will's kin unsuccessfully petitioned the General Court regarding Sewall's trespass, Richard Dummer purchased seven acres for ten pounds from Pawtucket proprietors at Newbury Falls, most likely Old Will's family. Dummer's land, abutting Sewall's, had previously been reserved in the 1638 deed to Agawam, when Sagamore Masconomet transferred: "all other land belonging to me in these parts, Mr. Dummer's Farm only excepted."⁷² Dummer was also granted land in 1635 by Newbury, abutting Sewall's, as one of its founding proprietors, allowing him to keep cattle in commons. Both colonists' court grants seem to have overlapped with the Pawtucket planting grounds of Old Will's family, which they were not paid for. The records do not indicate if the seven acres purchased by Dummer in 1663 fell within or in addition to the 1635 town grant. It is also unclear what led Dummer to purchase this title, but the court case brought by Old

⁷¹ Shurtleff, ed., *Records of Mass. Bay*, 4, Part 2: 21; Currier, *History of Newbury*, 183-84.

⁷² Perley, *The Indian Land Titles of Essex County*, 27.

Will's kin may have prompted this private negotiation and payment to Pawtucket proprietors for clear title which could be sold or willed.⁷³

While Dummer seems to have made efforts to buy title rights from Pawtucket proprietors, it would take almost twenty years before a legal deed agreement was reached between Sewall Jr. and Old' Will's kin, outside of court, after the General and Essex County Courts both failed to resolve the matter to the satisfaction of the Pawtucket plaintiffs. This illustrates a pattern, where Native/Anglo land disputes were often referred or appealed to county courts, resulting in lengthy legal disputes and dissatisfaction by all parties, as seen in Sagamore George's Rumney Marsh litigation and Dexter's Nahant court cases. This process placed increasingly inequitable burdens on Native proprietors, with diminishing economic resources and legal power, limiting the efficacy of litigation strategies to prevent land loss.

Northern Expansion-Trade and Settlement in the Molodemak Borderland Frontier

By the time Old Will's heirs brought their case against Sewall, the English had granted, sold, and settled most lands of Essex County, the lower Molodemak River and Massachusetts Bay coast, displacing the Pawtucket-Pennacook from their homelands and increasing the drive for northern colonial territorial expansion and Native mobilization strategies. Growing concern of a French/Pennacook alliance was met with new court sanctions against trade between foreign powers and Natives in Massachusetts Bay's growing geographical jurisdiction. Recent commercial, military, and religious negotiations between the Abenaki, Iroquois and French in Canada caused English fear over control of northern land and relations with Papisseconnewa.⁷⁴

⁷³ Dummer's daughter had married Sewall Jr. and this land sale coincided with the return of Sewall's family from England to Newbury, which may account for his desire to legally secure title for his heirs. Currier, *History of Newbury*, 32-33, 191.

⁷⁴ Shurtleff, ed., *Records of Mass. Bay*, 3: 208.

In 1652, Massachusetts Bay Colony had sent fur trader Simon Willard to definitively map the upper Molodemak, to its source at Lake Winnepesauke, in northern Pennacook territory. Willard, who had a long history of trade and land exchange with Natives, was aided by “two Indians well acquainted with Merremack river and the great lake to which we went; born and bred all their daies thereupon, very intelligent as any in all these parts.”⁷⁵ This knowledge allowed Massachusetts Bay Colony to further claim vast new inland resources and waterways, which had been well guarded by the Pennacook Confederacy against English trade and speculation. This led to more colonial settlements and Native/Anglo exchange in these frontier regions, with deleterious consequences for Pawtucket-Pennacook land and legal rights, furthering debt, alcohol use and displacement. Following the pattern in Essex County and elsewhere in Massachusetts, Native/Anglo trade and land transfer made under economic duress and legal coercion, proliferated north of the Molodemak. The promise of new markets and resources, led towns to petition for grants to start plantations in borderland frontier territories. Piscataqua (including Exeter and Dover) had been largely the domain of religious and political dissidents cast out by Massachusetts Bay orthodoxy (including Reverend Wheelwright, named in 1629 and 1638 Piscataqua deeds). After Massachusetts annexed this region in the 1640’s, it drew settlers from heavily populated areas, including Essex County. These acquisitions were derived through a combination of deeds/exchanges with Pawtucket-Pennacook proprietors and court grants to towns and colonists.

In 1657 the General Court granted a thousand acres to Ipswich Reverend Hubbard, near the Exeter River, including an “old Indian field.” In 1658 Sagamore Mohermite granted

⁷⁵ Currier, *History of Newbury*, 161; James Kimball, “Exploration of the Merrimack River in 1638 by Order of the General Court of Massachusetts, With a Plan of the Same,” *Essex Institute Historical Collections* 14, no.3 (Salem, Mass: Essex Institute, July 1877): 166-67.

640 acres near Exeter to another Ipswich settler.⁷⁶ In 1660, Edward Hilton, whose father established a fishing station on the Piscataqua River in the 1630's, at the invitation of Sagamore Tahanto, petitioned the court for his title, based on this early Native deed. The courts, however, only granted some of the lands his father acquired from the sagamore, claiming the rest by eminent domain and charter law. Hilton was given six square miles by Sagamore Wadonamin: "for the love I bear to Englishmen (a phrase used to denote land inheritance within families) and especially unto Edward Hilton of Piscataqua," confirmed by Wadonamin in court nine years later.⁷⁷ These transactions and settlement patterns illustrate the complexity of land tenure, laws and title claims in these border regions north of the Molodemak, now under the legal jurisdiction of colonial courts, but still claimed by Pawtucket-Pennacook proprietors and settlers, who continued to negotiate private deeds and land exchange, conflicting with Massachusetts' claims and increasing legal dominance.

Nomanacomak's Imprisonment-Pennacook Illicit Trade & Debt on the Molodemak Frontier

By mid-century English trade had expanded further northward into the Pennacook heartland of the upper Molodemak (between Manchester and Concord). Encroachment into these lands soon began to erode and alter Native autonomy, leadership, traditional exchange, and subsistence practices. As in Essex County, this led to impoverishment, alcohol use and dispossession. Court records reveal many land forfeitures made between Pennacook proprietors and English traders to repay debt. It would take decades before legislation was passed, voiding illicit land exchange without court approval or due to debt.

⁷⁶ Shurtleff, ed., *Records of Mass. Bay*, 4, Part 1: 330.

⁷⁷ Shurtleff, ed., *Records of Mass. Bay*, 4, Part 1: 430-31; Stewart-Smith, "The Pennacook Indians and the New England Frontier," 93; Leavenworth, "The Best Title That Indians Can Claim" 288; Pennacook/Sokoki Inter-Tribal Nation, *Historical Indian/Colonial Relations of New Hampshire: Treaties, Letters of Agreement, Land Sales, Leases, & Other Pertinent Information, 17th - 18th Centuries* (Manchester: New Hampshire Indian Council, 1977), 23.

Predatory trading practices by colonists, including illegal liquor sales, was a frequent complaint of Pawtucket-Pennacook leaders, resulting in legal disputes, debt and increasing violence on the northern frontier for years to come. Trucking houses on the upper Molodemak were not highly regulated and traders often extended alcohol on credit to Natives who could not repay, forcing them to relinquish their most valuable furs and lands. Courts continued to issue licenses for trade posts and settlements on the frontier without legal protections for the Pawtucket-Pennacook.

Lisa Brooks claims that traders increasingly used Native “kinship bonds” of land tenure, in order to enforce “legal bonds” of debt and acquire northern lands. This is evident in the case of John Tincker, who held exclusive fur trade rights in the new towns of Lancaster and Groton, which he helped found in 1655.⁷⁸ Tincker was one of three men in this frontier region near Nashaway, accorded the title “Mister,” based on his elite status, derived largely from trade and vast acquisitions of Native land. In his quest for land, Tincker drew many sagamores and their kin into debts, forcing them to forfeit territory. He was known for illegally trading alcohol, a factor in many debts. In 1655 Tincker had been fined “ten shillings for selling now and then a gill of strong waters to ye Indians.”⁷⁹ He used liquor and the declining fur trade to obtain Native land and his profits far outweighed his fines. In Lancaster there were no court magistrates to monitor trade and, conveniently, he kept all town records himself. Nashaway Natives became so indebted to Tincker as to mortgage the potential profits of two hunting seasons to him.⁸⁰

One notable example of how Tincker used debt to legally dispossess Pennacook

⁷⁸ Brooks, *Our Beloved Kin*, 43.

⁷⁹ Shurtleff, ed., *Records of Mass. Bay*, 4, Part 1: 251, 354.

⁸⁰ Brooks, *Our Beloved Kin*, 109-10.

leaders, involved Papisseconnewa's eldest son Nomanacomak, Sagamore at Wachusett. Court records reveal that Nomanacomak and his kin, including Sagamore John, acknowledged owing debts to Tincker, beginning in 1656, which Nomanacomak was expected to repay, on behalf of his follower's, mainly in beaver skins.⁸¹ Mohawk threats, land speculation and disputes impacting the fur trade may have hindered his ability to pay Tincker. Nomanacomak traveled to the General Court in 1657 to appeal his case, but despite Tincker's notorious trade practices, the court held Nomanacomak liable, imprisoning him for two years in Boston. This demonstrates the Pennacook's diminished legal and political power and inability of longtime ally, Papisseconnewa, to negotiate the release of his son from jail over highly dubious debts.

Commerce was increasingly regulated by the General Court, which appointed officials, who purchased exclusive Native trade rights. Reasons cited by the court for this ruling included growing concern over illegal practices: "as it may be justly feared several phibited commodities, as guns, poweder, shott, strong liquors..."⁸² In 1657, the year of Nomanacomak's imprisonment, the court chose a group of magistrates to establish a fur trade on the upper Molodemak, including superintendent Gookin and Edward Tyng, who both had prior relations with Pawtucket-Pennacook leaders and groups. While these regulations provided some legal protection against unscrupulous traders like Tincker, it also limited economic opportunities for Natives who had to trade with and rely on appointed officials. This also led to further consolidation of northern English land holdings, as these traders became the largest speculators of Native lands, often acquired through economic and legal

⁸¹ Samuel A. Green, *Groton during the Indian Wars; John Prescott's Agreement with the Town; Simon Willard and Nonacoicus Farm; Samuel Carter, Fourth Minister of Groton*, Cambridge: J. Wilson, 1883, 179-82.

⁸² Shurtleff, ed., *Records of Mass. Bay*, 3: 424-25; Shurtleff, ed., *Records of Mass. Bay*, 4, Part 1: 290-91.

coercion. Among these elite prospectors was Goodman Prescott, who obtained hundreds of acres near the territory, Weshawkim, from James Quananopohit (Masconomet's close kin), who later served the English in King Phillip's War.⁸³

Another of the most prominent Nashaway traders and speculators, given the title "Mister," was Simon Willard (Concord and Chelmsford founder), probably the best known trader and Molodemak frontiersman, who had a long history of fur trade and land exchange with Sagamores, beginning decades earlier with Squaw Sachem. Willard purchased exclusive trade rights on the Molodemak and Nashaway Rivers. In 1658 he petitioned the General Court and was given the "Nonaaicoicus grant" in Groton of five hundred acres at Nashaway, as payment for a debt of forty four pounds owed by Sagamore John, Nomanacomak's kin, who had no means to repay him.⁸⁴

In 1659 Willard took over Tincker's trading post at Wataunick on the upper Molodemak and made further inroads into northern Pennacook territories, acquired through trade and debt based forfeiture. One of Willard's partners, Thomas Henschman, also had close ties to the Pawtucket-Pennacook and became assistant to Indian superintendent Gookin. He helped found Chelmsford, with Willard, and negotiated land deeds with Native proprietors in neighboring Wamesit. Many Pennacook who moved to Wamesit, bordering Chelmsford, where Eliot would establish a praying village in the 1660's, frequented this trading post, which operated into the eighteenth century.⁸⁵

The same year that Willard acquired Tincker's trading post, the leading Pennacook Sagamore proprietors, close kin to Nomanacomak, were forced to mortgage their prized

⁸³ Tyng's son Jonathan became a close friend of Wannalancet's, who spent his last days living on Tyng's Dunstable farm under his care and was buried there. Lisa Brooks, *Our Beloved Kin*, 110.

⁸⁴ Shurtleff, ed., *Records of Mass. Bay*, 4, Part 1: 336-37; Kawashima, *Puritan Justice and the Indian*, 62.

⁸⁵ Leavenworth, "The Best Title That Indians Can Claim," 283.

farmland, Weecaasuck island, in the Molodemak near Pawtucket Falls (Wamesit), to bail him out of Boston jail for debts owed to Tincker. Ironically, they had to petition the court for permission to sell their land, “for a debt of fourty five pounds or thereabouts, having nothing to pay, but affirming that several Indians, now in possession of a smale island in Merremacke Riuer about sixty acres (the half whereof is broken up) are willing, after this next year’s use of their said ground, to sell their interest in the said island to whomsoever will give most for it and so redeeme the Papisseconnewa sonne out of prison...”⁸⁶

In November 1659, Nomanacomak and the proprietors of Weecaasuck Island, signed a deed, selling the island to merchant John Webb, who owned lands near the island, and evidently paid Tincker the debt owed by the Pennacook.⁸⁷ This land transfer, was clearly made under economic hardship, illustrating legal strategies increasingly used by English traders, settlers and authorities to acquire northern Pennacook lands. The desire of colonists to establish northern settlements and commerce with the Pawtucket-Pennacook led to more requests for court sanction to trade on the upper Molodemak. In 1659, a petition of settlers, including Newbury residents, sought lands near Pennacook, along with Richard Waldron of Dover, who would establish a trucking house. Colonists from Salem also pursued trade in the region. This was geographically and legally new territory for traders, who faced court fines and Native justice if they were dishonest in their practices. This portended a new era of northern colonization, land encroachment, illicit trade, mistrust, violence, and legal disputes.

As in legal and land disputes in northern territories, Essex County court cases after the mid-century, illustrate increasing Pawtucket-Pennacook impoverishment, debt, legal

⁸⁶ Shurtleff, ed., *Records of Mass. Bay*, 4, Part 1: 402-3; Deed to Weecaasuck island, 1659, Mass. Archives, 30: 82a.

⁸⁷ Trask, et al., eds. *Suffolk Deeds*. Lib. III.: 307-8.

displacement, and violent disputes with settlers.⁸⁸ In 1658 Masconomet died on a small lot in Ipswich, marking the end of an era of Pawtucket/Anglo mutual accommodation and land sharing in Agawam. Evidence of settler malevolence towards the Pawtucket, is evident in the 1667 desecration of Masconomet's grave, by two youths who dug up the Sagamore's bones and paraded his skull through Ipswich.⁸⁹ This heinous act symbolically eradicated Masconomet's legacy of forging a cooperative coexistence with the English in Agawam, signifying the end of middle ground relations with the surviving Pawtucket.

The case studies in this chapter illustrate the limitations of Pawtucket-Pennacook litigation strategies to regain land and title rights, and counter growing political, economic, cultural, and legal disparities. Native leaders and communities on the upper and lower Molodemak were soon forced to employ new survivance strategies, including increased mobilization, in the wake of ongoing displacement and legal dispossession, furthering relations of uncommon ground between the Pawtucket-Pennacook and English.

⁸⁸ In June 1664 Ipswich court records reveal a debt owed to Captain Walter Barefoot by Sesegeneway, for one hundred skins. When questioned by officials for forging an arrest warrant for Sesegeneway, Barefoot started a bloody brawl in a Newbury tavern. See Dow, ed., *Records and Files of the Quarterly Courts*, 3: 182, 195-197.

⁸⁹ One of the culprits, Robert Cross, was put in stocks, imprisoned, and fined. He and his accomplice, John Andrews, were made to rebury the bones, cover the grave with stones and publicly acknowledge their crime. See Dow, ed., *Records and Files of the Quarterly Courts*, 3, 400.

CHAPTER 4

UNGROUND- PAWTUCKET-PENNACOOK MOBILIZATION, VIOLENT DISPOSSESSION AND DIASPORA

This chapter examines how the Pawtucket-Pennacook attempted to employ mobilization as a survivance strategy to counter failed litigation, legal coercion, and violent dispossession, persisting in Native spaces and militarized places throughout Massachusetts Bay. Court records reveal how leaders of the Pennacook Confederacy engaged with the Massachusetts bay court system, authorities, and military, in an effort to retain northern lands in the wake of colonial expansion and speculation, before, during and after successive Anglo-Abenaki wars between 1675 and the end of the century. Pawtucket-Pennacook/Anglo land and trade disputes during this period evidence increasing violations of Native legal rights, leading to debt, displacement, and relations of uncommon ground. This evidence supports Lisa Brooks and Ian Saxine's claims that while northern Abenaki attempted to maintain the common pot, through reciprocal land exchange, traders and settlers sought independence from entangled legal, political, territorial, and economic relations.¹

During this period, rampant colonial encroachment and Native displacement led to

¹ Lisa Brooks, *Our Beloved Kin: A New History of King Philip's War* (New Haven: Yale University Press, 2018), 207-13; Ian Saxine, *Properties of Empire: Indians, Colonists, and Land Speculators on the New England Frontier* (New York University Press, 2019), 25.

the creation of praying towns, where many Pawtucket-Pennacook in and beyond Essex County relocated. Court cases and colonial accounts evidence Native and Anglo perspectives, motives, legal processes, and disputes surrounding these new Christian plantations. Analysis of the Pawtucket-Pennacook diaspora also reveals conflicting factions between Natives living in praying towns and autonomous villages in wartime, leading to changes in leadership and land exchange practices. This furthers Jean O'Brien's research on how battle lines were drawn between "friendly" and "hostile," where ties of kinship and alliance blurred these distinctions, causing mistrust amongst Natives and English alike.²

This chapter illustrates the correlation between Pawtucket-Pennacook land loss and Pommetacomet's Resistance aka King Philip's war (1675-8), recently re-interpreted by Brooks, DeLucia and many contemporary historians as a pan-Native movement to rebalance an unrelenting colonial project of dispossession.³ Colonial records evidence how Wannalancet avoided conflict by remaining neutral, leading his followers from war torn villages to safety throughout the northern frontier of New England and Canada, supporting the chapter's central position, on how the Pawtucket-Pennacook employed mobility as their primary strategy during periods of violence. This analysis draws on research by Calloway, Brooks, and other Abenaki historians, illustrating how many northern Native groups persisted by leaving and returning, periodically and permanently to former homelands as well as establishing new communities and resisting colonial conquest through resilient removal.

Despite ongoing Pawtucket-Pennacook neutrality, alliance, and accommodation of the English through military aid and trade, this war marked a turning point and departure

² Jean O'Brien, *Dispossession by Degrees: Indian Land and Identity in Natick, Massachusetts, 1650-1790* (New York: Cambridge University Press, 1997), 88.

³ Brooks, *Our Beloved Kin*; DeLucia, *Memory Lands: King Philip's War and the Place of Violence in the Northeast*.

from earlier hybrid land exchange and legal practices. Analysis of the impact of war on northern Pennacook land transfer echoes Calloway, Smith, Brooks, and others, illustrating the failure of strategic accommodation to prevent English betrayal, legal coercion, and violent dispossession. Violence also led to the ascendancy of Sagamore Kancamagus, who combined diplomacy and armed resistance in order to protect his peoples and lands. I argue that English land laws, political duress, economic coercion, legal dominance and violent displacement led Wannalancet to transfer Pennacook territories, after the war, resulting in unequivocal relations of uncommon ground by the end of the century.⁴ This furthers prior research on the impact of legal imperialism and post war speculation on Native land loss.⁵

Pawtucket-Pennacook litigation and mobilization strategies, are further evident in land exchange and legal practices at the turn of the century, when English political revolution and disputes over the Massachusetts Charter revocation threatened colonial title based on earlier Native deeds. This political crisis led Pawtucket descendants of original proprietors of lower Molodemak and coastal regions, to mobilize to their ancestral homelands to transact a final series of quit-claim deeds, seeking back payments from Essex County towns and individuals for court grants before or without adequate compensation to Native proprietors. Re-analysis of these deeds also furthers Sidney Perley's earlier interpretation of these as estoppels, limiting any further Native land claims, by demonstrating Pawtucket-Pennacook legal strategy in adaptive land exchange, by which they re-asserted their title rights and gained monetary reparations.

⁴ For discussion of Pawtucket-Pennacook accommodation strategies and diplomacy see Colin G. Calloway, "Wannalancet and Kancamagus: Indian Strategy on the New Hampshire Frontier," *Historical New Hampshire*, 43 (1998): 264-90.

⁵ Yasuhide Kawashima, *Puritan Justice and the Indian: White Man's Law in Massachusetts, 1630-1763* (Harper & Row Publishers, 1986).

Papisseconnewa's Pawtucket Falls Praying Town- Eliot's Allotment, and Wamesit Disputes

In the period leading to successive wars, Missionaries John Eliot, and Daniel Gookin, continued to advocate for the establishment of praying towns as a solution to Native displacement and assimilation. Mohawk raids had also begun in northern Pennacook territories, further persuading sagamores, including Papisseconnewa, who had sought to maintain cultural autonomy and authority, to reconsider praying towns as a buffer zone where they could retain land and legal rights under the English. The Pennacook Confederacy allowed Eliot to establish a Christian village on the upper Molodemak, in exchange for protection from tribal enemies and retention of their remaining land. This was a similar accommodation strategy used by Pawtucket in Essex County during the time of Mi'kmaq raids. However, colonial assimilation policies placed new cultural pressures and legal prerequisites on Native land use and tenure in this later period. While Papisseconnewa never converted, he paved the way for Eliot's Wamesit praying town.⁶

Eliot first acquired lands through a General Court grant in 1653, near Pawtucket Falls, which would enable the Pawtucket-Pennacook to gain legal protection against further English encroachment and speculation in their traditional territory. The geographic location of Wamesit and other praying towns also served the English desire to further sub-divide Native spaces on the frontier from colonized places in Massachusetts Bay. Gookin noted that these plantations created a buffer zone, encircling Boston, where officials could monitor and exert central control over Native towns.⁷ It would take more than a decade, however, to win the hearts and minds of both Native groups and colonists to accept his plans for Christian

⁶ Brooks, *Our Beloved Kin*, 82; David Stewart-Smith, "The Pennacook Indians and the New England Frontier, circa 1604-1733," (PhD diss., The Union Institute, 1998); 137; John Daly, "No Middle Ground: Pennacook-New England Relations in the Seventeenth Century," (unpub. MA thesis, University of Newfoundland, 1997), 49-50.

⁷ Stewart-Smith, "The Pennacook Indians and the New England Frontier, 136; Neal Salisbury, *Manitou and Providence: Indians, Europeans, and the Making of New England, 1500-1643* (New York: Oxford University Press, 1982), 40-41.

plantations. During this time, Eliot and Gookin increasingly became involved in tribal religious and political affairs, including helping to select leaders of communities, which had made a covenant in 1644 with Massachusetts Bay authorities in exchange for protection.⁸

The ultimate paradox of the English granting Natives their own homelands became a point of debate between Natives and colonists alike. The Pawtucket-Pennacook feared further loss of territories and political sovereignty. Many settlers also objected to losing productive, valuable land they believed was legally theirs, merely to accommodate Natives, complaining that: “a considerable part to the nearest and best of the planting land is hereby taken from the English... weh tendeth greatly to the pjudice of the English plantacon , especially if in case to any other purpose then the ends proposed for the accommodation of the Indians, they should be deprived thereof.”⁹ Settler resistance to praying towns underscores growing legal disputes over sharing dwindling lands and the demise of the middle ground.

Gookin defended colonial land grants to Natives based on the legal origins of title rights under Massachusetts charter law, claiming:

If any should object that it is not necessary, that the English should grant them land, forasmuch as it was all their native country and propriety, before the English came into America; the answer is ready: First that the English claim right to their land, by patent from our king. Secondly, yet the English had the grant of most of the land within this jurisdiction, either by purchase or donation from the Indian sachems and sagamores, which were actually in possession, when the English first came over. Therefore the propriety is in the English; and it is necessary for the Indians, as the case stands, for their present and future security and tranquility, to receive the lands by grant from the English, who are a growing and potent people, comparatively to the Indians.¹⁰ Gookin argued that Native title had been forfeited through prior land exchange with

colonists and town grants, upholding Massachusetts charter law and sovereign crown

⁸ Nathaniel B. Shurtleff, ed., *Records of the Governor and Company of the Massachusetts Bay in New England* (Boston: William White, 1853-1854), 3: 302-303, 366-367; Shurtleff, ed., *Records of Mass. Bay* 4, Part 1: 210-11; O'Brien, *Dispossession by Degrees*, 40.

⁹ Gookin, *Historical Collections of the Indians in New England* (New York: Arno Press, 1972), 39.

¹⁰ Gookin, *Historical Collections of the Indians in New England*, 39.

authority over all subjects, asserting that most territories formerly occupied by Natives had been legally transferred to settlers by the courts. Therefore, Natives must be legally granted back some land in order to survive amidst a growing settler population.

The legal displacement of Pawtucket-Pennacook from their territories and need for court re-allocation of lands to Native proprietors signified further power imbalances and relations of uncommon ground with colonists during the latter half of the century. Disputes over allotting lands for praying towns is evident in the founding of Wamesit, at Pawtucket Falls, which took many years to establish after Eliot's 1653 grant. The neighboring English town Chelmsford was chartered through a colonial grant in 1655 after the court allocated Eliot's Wamesit lands. Court records evidence vestiges of earlier hybrid practices of reciprocal land sharing, in Wamesit where Native proprietors negotiated limited usufruct rights with settlers, while retaining title. In 1655 trader and official Thomas Henschman transacted one such land deed, allowing him to harvest lumber and graze cattle in Wamesit.

Native/Anglo mutual accommodation at Wamesit did not last long, however, as rapid encroachment and speculation put increasing pressures on Native land rights and subsistence resources and colonists expected Native communities to eventually abandon their land as English population growth, land use and laws led to displacement. This supports Peter Leavenworth's research, which also emphasizes how unscrupulous colonial proprietors sometimes used usufruct clauses to convince Pawtucket proprietors that they had little to lose by deeding their lands. In this way usufruct rights could serve as a gateway to legal dispossession of Native lands through coercion, disguised as consent.¹¹

¹¹ Peter Leavenworth, "The Best Title That Indians Can Claim: Native Agency and Consent in the Transfer of Pennacook-Pawtucket Land in the Seventeenth Century," *NEQ* 72, no. 2 (1999): 282; Jennifer Pulsipher, "Defending and Defrauding the Indians," in *Justice in a New World: Negotiating Legal Intelligibility in British, Iberian, and Indigenous America*, ed. Brian P. Owensby and Richard J. Ross (New York: NYU Press, 2019), 90-95.

Soon after Henchman's usufruct deed, court records indicate numerous Wamesit land disputes between Pawtucket-Pennacook proprietors and settlers. Colonists from Woburn and Concord petitioned the court for more land in Lowell and Chelmsford, threatening Wamesit territory. Chelmsford's borders, like most frontier towns during this period, were imprecise. Boundary disputes between Wamesit and English towns are evident in 1656 General Court petitions by Chelmsford colonists and Eliot, each seeking land extensions. The court accommodated both Native and English plantations, granting Wamesit a section along the Molodemak and Concord Rivers, while Chelmsford was given more river frontage.¹²

However, new disputes arose over land grants and boundaries between Chelmsford settlers and Wamesit Natives. Eliot petitioned the court in 1659 seeking to secure Wamesit land.¹³ In answer to the 1660 petition of Joseph Hill for five hundred acres previously given him in "any place not formerly granted," the court ordered that his land be surveyed, and title granted, accordingly, despite infringing on Wamesit territory. Chelmsford also sought more land on the Molodemak and was awarded joint ownership along the river, except for the Pennacook Sagamore John's planting ground (now Middlesex), which Eliot managed to preserve in Wamesit. In 1660, however, Chelmsford was granted most of the joint land in exchange for a small tract reserved for the Wamesit.

The court issued a statement, alluding to the ongoing conflicts between English and Pawtucket property boundaries:

Whereas the Honored Generrall Court of Massachusetts was pleased of their free beneficence and bounty to grant unto the Indians of Patucket a parcel of land adjoining to the bounds of Chelmsford plantation, the scituation whereof being by experience found to be prejudiciall unto the mutuall peace of the said plantations-

¹² Shurtleff, ed., *Records of Mass. Bay*, 3: 406; Woburn and Concord land petition, 1656, Mass. Archives, 30: 81.

¹³ Petition of John Eliot to the Massachusetts General Court, 1659, Mass. Archives, 30: 81. See also *The Native Northeast Research Collaborative*, <https://nativenortheastportal.com/digital-heritage/petition-john-eliot-massachusetts-general-court-1> (accessed 2021).

now this witnesseth that the Indian inhabitants of the abovesaid plantation, with the consent and approbation of the Reverend Mr. John Elliott, have covenanted and agreed to make an exchange of land with the inhabitants of Chelmsford. ¹⁴

This reveals the court's contention that praying towns were legally problematic, interfering with their charter and orderly land grants to English towns, as well as undermining a cooperative coexistence. The Wamesit proprietors were thus obliged by law to accommodate settler claims, in order to reach an acceptable legal compromise.

In 1665 there was one additional adjustment to Chelmsford boundaries. After the border disputes were finally settled, the Pawtucket retained about 2500 Acres, 1500 in Chelmsford and Lowell and 1000 in Tewksbury. ¹⁵ Following this protracted land controversy, Eliot and Gookin finally legally established a Christian plantation and converted many Pawtucket-Pennacook, who thereafter became known as Wamesits. This intertribal community included Pawtucket, Pennacook, Nashobah, and Nipmuc families, drawing from a wide geographic area which served to sustain traditional kinship networks, perhaps more than it did religious converts. Despite boundary conflicts and reluctance by some colonists to share or return Native lands for praying towns, the Pawtucket-Pennacook remained largely on good terms with Chelmsford settlers and allied with English authorities, until King Philip's War destroyed a fragile peace.

Eliot had the greatest success attracting Pawtucket-Pennacook from intensely colonized regions of Massachusetts, whose lands had been encroached upon and likely adopted Christianity and mobilized to praying towns as a survivance strategy. These new mission towns, including Wamesit, were led by kin and descendants of prominent

¹⁴ Shurtleff, ed., *Records of Mass. Bay*, 4, Part 1: 430.

¹⁵ For a detailed summary of the Chelmsford grant and Wamesit boundary dispute see Wilson Waters, *History of Chelmsford, Massachusetts* (Lowell, Mass., 1917), 2-34; Alan Wilkes, *The History of Chelmsford: From Its Origin In 1653, to the Year 1820* (Haverhill: P.N. Green, 1820), 144; Gookin, *Historical Collections of the Indians in New England*, 46.

sagamores, including Papisseconnewa and Squaw Sachem. Jean O'Brien suggests that as a response to increasing violence and displacement, many Native groups in Massachusetts Bay considered Christian plantations as a viable alternative, where they could create new communities within traditional homelands, while accommodating colonial desire for land. Her research suggests that despite detrimental English assimilation policies, Native groups maintained a degree of cultural continuity, political and territorial autonomy in praying towns, before King Philip's War.¹⁶

While some Pawtucket-Pennacook retained their homelands, most were displaced or forced to assimilate into English villages. Those who moved to Wamesit and other praying towns, gained some land rights amongst their relations, while others continued to occupy autonomous villages on the upper Molodemak for some time. With a population estimated at over one thousand, the intertribal Pennacook Confederacy remained a stronghold of northern independence, keeping defensive forts and resisting colonial domination under Papisseconnewa, who did not resign his authority or land.¹⁷ Many Pawtucket-Pennacook strategically mobilized between these disparate communities, connected through kin networks, persisting in Native spaces, in and beyond the colonized places of Massachusetts.

Pennacook Litigation, Political and Religious Transitions, Northern Speculation and Mohawk Invasion

By the 1660's northern Pennacook homelands were threatened simultaneously by colonial speculation, illicit exchange practices and increasingly deadly Mohawk raids. Native lands at Amoskeag (Manchester) and Naticook (Litchfield) were also being granted by courts

¹⁶ O'Brien, *Dispossession by Degrees*, 71.

¹⁷ Daly, "No Middle Ground, 39; Leavenworth, "The Best Title That Indians Can Claim," 279-80.

and laid out for English towns. Papisseconnewa may have encountered Jonathan Danforth's surveyors near his Naticook territory. The sagamore petitioned for his own farm and land on the west side of the Molodemak (Merrimack New Hampshire) to be surveyed and protected against illegal encroachment. Danforth carried out the survey, submitting his bill to the General Court, after Papisseconnewa refused to pay it. In 1663, Papisseconnewa and his sons, including Nomanacomak (recently freed from jail after the sale of Weecaasuck Island) were each granted one hundred acres near Groton and Eliot's new praying town Nashobah.¹⁸

In 1665, Nomanacomak's brothers Sagamore Wannalancet, Unamquoset and Nonatomenut along with Sagamore George (who married Papisseconnewa's daughter) petitioned the General Court for the return of Weecaasuck Island by John Webb, in exchange for a tract of five hundred acres abutting Webb's land. The court agreed on the condition that Wannalancet release his grant of one hundred acres recently made to him and that they not sell the island in the future without court consent. Nanamocomuck did not sign this petition himself and may have moved to the Androscoggin valley by then. Wannalancet sought to consolidate what remaining lands he could along the upper Molodemak between Pennacook and Wamesit, fulfilling his father's vision that these autonomous communities survive. Growing Mohawk threats also suggest Wannalancet's desire to stay close to the English.¹⁹

Soon after regaining Weecaasuck Island, warfare ensued with the Mohawk. Pennacook sagamores and praying town leaders sought military aid and arms from the

¹⁸ Danforth's plans, Mass. Archives, 30: 82a, 110a, 123; Pennacook/Sokoki Inter-Tribal Nation, *Historical Indian/Colonial Relations of New Hampshire: Treaties, Letters of Agreement, Land Sales, Leases, & Other Pertinent Information, 17th - 18th Centuries* (Manchester: New Hampshire Indian Council, 1977), 19; Stewart-Smith, "The Pennacook Indians and the New England Frontier," 173.

¹⁹ Shurtleff, ed., *Records of Mass. Bay*, 4, Part 2: 284-85; Petition for return of Weecaasuck Island, 1665, Mass. Archives, 30: 130; Chandler Eastman Potter, "The History of Manchester, Formerly Derryfield, in New Hampshire, Including That of Ancient Amoskeag, or the Middle Merrimack Valley," in *The North American Review* (Crosby, Nichols, and Company, 1857), 38-39.

English, citing their 1644 covenant of protection. This included James Quananopohit (close kin of Sagamore George), who later served the English in King Philip's War. The English, however, had allied with the Mohawk and fearing assaults on colonial settlements, did little to prevent attacks on Pennacook or Nashaway. In 1666 the Mohawk launched a full scale assault, when nearly one thousand warriors raided Pennacook, causing many casualties. Some Pawtucket-Pennacook from Wamesit and other praying towns, joined in the fight and subsequent battles of revenge, further fragmenting fragile upper Molodemak villages, leading to short and long term Pennacook mobilization to Canadian missions.²⁰ This Displacement opened the way for further English encroachment and Pennacook diaspora on the frontier.

In 1668 a covenant was signed by colonial officials and Natives of the Nashaway region, who agreed to relocate to praying towns in return for English protection from Mohawk and settler threats. This deal was brokered by traders, turned land speculators and colonial officials, including John Pynchon, Edward Tyng, and Simon Willard. These men held great political, legal, and economic power and attained vast holdings of northern lands through trade, debt, and exchange with Natives from Nashaway and Pennacook to Casco Bay. Some historians cite this large-scale, rapid land appropriation, including a 200 square mile tract along the Molodemak as, "probably an immediate cause of King Philip's War."²¹

Territorial speculation and colonial acquisitions also furthered exploitation in trading practices, resulting in increasing violence. John Cromwell's trading post, built in 1665, was burned and the owners attacked by disgruntled Pennacook.²² Violence is starkly evident in the murder of an English trader at Richard Waldron's Pennacook trucking house, during its

²⁰ Stewart-Smith, "The Pennacook Indians and the New England Frontier," 165-170; Brooks, *Our Beloved Kin*, 110-11.

²¹ Brooks, *Our Beloved Kin*, 173.

²² Shurtleff, ed., *Records of Mass. Bay*, 4, Part 1: 301; Leavenworth, "The Best Title That Indians Can Claim," 288.

first year in business in 1668. In the court case which followed, Pennacook Sagamore witnesses accused Waldron and his partner Peter Coffin (formerly of Newbury) of illegally selling alcohol at the trading post, which they had repeatedly protested against and blamed for the murder. In a twist on frontier justice, English authorities allowed the sagamores to administer their own punishment to the Pennacook murderer, who was executed by his own father for disgracing the tribe. The court, however, dismissed charges against Waldron, who pled ignorance of any liquor trade. Coffin was given a small fine and Waldron operated the trading post until King Philip's War halted exchange on the northern frontier. He became a magistrate of old Norfolk and York County, serving as military commander of the war's northeastern front and speaker of the Massachusetts House. Waldron's illicit trading practices and betrayals in the war would later be avenged by the Pennacook.²³

During this tumultuous period of intertribal warfare, illegal trade, and violent territorial disputes, Sagamore Papisseconnewa died, followed soon thereafter by his eldest son, Nomanacomak, resulting in a transition of leadership and power within the Pennacook Confederacy. By 1670 Papisseconnewa's son Wannalancet became the chief Sagamore, helping to stabilize and reunify the confederacy and continue his father's legacy of strategic accommodation and alliance with the English.²⁴ He soon erected a fort against Mohawk raids near Wamesit, likely at Weecaasuck island, which he had recently regained through hard fought diplomacy, land exchange and strategic litigation. In 1671 Wannalancet negotiated a treaty with the Mohawk, providing some peace within Pennacook communities.

²³ Pennacook Legal Petitions and Correspondence, Mass. Archives, 30:154-61; Nathaniel Bouton, ed., *New Hampshire Provincial Papers*, 3 (Concord, New Hampshire, 1870): 214-16; Stewart-Smith, "The Pennacook Indians and the New England Frontier," 148-50.

²⁴ Ipswich historian William Hubbard provides an account of a speech, purportedly made by the dying Papisseconnewa, in *a Narrative of the Troubles with the Indians in New-England, from the First Planting Thereof in the Year 1607, to This Present Year 1677, 1675 and 1676* (Boston: Printed by John Foster, 1677), 48.

Wannalancet regularly visited the praying town Wamesit, located a couple miles downriver from his residence at Weecaasuck island and in 1674 told Eliot and his friend Gookin, administrator of the mission village, that he would pray to the Christian God. Gookin described Wannalancet at this time as a “sober and grave man” between fifty and sixty years old, who professed his fear that he would lose some of his followers for converting. He likely converted as an accommodation strategy and means to maintain community cohesiveness and authority at the praying town Wamesit, and whatever autonomy he could over other Pennacook territories. While some of his followers did desert him, Wannalancet’s kin served as leaders at Wamesit, including Papisseconnewa and Nanepashemet’s grandson Manataqua Numphow (Sagamore George’s son by Papisseconnewa’s daughter), who became tribal judge and leader and Manataqua’ son Samuel, the village teacher and cultural mediator.²⁵ These converts represented a new generation of Pawtucket-Pennacook leaders, who attempted to remain allied with English religious, political and military authorities amidst growing violence, legal disparities and an Indigenous resistance movement to settler colonial land encroachment and seizure, culminating in King Philip’s War.

Pometacomet’s Resistance-Pennacook Neutrality and Strategic Mobilization on the Northern Front

The war which beset New England in 1675, called Pometacomet’s Resistance by many Native Peoples, marked catastrophic changes in Pawtucket-Pennacook/Anglo relations and led to violent dispossession. The war’s Northern Front stretched from Piscataqua to

²⁵ Massachusetts Historical Society, *Collections of the Massachusetts Historical Society, for the Year 1792*, 1 (Apollo Press in Boston: Belknap and Hall, 1792): 187; Gookin, *Historical Collections of the Indians in New England*, 75-76; During this period other Pennacook leaders occupied Pennacook and Amoskeag. David Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 170-75.

Kennebec. Raids mainly took place on the coast but impacted territories from the White Mountains to Penobscot and Machias, reaching to *Ktsitekw*, the St. Lawrence River. The Pennacook Confederacy, under Wannalancet, sought neutrality, continuing Papisseconnewa's legacy of English accommodation, despite assaults on praying towns and northern villages.²⁶ The war destroyed what little remained of the middle ground with the English, devastating Native communities, furthering displacement, and refugee diaspora.

English traders turned land speculators and government officials, became military officials on the war's northern front, based on prior relations and land exchange with Pennacook leaders and familiarity with their territories. Simon Willard, Richard Waldron, and Thomas HENCHMAN played key roles during and after the war. In September 1675, Lieutenant HENCHMAN sent Native messengers to find Wannalancet, who had retreated northward, to avoid war, promising amnesty if he would return to meet with Gookin and Eliot and conclude: "articles of friendship, amity and subjection as were formerly made and concluded between the English and old Papisseconnewa, your father, and his sons and people."²⁷ He never received the message, however, as he had mobilized with his followers to safety in Native spaces, beyond the increasingly militarized frontier places, becoming his primary survivance strategy throughout the war.

Fearing that the Native resistance movement had shifted northward, militia was sent to track down Wannalancet at Pennacook. Despite his pledge of neutrality, and loyalty to the English, he was suspected of harboring "enemy Indians." The government sent orders to "pursue, kill and destroy them..." unless the Pennacook would, "willingly deliver up their arms and themselves or sufficient hostages to secure their peaceable behaviour."

²⁶ Brooks, *Our Beloved Kin*, 207-13; DeLucia, *Memory Lands*. See also Jean O'Brien, *Dispossession by Degrees*.

²⁷ Gookin, *Historical Collections of the Indians in New England*, 462.

Wannalancet and his group watched from the woods, as the English burned wigwams and vital food stores. According to Gookin, while he had “opportunity enough in ambushment to have slain any of the English soldiers without any great hazard to themselves,” Wannalancet restrained his warriors, despite being greatly “provoked by the English.”²⁸

This assault, however, forced Wannalancet further northward. Sam Numphow (Sagamore George’s grandson) of Wamesit, who served as a bi-lingual teacher, scribe, translator, and cultural mediator, was sent to find Wannalancet and deliver a letter requesting his return.²⁹ Passing Pennacook, Numphow observed the village burned by English troops and reaching Lake Winnepesaukee, learned that Wannalancet had departed. By the time he returned to Wamesit, the praying town was under siege by settlers accusing the Natives of burning a Chelmsford haystack. The court sent Lieutenant Henschman and forty militia to Wamesit, who marched one hundred forty five Native men, women, and children to Boston, despite protests by the settler whose haystack was burned, attesting to their innocence. Regardless of the allegiance of the Wamesits who served the English in the war, thirty five were jailed or sold into foreign slavery. Those released returned under guard to Wamesit, where a child related to Squaw Sachem was shot en route by a settler. At Wamesit, local vigilantes were waiting, to burn down wigwams and kill Native residents, who were supposed to be under English protection. According to Gookin: “the men called to the poor Indians to come out of doors.” When they emerged, “two of the English being loaded with pistol-shot, being not far off fired upon them and wounded five women and children,” as their relatives looked on. Another young man from Squaw Sachem’s leadership family was

²⁸ Gookin, *Historical Collections of the Indians in New England*, 463-64; Brooks, *Our Beloved Kin*, 192.

²⁹ Samuel Numphow Correspondence, Mass. Archives, 30: 179; Sam Numphow attended English school. Gookin described him as “a young man of good part, and can speak, read and write English and Indian competently,” in, *Historical Collections of the Indians in New England*, 74; Calloway, “Wannalancet and Kancagamus,” 274.

killed in front of his mother, Sarah, who was also wounded in this attack.³⁰

Following the English raid on Wamesit, Gookin declared, “This ancient and capital seat of the Indians had become a pen.” The Wamesits were compelled to join Wannalancet. A letter, likely composed by Wamesit leader Numphow Sr., expressed regret that the help promised “from the council...did not do us good,” failing to prevent “wrong by the English... We know ourselves that we never did harm to the English, but we go away peaceably and quietly...we could not come home again.” Wannalancet, the Numphows and other Pawtucket-Pennacook leaders were both feared and imperiled by the English, due partly to their territorial knowledge of the northern Native spaces, beyond colonial control. These sagamores and their kin faced few options, but to live under violent threat in their besieged homelands or mobilize in order to survive.³¹

David Stewart Smith and other historians have claimed that for the Pawtucket-Pennacook, seeking to maintain a middle ground in praying towns in wartime became increasingly difficult and dangerous to all sides. Those in the Native resistance movement mistrusted praying Indians, as Gookin observed: “...one principle design of the enemy was to begin a difference between the English and praying Indians living at Wamesit, so that they might either be secured by the English or necessitated to fly to the enemy.” Furthermore, while many Pawtucket-Pennacook aided the English, through Native military tactics, diplomacy, interpretation and guiding, this was insufficient to convince many distrustful officials and settlers, bent on revenge. It was nearly impossible to maintain a cooperative

³⁰ Daniel Gookin Correspondence, Mass. Archives, 30: 182-83; Gookin, *An Historical Account of the Doings and Sufferings of the Christian Indians in New England, in the Years 1675, 1676, 1677* (New York: Arno Press, 1972), 474-75, 482; Brooks, *Our Beloved Kin*, 211.

³¹ Gookin, *An Historical Account of the Doings and Sufferings*, 483.

coexistence with the English, as colonial suspicion and Native hatred grew.³²

For the duration of the war all Native peoples were legally confined to praying towns, banned from entering English towns including Boston, unless under guard or living as colonial servants or slaves. Violent dispossession of the Wamesit and Pennacook from their homelands was part of a larger pattern of forcibly removing and simultaneously containing Natives in praying towns, which were rapidly transformed into militarized zones. According to Jean O'Brien, "defining a position for friend Indians in the last quarter of the century had much to do with the English rationalizing their colonial regime, mainly by bounding the land according to their own expectations about the legal status of land ownership."³³

In October 1675 legislation was passed to round up all Native people who had been confined to praying towns and imprison them on Deer Island in Boston, under the pretense of protection. The letter sent by the Numphows and Wamesit leaders who had gone north with Wannalancet, lamented: "As for the island we say there is no safety for us because many English be not good," and they may come to "kill us as in the other case." In defense of the praying Indian plight, Gookin cited the 1644 covenant, signed by many leadership families, including close kin of longtime allies Squaw Sachem, Papisseconnewa and Masconomet. Eliot and Gookin protested, but could do little to ease the suffering, harsh winter conditions, lack of shelter and food, which caused death and disease for many sent to Deer Island.³⁴

Colonial authorities released some Native prisoners from Deer Island to serve as guides, spies, and scouts in the war, including Squaw Sachem's kin James and Thomas Quonophkownatt. Pometacomet placed a bounty on James's head, suspecting his English

³² Gookin, *An Historical Account of the Doings and Sufferings*, 471; Stewart-Smith, "The Pennacook Indians and the New England Frontier," 185.

³³ O'Brien, *Dispossession by Degrees*, 88.

³⁴ Gookin, *An Historical Account of the Doings and Sufferings*, 486, 500-501; Brooks, *Our Beloved Kin*, 219-20, 235-36.

alliance, but he was protected by kin and secured much intelligence for the English, while attempting to safeguard his people. James was sent to Wamesit, confirming that Wannalancet had retreated north, posing no threat. He also wrote to officials, reminding them that Wannalancet had an opportunity to ambush the English who burned their Pennacook village, but restrained his warriors, emphasizing his continued neutrality, despite provocation.³⁵ James, along with many Pawtucket-Pennacook, made great efforts to accommodate and aid the English, while trying to protect their communities and lands, against great odds.

On July 3, 1676, Wannalancet returned from the north to negotiate a peace treaty at Cocheco (Dover) with Waldron, commander of the northeastern front. Signed by himself, Sam Numphow and other Pawtucket-Pennacook leaders, it expressed their desire to remain allied with the English but refused to fight with or against them. Wannalancet also turned over English captives as a further sign of allegiance. Shortly thereafter, Waldron, invited Wannalancet, and his allies to Cocheco on the pretense of amnesty and a feast. Wannalancet accepted in the spirit of reciprocity and diplomacy, bringing four hundred warriors of various groups and their families. Despite the treaty signed two months earlier, Waldron had devious motives, by his own account, planning to: “draw up ye Indians at Cocheco . . . under ye notion of takeing them out into service.”³⁶ After offering food and drink, Waldron’s men rounded up the entire unsuspecting party, disarming the few men carrying weapons.

At least eighty fighting men, twenty elder men and two hundred and fifty women and children, were marched to Boston as prisoners, where they were interrogated to determine who fought against the English. Many were charged as “hostile” and jailed along with

³⁵ James also warned officials about the attack on Lancaster in which Mary Rowlandson and others were taken but was not believed. See Brooks, *Our Beloved Kin*, 250-51.

³⁶ Waldron to Council, cited in Brooks, *Our Beloved Kin*, 332.

“friendly” Pawtucket-Pennacook, taken as hostages, including the Numphows and Simon Betogkom, who had served the English and were held to ensure Wannalancet’s cooperation. Waldron and the English betrayal of these political and spiritual leaders and other allied Natives, innocent of any misconduct in the war, was a turning point, cementing irreparable relations of uncommon ground. English treachery would be repaid years later, when Papisseconnewa’s grandson, the military leader, sagamore Kancamagus, took revenge.³⁷

Others captured at Cocheco were publicly executed or sold into slavery in the Caribbean, while some children became servants in English homes. Amongst those enslaved in Barbados was Sagamore George, although it is doubtful whether he engaged in any action against the English. His close kin, James Quonophkownatt, who served the English loyally throughout the war, miraculously succeeded in rescuing the aging Sagamore from foreign captivity, by way of a ship captain. He was brought back to the Natick praying town home of James, who, along with Sagamore George’s sister, Yawata, cared for him until his death in 1684. James became hereditary proprietor heir to Sagamore George’s Essex County land.³⁸

Wannalancet, the Numphows and some leaders of Wamesit were eventually freed with other survivors and allowed to return to the upper Molodemak under the guardianship of Jonathan Tyng, trader, and military Colonel. Tyng had acquired much Pennacook land and soon gained far more by way of court grants in reward for his military and diplomatic service in the war and through land sales by Wannalancet, in its aftermath. Wannalancet returned to his home at Wicasauke Island, a buffer zone between Tyng’s settlement at Dunstable, Wamesit and the Pennacook stronghold. According to Gookin, there were roughly one

³⁷ Calloway, “Wannalancet and Kancagamus,” 275; Brooks, *Our Beloved Kin*, 309, 333-36; Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 191-92.

³⁸ Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 201; Brooks, *Our Beloved Kin*, 337-39; Perley, *The Indian Land Titles of Essex County*, 10-11.

hundred Pennacook and “Namkig” (from the lower Molodemak) in the area at this time.³⁹

During this period Mohawk raids threatened vulnerable Pennacook communities and a fragile peace with the English, who did little to stop the attacks. In 1677 Wannalancet was persuaded to mobilize once again towards Canada, along with fifty remaining Wamesits (eight men and the rest women and children). Gookin sympathized with Wannalancet’s removal, due to the dangers his people faced, including ongoing English retaliation, Mohawk threats, food shortages, loss of lands and resources needed to survive in their territories. He hoped, however, that Wannalancet would “return again to live with the English in his own Country and upon his own land; which (I have observed) the Indians do much incline to do.”⁴⁰ Gookin’s account bespeaks the Pennacook’s ultimate aim, to regain their lands.

Wannalancet’s removal north, allowed his nephew Kancamagus, aka John Hawkins or Hodgkins to gain power. Kancamagus spoke and may have read and written some English, enabling him to engage in diplomacy with authorities. He had lived among his Abenaki kin and late father, Nanamocomuck, and also gained a reputation as a warrior and leader. In the wake of his father’s imprisonment, his peoples’ violent displacement and English betrayal, Kancamagus’ militant resistance represented a new era of Pawtucket-Pennacook leadership, breaking with Papisseconnewa and Wannalancet’s neutrality. Historian Colin Calloway notes, “that the policy of accommodation initiated by Papisseconnewa and continued by his son could not guarantee the cultural survival of the Pennacooks under the pressures they faced on the...frontier.” Kancamagus symbolizes the complexities of Pennacook/Anglo relations, where peaceful coexistence and violence were facts of life and those who “chose

³⁹ Gookin, *An Historical Account of the Doings and Sufferings*, 464; Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 217; Brooks, *Our Beloved Kin*, 337-39.

⁴⁰ Gookin, *An Historical Account of the Doings and Sufferings*, 521.

not to abandon their homelands in northward flight survived by weaving a precarious course between resistance and accommodation.”⁴¹

The treaties of Pemaquid in 1677 and Casco Bay in 1678 ended the northern front of the war. While many of his kin remained in Canada, Wannalancet returned with his followers to their upper Molodemak lands, largely decimated and encroached upon by the English. Pennacook remained a Native space of retreat for war refugees on the frontier and also became a strategic departure point for sporadic Pawtucket-Pennacook northern mobilization. Wannalancet’s war captain Wattanummon (born in Essex County), who gained prominence in this period, as an ally and supporter of his neutrality policies, may have returned to his Pawtucket homelands near Newbury at this time, where he sought to live alongside the English in peace. However, these leaders’ accommodation strategies failed to regain land or legal rights, as relentless speculation along the lower and upper Molodemak, and punitive laws confining Natives to reservations or servitude, led to the loss of most Pawtucket-Pennacook land by sale or seizure, after the war, increasing relations of uncommon ground.⁴²

Dividing and Conquering Pawtucket-Pennacook Lands in the Post-War Era of Legal Imperialism

Colonial efforts to divide, conquer and control Pawtucket-Pennacook people and their homelands during and after the war was aided by a new set of laws designed to permanently consolidate and segregate Native spaces from colonized places in Massachusetts Bay. In 1677 the General Court ordered all Natives to live in praying towns with English overseers as

⁴¹ Calloway, “Wannalancet and Kancagamus,” 268, 275-77.

⁴² Evan Haefeli and Sweeney, Kevin, *Captive Histories: English, French, and Native Narratives of the 1704 Deerfield Raid* (Amherst, Mass.: University of Massachusetts Press, 2006), 79-81; Evan Haefeli, and Kevin Sweeney, “Watanummon’s World: Personal and Tribal Identity in the Algonquian Diaspora c. 1660-1712,” in *Papers of the Twenty-fifth Algonquian Conference*, ed., William Cowan (Ottawa: Carlton University, 1994), 214-15.

guardians, further confining them to what essentially became the first reservation systems. The few exceptions included wage laborers, indentured servants/slaves living in English settlements, and those who had “assimilated” into colonial communities. At the beginning of the war there were estimated to be over one thousand inhabitants of fourteen praying towns. By the war’s end, this was reduced to four plantations with 567 individuals. Restrictions on where Native people could live soon reduced the number of praying towns to three.⁴³

Yasuhide Kawashima refers to this period following King Philip’s War as the beginning of legal imperialism in Massachusetts Bay Colony, during which Natives were confined by law to what he calls “relocation camps.” He notes that formerly, praying towns had attracted voluntary converts, and overseen by Indigenous magistrates and tribunals. During and after the war, however, sovereign tribal governance was replaced by English overseers and praying towns were further removed from the political and legal system, without Native representation in the General Court, as English towns had. Native peoples were increasingly relegated to a minority status, with unequal treatment under laws touted to be equitable and a justice system which made fewer exceptions for their welfare.⁴⁴

In 1679 leaders from all New England colonies met to further divide conquered territories occupied by “hostile Indians.” After defeating Natives militarily, the English believed they had a legal right to their lands by conquest, regardless of whether inhabitants had fought with or against the English. Colonial authorities also claimed unconquered Native lands, due to population loss and relocation to praying towns, reallocating, and granting these by eminent domain for English settlements. Conquest, demographic decline, containment

⁴³ O’Brien, *Dispossession by Degrees*, 68-70; Jennifer Pulsipher, *Swindler Sachem: The American Indian Who Sold His Birthright, Dropped Out of Harvard, and Conned the King of England* (New Haven, Connecticut: Yale University Press, 2019), 166.

⁴⁴ Kawashima, *Puritan Justice and the Indian*, 233-35.

policies, involuntary servitude, and exile, led English authorities to seize the majority of Native territories, considered “vacant” and open for the taking, based on the legal edict *vacuum domicilium*, which served as a convenient justification for dispossession.

Although Pawtucket-Pennacook still claimed land titles, government officials and settlers saw this as temporary, in the wake of wholesale relocation, territorial transfer and assimilation policies. The General Court relaxed regulations requiring permission to buy Native land post war, furthering legal dispossession by purchase. Although many of these were considered consensual by law, even legitimate sales were inherently coercive in times of great political duress and impoverishment. According to Jennifer Pulsipher, “The mad scramble for Indian lands in post war Massachusetts was one of those times.”⁴⁵

Where There’s a Will, There’s a Way- Pawtucket Legal Persistence in Newbury Land

Litigation

In Essex County, not directly impacted by war, there is evidence of a few remaining Pawtucket-Pennacook proprietors who continued to claim inherited lands and litigate for their title rights. After nearly two decades of unresolved legal contestation and failed litigation in General Court, by Old Will’s Pawtucket kin against Henry Sewall Jr. in the 1660’s for illegal encroachment on Newbury lands, a new case was brought in Salem court. In June 1679, shortly after Old Will’s death, magistrate Daniel Denison wrote to Sewall, encouraging him to settle out of court with Old Will’s heirs:

I am desired by Job (who married Old Will’s grandchild and in her right claims the land at Newbury Falls, which he long possessed and now you say you purchased of him) that you would make out your right and they would be satisfied, or otherwise let him or them have quiet possession, or otherwise let the law decide the title. I can give no advice but believe they will prove Old Will and others long to have possessed land

⁴⁵ Pulsipher, *Swindler Sachem*, 232.

thereabouts and our law confirms their right to what they possessed. I shall trouble you no further, resting your loving friend.⁴⁶

This served as a friendly reminder to the prominent judge that charter law required payment for title to “occupied” Native land and that there was ample evidence for these Pawtucket litigants to make a convincing case against him. There is no record of Sewall’s response to Dennison or his legal opinion. Several days after Denison’s letter to Sewall, Andrew Pittamnee, a Native attorney representing Job, filed a legal case against Sewall “for detaining from the said Job about an 160 acres of land at Newbury Falls that was the land of Old Will, the said Job, his grandfather.” Pittamnee had resided in the praying town Natick and was sent to Deer Island in Boston during King Philip’s war, along with many other Native converts, before being recruited to serve as a guide for the English. He likely gained legal experience in the Natick Native tribunal system, where he later gave testimony to Gookin regarding illegally sold praying town land. It is not clear where Job and the other Pawtucket heirs of Old Will were living at this time, but likely at Natick or Wamesit.

Pittamnee secured depositions by English settlers of Newbury, who gave testimony on behalf of Job and his kin, that Sewall and his son had not negotiated fairly or lawfully with Old Will or his heirs for these lands. Alice Homes, an English servant of Sewall’s neighbor, Richard Dummer, stated “that she lived with Mr. Dummer and knew that Old Will lived and planted at the Falls for many years till Mr. Sewall’s tattle worried him out.” She also stated: “Mr. Dummer was desirous to buy Old Will’s land, but old Will sayde he was not willing to sell it from his children.” Moses Bradstreet “asked Wil if he had not souled his lande to master showell, he said no he never had resaved wone farthin of master Showell for his

⁴⁶ Joshua Coffin, *A Sketch of the History of Newbury, Newburyport, and West Newbury, from 1636 to 1845* (Boston: Samuel G. Drake, 1845), 362-63.

land.” These depositions provide evidence that Old Will was reluctant to sell his land to Dummer or Sewall Jr., who displaced Old Will and his kin from their land without payment, based on legal inheritance from his father’s court land grant. Colonial witnesses: “testifieth and sayeth that aboute foure year ago, the spring of the year before the warre begunne thaye harde Olde Will, ingin of Newbury Fales complaining that master Showel ronged him, and that he had got his lande and cept it from him.” Another deposition by John Todd stated:

several times he heard Old Will (so called) Indian complaine that Mr. Showel of Newbury had taken away in his possession a great part of his land at Newbury Falls, which complaint was before the late wars with the Indians, at which complaint this deponent saith that he was much troubled and grieved at it That an old Indian should so complaine of such injury done him by any English. He further saith he knew Old Will lived above Newbury Falls above five and thirty years since, and for the most of that time he lived there.⁴⁷

These statements provide further evidence that Old Will had long planted and occupied his lands and made many complaints against Sewall’s illegal title claim, which displaced Old Will, prior to King Philip’s War. Testimony was also given by Pequanamquit aka Ned, now in his seventies, living in Ipswich, who reappears in this case after many years of his own legal battles land loss. Ned confirmed that his uncle, Old Will survived King Philip’s War, but had died by 1679, the year of this case. Depositions by English and Native witnesses clearly supported the legal title rights of Old Will and his kin, substantiating that he had continuously occupied, improved, and farmed his Newbury Falls lands for decades, before his legal falling out with Sewall and displacement from some of the last remaining autonomous Native planting grounds in Newbury. Despite overwhelming evidence for Old Will’s heirs’ case against Sewall, it was recorded simply as “withdrawn,” in Essex County

⁴⁷ Coffin, *A Sketch of the History of Newbury, Newburyport, and West Newbury*, 364.

Court records, nearly twenty years after litigation began at the General Court in the 1660's.⁴⁸

This case fits the familiar pattern of the General Court referring Pawtucket land disputes to lower courts, which almost always dismissed Native claims, further attesting to the legal inequities in land laws and bias of the courts towards English proprietors. The General and Essex County Courts both found in favor of Sewall's hereditary title claims to his father's land, originally acquired by eminent domain, a Newbury grant and purchase from colonists, without any title payments to Old Will or his kin. This verdict further demonstrates legal precedence given to land grants by the General Court to towns and settlers, over Native title rights, regardless of occupation or agricultural use. This case also provides further evidence that land grants made by townships without or before compensation to Native proprietors was a leading cause of Pawtucket legal displacement in Essex County.

Despite the failure of the Essex County courts to uphold Old Will's title rights, his heirs persisted in their legal claims and eventually settled out of court with Sewall, as evidenced in an 1881 deed. Sewall paid six pounds thirteen shillings to each of Old Will's heirs Job, Hagar and Mary for "the Indian field, containing by estimation one hundred sixty acres be it more or less together with all their land in Newbury bounds, though without ye said lines...and that no other Indians can lay any rightful claim thereto."⁴⁹ This is one of the first quit-claim deeds transacted between Natives and colonists in Essex County, for many decades, precluding any future claims these Pawtucket litigants or their heirs might make for this or other lands within the bounds of Newbury. There is no clear record as to why Sewall

⁴⁸ George Francis Dow, ed., *Records and Files of the Quarterly Courts of Essex County, Massachusetts*, 7 (Salem: Essex Institute, 1911): 221; Coffin, *A Sketch of the History of Newbury, Newburyport, and West Newbury*, 364.

⁴⁹ Perley, *The Indian Land Titles of Essex County*, 44; Essex County Deeds, 1681-1687, Vol. 6-7, 137, *Massachusetts Land Records*, Mass. Archives, <https://www.familysearch.org/ark:/61903/3:1:3QSQ-G9ZZ-B1VY?i=106&wc=MCBG-96X%3A361613201%2C361851701&cc=2106411> (accessed 2021); Coffin, *A sketch of the history of Newbury, Newburyport, and West Newbury*, 364.

eventually settled outside of court with these Pawtucket claimants, after their court case was dismissed. This eventual deed agreement, however, represents remarkable legal competence, persistence, and strategic litigation on the part of the Native lawyer and litigants, whose hard fought, protracted land dispute, was unable to be resolved through the court system.

This prolonged legal battle was not unique to Native/Anglo land disputes, however, demonstrated in many Essex County Anglo court cases. Jonathan Chu's research shows a similar legal ambiguity over use and title rights between higher and lower courts, leading to prolonged litigation. The case of Old Will's heirs supports Chu's claim that the colonial court system, despite its intended function as a legal arbiter, often exacerbated and extended conflict creating a "disquieting sense of uncertainty and injustice."⁵⁰ Anglo and Native legal disputes in Essex County also illustrate how rapid increases in land values and long term changes in hereditary proprietorship hampered the ability of the Massachusetts court system to effectively resolve property conflicts and title disputes.

A comparison of Native and Anglo cases further reveals a stark disparity in prices paid for similar acreage between Native and colonial proprietors. In 1648 Endicott paid 116 pounds for 300 acres in Salem, which eventually sold for 300 pounds in the 1670s.⁵¹ By contrast, Old Will's heirs sold 160 acres of comparably valuable farmland in Newbury, along with other mixed use holdings of unknown acreage, roughly equivalent in size, in the 1680's for a about 20 pounds. This is further evidence supporting Kawashima, Pulsipher and other historians' claims that payments made by colonists to Native proprietors were always lower, and inadequate to supplement the economic loss of land, becoming one of the greatest causes

⁵⁰ Jonathan M. Chu, "Nursing A Poisonous Tree Litigation and Property Law in Seventeenth-Century Essex County, Massachusetts The Case of Bishop's Farm," *The American Journal of Legal History* 31, no. 3 (1987): 221-24, 240, 248.

⁵¹ Chu, "Nursing A Poisonous Tree," 223.

of Native impoverishment and legal dispossession in Massachusetts Bay Colony.⁵²

Following Sewall's settlement with Old Will's heirs, Newbury settlers were once again litigating over coveted Newbury lands, which had become ever scarcer. The elite freeholding proprietors (including the Sewalls and Dummers) sought to divide the remaining commons amongst themselves. This was opposed by the non-proprietors on the grounds of equal taxation and their service in King Phillip's War. The remaining 6,000 acres of commons was divided equally satisfying both groups in the 1680's.⁵³

Newbury's first historia Joshua Coffin concluded that after Old Will's case there are no records of Pawtucket residing in Newbury. Based on a 1676 report made to the Massachusetts legislature, in the aftermath of the war: "there were at and about Ipswich eight men and seventeen women and children Indians..."⁵⁴ Pequanamquit's 1679 testimony in Old Will's heirs case provides evidence that he and his kin still resided near Newbury, along with a few remaining "settlement Indians," indentured to colonists.

In October 1681, shortly after Old Will's heirs received payment for Newbury lands, the General Court ordered all Natives, other than apprentices and indentured servants be confined to Wamesit, Ponkapoag and Natick or sent to prison. That year colonial magistrates were dispatched to determine: "what title are pretended to by Indians or others, and the validity of them."⁵⁵ Praying town Natives collectively petitioned the court to prevent further illegal sales of their dwindling lands.⁵⁶ The Pawtucket-Pennacook, facing few choices, but to live in praying towns, assimilate into English society as servants or go to jail, were largely

⁵² Pulsipher, "Defending and Defrauding the Indians," 97; Pulsipher, *Swindler Sachem*, 103.

⁵³ David Grayson Allen, *In English Ways: The Movement of Societies and the Transferal of English Local Law and Custom to Massachusetts Bay in the Seventeenth Century* (Chapel Hill: University of North Carolina Press, 1981), 217.

⁵⁴ Coffin, *A sketch of the history of Newbury, Newburyport, and West Newbury*, 364.

⁵⁵ Pulsipher, *Swindler Sachem*, 233, 238.

⁵⁶ Petition Against Selling Praying Town Land, 1681, Mass. Archives, 30: 262a, Mass.

forced to relocate, and forfeit or sell their remaining land for pennies on the dollar.

In 1683 Ipswich surveyors, “lay out a small quantity of land for Ned and his family and the old Sagamore’s daughter and her children, to improve for them, during the town’s pleasure.” Curiously, this is the first record of the title Sagamore associated with Pequanamquit’s name. Perhaps this was a legal formality, legitimizing his status as a Native authority in this colonial land grant, in the wake of the impending English political upheaval, charter controversies and contestation over Native deeds and colonial title claims. In 1690, Ipswich records reveal that Ned remained a ward of Ipswich, “aged about eighty two.”⁵⁷

While Pequanamquit’s kin eked out an existence on small lots of allotted land in the following decades, petitions by Jeremiah Belcher and colonists to the General Court, between 1675 (the first year of the war) and the end of the century, show that he and other Essex County settlers sought a charter to begin a town on lands he acquired from Pequanamquit’s debt, decades earlier, which remained unsettled, likely due to war and increasing relations of uncommon ground between Natives and English on the borderland frontier.⁵⁸ While the Pawtucket-Pennacook remained largely neutral during the Anglo-Abenaki wars, mutual mistrust, and sporadic violence likely stalled Belcher’s planned settlement on the Molodemak’s northern bank, once owned by Old Will and his heirs.

⁵⁷ Joseph B. Felt’s, *History of Ipswich, Essex, and Hamilton* (Ipswich, Mass.: Clamshell Press, 1966), 6.

⁵⁸ Jeremiah Belcher and Colonist Petitions to General Court, 1675-1711, Mass. Archives, 45: 313, 215-18, 388. See also The Native Northeast Research Collaborative, <https://nativenortheastportal.com/digital-heritage/petition-jeremiah-belcher-massachusetts-general-court> (accessed 2021).

Massachusetts Charter Crisis, English Revolution and Pawtucket Quit-Claims in Essex County

The 1680's were a tumultuous decade, marked by Pawtucket-Pennacook territorial and political changes, as well as English revolution, resulting in challenges to Massachusetts Bay Colony charter law, colonial titles and Native deeds. These upheavals led to the charter revocation in 1684. The Dominion of New England was established, installing royal Governor Edmond Andros, who questioned the foundation of Massachusetts land law based on invitation and purchase from Natives. Andros argued ardently against Native title, citing right of discovery: "Tis a Fundamentall point consented to by all Christian nations that the first discovery of a country inhabited by infidels, gives a right and dominion of that country to the Prince in whose service and employment the discoverers were sent." He refused to recognize any title which did not originate from the King's patent.

In defending the charter, Massachusetts Secretary Rawson cited a Charlestown colonist who petitioned Andros regarding the validity of his Native deed. Andros infamously replied: "their hand was no more worth than a scratch with a bear's paw, undervaluing all my titles, though every way legal under our former Charter Government."⁵⁹ By championing Native titles, colonists were both defending their legal rights against crown interference, while pretending a moral imperative of ethical treatment of Indigenous peoples and land rights, amidst a period of ongoing colonial wars and violent dispossession.

These political tumults and charter threats became the legal impetus for a series of new quit-claim deeds, transacted between Native proprietors, English towns, and colonists in

⁵⁹ Ian Saxine, *Properties of Empire: Indians, Colonists, and Land Speculators on the New England Frontier* (New York University Press, 2019), 40; O'Brien, *Dispossession by Degrees*, 74.

Massachusetts Bay, which sought title security and independence from the crown. Amidst the political chaos and recent loss of Pawtucket-Pennacook homelands along the upper Molodemak, many Natives in this post war period petitioned the new government for title claims, emphasizing their loyalty, neutrality, and military service, requesting compensation for their former lands. Sagamores and leadership families in Essex County also took advantage of the political crisis and began making legal claims to their ancestral lands on the lower Molodemak, seeking back payments from English towns and settlers.

In 1684, Sagamore George Rumneymarsh died in the praying town of Natick. James Quonophkownatt, who had served the English in King Philip's war and redeemed George from slavery, became heir to his lands. Like George, James' alias, Rumneymarsh, bespeaks his hereditary lineage to this Massachusetts region, where his kin were the original proprietors. Daniel Gookin took the testimony of Native leaders of Natick, Thomas Wauban and Daniel Tookuwompbait (Natick's Native pastor), that Sagamore George died in James' home and inherited all his title: "from ye river of Salem alias Nahumkeke river: up to Malden mill brooke running from a pond called Spott pond...upon ye condition that he would looke after it to procure it."⁶⁰ This evidence suggests that Sagamore George made James his heir on the condition that he act as steward of these ancestral homelands and make legal claims to regain Native title rights, as he had also tried to do throughout his lifetime.

Sagamore George had made unsuccessful litigation attempts to reclaim land rights and payments for Rumneymarsh and other territories prior to the war, based on his own inheritance, as the last surviving son and heir of Nanapeshemet and Squaw Sachem. In 1672 at the Native court in Natick, Sagamore George and his kinswoman Jone, James

⁶⁰ Perley, *The Indian Land Titles of Essex County*, 10.

Quonophkownatt's mother, provided testimony in the presence of Daniel Gookin, stating their claim as hereditary proprietors to the lands at Marblehead. Witnesses attested that Sagamore George was also the "chief proprietor," who had agreed to enter into a deed at that time for Marblehead with James, "providing he had one half of the consideration."⁶¹ Evidently, this agreed upon legal claim never came to pass, likely due to the war, Sagamore George's subsequent captivity and death.

Finally in July 1684, James and his kin honored Sagamore George's dying wishes, initiating the first formal title claim to the Essex County town of Marblehead. This deed was executed in Boston and consented to by James' family and the entire praying town of Natick, as well as Sagamore George's widow Joane (Poquanum's daughter) of Wamesit, their children and grandchildren. Joseph English, Masconomet's grandson also released his title. This deed is a remarkable example of Native legal strategy and hybridity in collective land exchange by leadership families, extended kin, and entire communities, relying on Native tenure systems and English law. These proprietors successfully petitioned the town and obtained payment of sixteen pounds for release of all title rights. Albeit small compensation for the loss of much land, this was a symbolic legal victory, honoring Sagamore George's memory and recognizing original Native tenure in Essex County.⁶²

This deed honored Sagamore George's legacy and served as a testament to ongoing Native proprietorship, persistence, and legal savvy. It also affirmed, perhaps for the first time, that the litigants: "and their ancestors were the true, sole and lawful of all the aforebargained premises and were lawfully seized of and in the same and every part thereof

⁶¹ Perley, *The Indian Land Titles of Essex County*, 51.

⁶² Perley, *The Indian Land Titles of Essex County*, 52-61; Southern Essex District Registry of Deeds, book 7, 1-8 (Salem, Mass.).

in their own proper right: And have in themselves full power good right and Lawfull authority to grant sell convey and assure the same.” This also speaks to the eminent legal threat to colonial title posed by Andros and the charter controversy, likely prompting officials to reaffirm Native consent in this quit-claim. The grantors acknowledged the deed’s finality, declaring themselves, “fully satisfied and contented and thereof and of every part thereof doe hereby acquitt exonerate and discharge...the trustees abovesaid their heirs executors and administrators as also all the rest of the purchasers and proprietors of said township.”⁶³

The descriptions of the property being relinquished, however, literally left no stone unturned, making clear how deeply entrenched the English were on this land, including commodification of natural resources and other commercial enterprises, by which they continued to profit. The Pawtucket proprietors agreed to release:

all houses edifices buildings Lands Yards orchards gardens meadows
marshes, feedings grounds rocks stones beach flats pastures fences
commons of pasture; woods underwoods swamps waters water courses
damns ponds headwaters fishings fowlings ways easmenets profits
privileges rights commodities Emoluments Royalties Hereditaments...⁶⁴

The legal terminology also ensured that the deed was executed according to English land tenure and sole proprietorship, without exceptions or usufruct provisions, as in earlier deeds: “...as a good perfect and absolute estate of Inheritance, in fee simple without any manner of condition reversion or limitation whatsoever so as to alter change defeate or make void the same...”⁶⁵ These legal terms symbolize a contrast from earlier deeds, which allowed for hybrid land and resource sharing practices and clauses.

In 1686, just after the Marblehead deed, Governor Andros arrived in Massachusetts

⁶³ Perley, *The Indian Land Titles of Essex County*, 55.

⁶⁴ Perley, *The Indian Land Titles of Essex County*, 56.

⁶⁵ Perley, *The Indian Land Titles of Essex County*, 57.

Bay and declared that upon revocation of the Massachusetts charter, all lands legally reverted back to the crown. Colonists holding title under the old charter had to apply for new titles and pay quitrent of 2 shillings 6 pence/100 acres. The colonists vehemently defended their Native title claims, protesting: “until the sealing and delivery of these presents, they [the Natives] and their ancestors were true, sole and lawful owners of all the afore bargained premises, and were lawfully seiged of and in the same, and every part thereof in their own proper right.” A group of prominent Bostonians claimed that if Native deeds weren’t recognized then: “no man was owner of a foot of land in all the colony.”⁶⁶ Samuel Sewall, the notable Boston judge (whose father Henry was lately embroiled in land disputes with Newbury Natives) had also become a large scale owner of Native land. In a letter to his brother written in 1687, he expressed hope that “the Lord give you and me skill and opportunity to take up a lot in heaven where every inhabitant will rejoice in the strength of our title and our great Landlord will demand but thanks for our quit-rent.”⁶⁷

Andros directly challenged the validity of Essex County titles, asking Rev. John Higginson (descendant of Salem’s first minister) if the crown owned Massachusetts land. Higginson replied that colonists held legal title by right of occupation and Native transfer:

I did certainly know that from the beginning of these plantations, our fathers entered upon the land, partly as a wilderness and vacuum domicilium, and partly by the consent of the Indians, and therefore care was taken to treat with them, and to gain their consent, giving them such a valuable consideration as was to their satisfaction; and this I told them I had the more certain knowledge of, because having learned the Indian language in my younger time, I was at several times made use of by the government, and by divers particular plantations, as an interpreter in treating with the Indians about their lands, which being done and agreed on, the several townships and proportions of lands of particular men were ordered and settled by the government of the country.⁶⁸

⁶⁶ Banner, *How the Natives Lost their Land*, 41-42.

⁶⁷ Saxine, *Properties of Empire*, 21.

⁶⁸ Joseph B. Felt, *Annals of Salem* (W. & S.B. Ives ; J. Munroe, 1845), 24.

Secretary Rawson accused Andros of “vilifying the Indian title saying they were bruits . . . & what lands the Kings Subject have they are the Kings.” He echoed Higginson’s legal defense of title, “By a right of purchase from the Indians who were Native inhabitants and had possession of the land before the English came hither.” This was a “standing principle in law and Reason,” both men argued.⁶⁹ Despite Andros’ insistence that “from the Indians no title can be derived,” Massachusetts towns raced to reconfirm Native titles through a series of new deeds, hoping to persuade or at least embarrass Andros into acknowledging their claims. Andros’ disavowal of Native land rights, paradoxically led to this somewhat disingenuous reversal of practice if not legal policy by Massachusetts Bay authorities and settlers to secure their land titles and defend their legitimacy by transacting new Native deeds. It is ironic that Massachusetts authorities, who formerly rejected most Native legal land claims, now approached their heirs for title confirmation in a belated effort to affirm land transfers made decades before, which they had not bothered to secure through payments or deeds. These new deeds were negotiated with descendants of deceased original proprietors, most of whom the English never recognized legally as owners or adequately compensated, forcing them to depart their Essex County homelands, long ago granted by eminent domain or sold to the English and now firmly under colonial legal control.

Subsequent quit-claims did little in the way of true legal justice or compensation to descendants, who had since been confined to praying towns, servitude, or assimilation after King Philip’s War. Perhaps, this served as a token recognition of their proprietor forbears and the former autonomy of the Natives, who resided in these once populous homelands of the lower Molodemak, which they shared with early English settlers. As Essex County historian

⁶⁹ Kawashima, *Puritan Justice and the Indian*, 50; Pulsipher, *Swindler Sachem*, 245-46; Saxine, *Properties of Empire*, 40.

Sidney Perley noted, these quit-claims served as legal estoppels, preventing Native proprietors or their heirs from making any further claims to land title rights.⁷⁰ Thus, these deeds document the final phase of Native/Anglo land transfer in Essex County, formalizing a protracted process of legal dispossession, through retroactive payments, made to descendant kin of original Native proprietors, following the charter revocation. This supports claims by Brooks and others that most Native deeds were the result of protracted land disputes.⁷¹

Next in a series of Essex County deeds was for the towns of Lynn, Lynnfield, Nahant, Saugus, Swampscott, and Reading, executed by descendants of the original proprietors Squaw Sachem, Poquanum, Masquenomet and Sagamore George. The first deed was enacted in July 1686, between Daniel Hutchin and James Quonophkownatt aka Rumneymarsh, Sagamore George's heir, who had recently spearheaded successful title claims for Marblehead. The other signatory was David Kunkskawmushat, Sagamore George's grandson, then living at Wamesit. Hutchin had been granted the land which he still occupied in Lynn without compensation to Native proprietors and no payment was recorded in this new deed of gift either, curiously. The language and clauses used strictly English legal terminology to define a final sale, exempting any future claims:

Ye said James Rumneymarsh and David: Indians: do hereby Covenant promis and grant to...they have in themselves good power full right & lawful authority to grant, sell, convey and assure ye same unto ye said Daniel Hutchin and his heirs and assigns as a full, firm perfect and absolute estate of inheritance in fee simple without any manner of Condicon, Reversion or limitation on whatsoever so as to alter change defeat or make void.⁷²

⁷⁰ Perley, *The Indian Land Titles of Essex County, Massachusetts*, 18-19, 141.

⁷¹ Brooks, *Our Beloved Kin*, 19, 42

⁷² Perley, *The Indian land titles of Essex County*, 65-66; "Native American Deeds," Southern Essex District Registry of Deeds, book 7, 88 (Salem, Mass.).

In September 1686, another deed was transacted for title to the towns of Lynn, Lynnfield, Nahant, Saugus, Swampscott, and Reading, for which sixteen pounds silver was paid to the signatories, James Rumneymarsh and his wife Mary; David Kunkskawmushat and his wife Abigail and Cicely Petaghuncksq aka Su-George, Sagamore George's daughter. Sagamore George had unsuccessfully litigated to regain these Essex County lands decades earlier on behalf of himself and his kin, claiming hereditary rights. He also took part in Thomas Dexter's court cases, relating to exchanges with him and other Indigenous proprietors in the 1630's, hoping to gain compensation for Nahant lands granted by these towns, which legally displaced and dispossessed prior Native and English proprietors.

Despite Sagamore George's failed attempts to regain legal rights for his title to Nahant and other lands, this deed ironically, finally acknowledged his original proprietorship, albeit posthumously, by listing his many aliases and residences: "Sagamore George no nose so called alias Wenepawweekine Sometime of Rumneymarsh and sometimes at or about Chelmsford...sometimes here and sometimes there but deceased."⁷³ The deed also suggests that the lands had belonged to Sagamore George alone: "we affirme was the true and sole owner of ye lands that ye towns...stand upon and notwithstanding ye possession of ye English dwelling in those townships...aforsaid..." While this language was designed to satisfy the English title transfer through sole proprietorship, it also reveals legal distortions of Native communal, hereditary land tenure systems, which Sagamore George and his kin attested to in many lawsuits. This deed states that the English had long settled the land through legal grants to towns and purchase of Sagamore George:

⁷³ Perley, *The Indian Land Titles of Essex County*, 68; Southern Essex District Registry of Deeds, book 18, 150 (Salem, Mass.).

the dwellers thereof poses that ye right and Title thereto is ours and belongs to us & ours but howsoever the Townships...having been long possessed by the English & although wee make our clayme and we ye claymers aforesaid...ye selectmen and trustees for both towns aforesaid pleading title by grants of courts and purchase of old of predecessors George Sagamore & such like matters.⁷⁴

This was also not entirely accurate either, since no payments were ever made, other than some corn and trade goods given to the Sagamore and his kin by Dexter and early colonists. However, both parties in this deed, agreed not to cause conflict with former neighbors : “considering the arguments of ye selectmen in both townes are not willing to make trouble to ourselves nor old neighbors..”⁷⁵ This harkens to earlier negotiations based on mutual accommodation, which had helped forge a peaceful coexistence in Essex County. The Native grantees, however, now agreed to relinquish all their rights and acknowledge prior court land grants, upon which the towns title claims mainly rested:

and we therefore the clayming Indians...Jointly together...release our own right Tytle and Interest clayme and demand whatsoever...do fully freely cleerly and absolutely give and grant a full & Firm confirmation and ratification of all grants of court and any sort of & any sort of alienation made by our predesesors...as a good and perfect absolute Estate inheritance in fee simple without any manner of condition Reservation or limitation whatsoever.⁷⁶

This reaffirmed the legal hierarchy of court grants, nullifying all prior negotiations, including Poquanum and Sagamore George’s hybrid Nahant land exchanges in the 1630’s.

On October 11, 1686, a legal deed for the town of Salem, the first permanently settled plantation in Essex County, was finally transacted in Beverly. Until 1713 this deed remained in the possession of signatory Colonel John Higginson, descendant of Salem’s first minister, who had known the original Naumkeag sagamore proprietors, including Squaw Sachem and

⁷⁴ Perley, *The Indian Land Titles of Essex County*, 68.

⁷⁵ Perley, *The Indian Land Titles of Essex County*, 69.

⁷⁶ Perley, *The Indian Land Titles of Essex County*, 73.

her son Sagamore George. Grantors included Sagamore George's grandsons David Kunkskawmushat, John Tontohqunne and Sagamore Sam Wuttannoh, as well as James Rumneymarsh, his mother, Joane and son, Israell; Cicely Petaghuncksq and Sarah Wuttaquatimnusk (Sagamore George's daughters); Cicely's son John; Captain Tom Queakussen (Poquanum's son); Yawata (Squaw Sachem's daughter) and Wattawtinnusk. All were living at Wamesit and Natick at the signing of this deed, when they released: "All land Belonging to the sd township of Salem according as it is abutted and bounding with an upon ye towns of Beverly, Wenham, Topsfield, Reading, Linne and Marblehead down to ye sea whc sd land is part of what belonged to the ancestors of ye grantors and is their proper inheritance..."⁷⁷ The terms and language are quite similar to that of the Lynn deed, ensuring that it was executed as an absolute final sale, against any future Native claims.

Northern Land Liquidation Sales, Praying Town Prisoners, Mohawk War, and Pennacook Diplomacy

Between 1683-1686, while Native proprietors sought reparations for Essex County lands, long since granted and settled, millions of acres of northern Pawtucket-Pennacook homelands were subsequently seized or liquidated at bargain basement prices. Following King Philip's War, speculators cashed in as many Natives, intermittently mobilized northward, to survive violent displacement and legal dispossession. As with earlier land exchanges, considered legally consensual, no regulations were enacted to set equitable prices, giving the English an unfair economic advantage in acquiring Native lands under duress, furthering relations of uncommon ground. Colonel Jonathan Tyng trader and military officer was granted Pennacook lands, in return for his services as a Native "guardian." This included

⁷⁷ Perley, *The Indian land titles of Essex County*, 80; Southern Essex District Registry of Deeds, book 14, 42 (Salem, Mass.).

the prized Wicasauke Island, which Wannalancet had sold to repay his brother's debt, then regained through litigation and diplomacy, and was now forced to relinquish once again.⁷⁸

Pawtucket-Pennacook land transfers on the upper Molodemak were motivated by the ongoing political charter crisis, legal and territorial disputes with Massachusetts officials, Mohawk raids and internal factionalism between sagamores Wannalancet and Kancamagus, with contrasting leadership styles and policies towards colonial powers. After Kancamagus took part in a large Native gathering on Lake Winnepesaukee in 1685, authorities suspected an uprising. Kancamagus, responded diplomatically, giving New Hampshire's governor gifts of peltry, and penning petitions, stating the motives of the meeting and Pennacook dilemma:

My friend I desire your worship and your power because I hope you can do somgraeat matters...I am poor and naked and I have no men at my place because I am afraid always mohogs he will kill me everyday and night if your worship when please pray help me you no let mohogs kill me at my place at Malamake river...I will submit your worship and your power and now I want powder and such allmishion shott and guns because I have forth at my hom and I plant theare. This all Indian hand but pray you do consider. Your humble servant John Hodgkins.⁷⁹

The letter, signed by 14 others was followed by another, in which he invoked Papisseconnewa's legacy of strategic accommodation: "Remember at old time...my grantfather and Englishmen make a good govenant they friend always."⁸⁰

After the governor and officials ignored his diplomatic pleas for protection from Mohawk threats, Kancamagus and his followers departed Pennacook, after harvesting their corn to join their Abenaki allies. Mistrustful of their intentions and French interference, the English sent messengers to Pennacook where they found Wannalancet, who told them that

⁷⁸ Court Grants Land to Jonathan Tyng, Mass. Archives, 37: 325; Stewart-Smith, "The Pennacook Indians and the New England Frontier," 215-17.

⁷⁹ Pennacook/Sokoki Inter-Tribal Nation, *Historical Indian/Colonial Relations of New Hampshire*, 56-58.

⁸⁰ Pennacook/Sokoki Inter-Tribal Nation, *Historical Indian/Colonial Relations of New Hampshire*, 56-58; Nathaniel Bouton, ed., *New Hampshire Provincial Papers*, 1 (Concord, New Hampshire, 1870): 583-84.

Kancamagus left, fearing Mohawk attacks. He further explained that those left at Pennacook were in no position to fight, “neither are they in any posture for war, being about twenty four men, besides squaws and papooses.” Kancamagus’ strategic mobilization eventually led to political negotiation with the English, allowing him to return to sign a peace treaty.⁸¹

Wannalancet was not present at this treaty and it was Kancamagus’ diplomacy which forced the English to accommodate, making him a recognized Pennacook Sagamore. This treaty included provisions for English protection from the Mohawk. In turn Kancamagus agreed to stay near English plantations and not depart without notice. However, just eleven days later the English broke the treaty, accosting some Pennacook. This time Wannalancet retook the lead through litigation, winning a lawsuit and receiving compensation for English offenses. Both sagamores worked to forge a fragile peace, prompting more Pennacook to return to their homelands, which continued to attract disaffected, landless Natives and remained an intertribal gathering place of resistance, refuge, and solidarity on the frontier.⁸²

This uneasy truce with the English, however, may have prompted Wannalancet’s further land transfers and presaged the coming Pawtucket-Pennacook exodus. In October 1685, Wannalancet sold a “million acre” tract for “the full and just sum of three score and ten pound to him well and truly paid in hand , together with several other charges expended upon and gifts and kindness sew’d to him, by Mr. Jonathan Tyng of Dunstable.”⁸³ This deed was witnessed by Gookin, as well as Captain Tom Poquanum, (son of Nahant’s proprietor who exchanged land in the 1630’s). This massive land transfer was the largest recorded

⁸¹ Pennacook/Sokoki Inter-Tribal Nation, *Historical Indian/Colonial Relations of New Hampshire*, 59-60; Bouton, ed., *New Hampshire Provincial Papers*, 1: 588-89; Calloway, “Wannalancet and Kancagamus,” 278-80.

⁸² Wannalancet Legal Correspondence, 1685, Mass. Archives, 30: 306; Stewart-Smith, “The Pennacook Indians and the New England Frontier,” 214.

⁸³ Pennacook/Sokoki Inter-Tribal Nation, *Historical Indian/Colonial Relations of New Hampshire*, 54-55; Wanalansit to Ting, September 21 1685, Case no. 2356. SJC.SU/series 003, Supreme Judicial Court, Suffolk Files, 29:22, Massachusetts Supreme Judicial Court Archives, Massachusetts Archives. Boston, Massachusetts.

Pawtucket-Pennacook sale, including lands on both sides of the Molodemak, six miles in width, from the Souhegan river north of Nashua New Hampshire, to Lake Winnepesaukee. This furthered Pawtucket-Pennacook impoverishment, debt, dependence, and loss of autonomous territories on the upper Molodemak.⁸⁴ Evidence from deeds attests that this northern region was still home to Pennacook leadership families, including Papisseconnewa's daughter Wenuhus and her grandchildren, then living at Pennacook.⁸⁵

In 1686, more Pawtucket-Pennacook homelands were transferred to Tyng, Henchman, and other speculators, who had formed a land prospecting syndicate of fifty shareholders. Wannalancet also sold Tyng a 212 Acre tract known as the "Old Planting Ground." Tyng and his fellow prospectors purchased all Pawtucket-Pennacook lands west of the Concord River and across the Molodemak, west to Beaver Brook. This extensive land deed, known as the "Wamesit Purchase," effectively spelled the end of Pawtucket-Pennacook autonomous land ownership in the Chelmsford/Lowell region as well as the demise of the praying town Wamesit.⁸⁶ Soon after, and likely partly as a result of these sales, Wannalancet was again prompted to mobilize north, where he might have sought to escape hostile Native factions, who possibly perceived his selling of Pennacook lands to the English as a betrayal.

Second Anglo-Abenaki War, Andros' Ousting, and Restoration of the Massachusetts Charter

The turbulent political and territorial struggle between the French, English, and Natives on the northern frontier, coupled with breaking of treaties, colonial encroachment and granting lands without consent, further threatened Pawtucket-Pennacook survival,

⁸⁴ Stewart-Smith, "The Pennacook Indians and the New England Frontier," 215-17.

⁸⁵ Perley, *The Indian Land Titles of Essex County*, 9; Stewart-Smith, "The Pennacook Indians and the New England Frontier," 10, 201.

⁸⁶ Charles Cowley, *Memoirs of the Indians and Pioneers of the Region of Lowell* (Stone & Hues, Book Printers, 1862), 21; Henry A. Hazen, *History of Billerica, Massachusetts, with A Genealogical Register* (Old Corner Bookstore, 1883), 124.

leading some to ally with the French in the 2nd Anglo-Abenaki War, 1688-99. For fifty years the Pawtucket-Pennacook sought to maintain a middle ground with the English through strategic accommodation, land exchange and neutrality, which cost them their territorial autonomy, legal rights, and political sovereignty. Armed resistance seemed like the only recourse to many, as a means to regain land from invading English and French powers.⁸⁷

In 1689 Massachusetts Bay Colony ousted the unpopular Governor Andros after the “glorious revolution.” The English charged Andros with conspiring with French Catholics and stoking Native hostilities against the English. These accusations were also backed by Pennacook leaders including Sagamore Wattanummon, Wannalancet’s war captain who testified in court that Andros, “gave the Mohocks two bushels of wompum Peague, and three cart loads of goods to Ingage them to fight against the English” and attack the Pennacook. This testimony was likely intended to bolster reluctant colonial protection against Mohawk raids and demonstrate ongoing Pawtucket-Pennacook loyalty and alliance.⁸⁸

While Wannalancet and Wattanummon sought to remain neutral in this war, Kancamagus cultivated a French/Abenaki alliance, attracting many members of the Pennacook Confederacy who felt betrayed by the English. Pennacook had about 90-100 men at this time and Kancamagus commanded about 30 young warriors. In 1689 a war council gathered at Pennacook, where Kancamagus and his followers resolved to avenge Richard Waldron’s treachery after King Philip’s War. As military commander of the northeastern frontier, he symbolized all the failings of English alliance, illicit trade, alcohol, land dispossession and the betrayal of innocent Pennacooks at Cocheco. Waldron also murdered

⁸⁷ Ian Saxine and other Abenaki historians have made a convincing case that the main Pennacook motivation, amidst the chaos of war, was to protect communities and secure lands against further dispossession. Saxine, *Properties of Empire*, 36.

⁸⁸ Cited in Haefeli and Sweeney, *Captive Histories*, 83.

Native delegates and broke treaties, including one negotiated by Kancamagus in 1685.

Wannalancet and Wattanummon both discouraged revenge on Waldron and violence against the English, warning Boston of a planned attack on Cocheco. The message was delayed, however, and Kancamagus and his warriors struck Dover, capturing, and killing colonists and torturing Waldron to death. His trucking house partner, Peter Coffin and his family were taken hostage. English troops were dispatched to Pennacook and Winnepesaukee seeking Kancamagus and killing a few Natives, but the war party had departed, prompting another northern exodus. Colin Calloway emphasizes that the Pennacook still did not permanently migrate but removed and returned when it was safe to do so. This is what I have termed a mobilization strategy, utilized by Pennacook leaders to maintain their northern lands as an epicenter of pan-Native resistance. Wannalancet and Wattanummon were forced north, however, for a time, claiming to have become captives of hostile Canadian Natives.

In 1690, Captain Church (who had tracked Pometacomet) pursued Kancamagus and his followers, killing his sister and taking his wife and children as hostages, leading to his surrender and a peace treaty, signed in canoes off the Maine coast. It seems that the Atlantic, where the Pawtucket-Pennacook and English had first encountered and negotiated a middle ground with one another half a century ago, was now one of the only remaining neutral spaces in which to enact a strained diplomacy, as war and land dispossession had led to permanent relations of uncommon ground. Kancamagus, one of the last known Sagamores in Papisseconnewa's lineage, likely died shortly after signing his final treaty.⁸⁹

In 1692, Wannalancet reappeared from his northern exodus with Wattanummon, asking to live his last days in his former upper Molodemak homeland in peace. Instead, the

⁸⁹ Haefeli and Sweeney, *Captive Histories*, 79-81; Calloway, "Wannalancet and Kancagamus," 282-83, 285, 287; Haefeli and Sweeney, "Wattanummon's World," 212-15.

Octogenarian was taken to prison Boston and interrogated. The aged Sagamore was eventually allowed to return to his former lands in Dunstable, under the guard of trader and militia officer Jonathan Tyng. Wannalancet had become a landless, impoverished ward after selling the last Pennacook territories to Tyng, who was further compensated by the General Court for food, clothing travel and other expenses, after caring for Wannalancet for four years before burying him in June 1697, on property he sold to Tyng, ironically.⁹⁰

After Wannalancet returned to die on his former land, his followers tried to peacefully coexist with the English, but violence and legal dispossession continued on the frontier. Land laws passed in 1698, allowed settlers the right of adverse possession, to claim and settle abandoned Native lands for up to five years after the war's end, taking advantage of Pawtucket-Pennacook wartime mobilization. In 1699, the last year of the 2nd Anglo-Abenaki war, Tyng acquired exclusive trade rights at Pennacook, likely in recognition of his land deals and long standing relations with Wannalancet and the Pennacook.⁹¹

The First Laws Shall be Last and The Last Deeds Shall be First- Final Essex County Quit-Claims

The period of violence and political unrest at the turn of the century led to Andros' expulsion and restoration of the Massachusetts charter in 1692. The new charter included nearly identical Native land title laws as the 1629 charter. While some provisions were made to protect Indigenous rights, including bans on illegal land sales without court permission, few protections guarded against legal dispossession by English right of conquest, eminent domain or low prices paid to Native proprietors. Large land sales and seizures, made under

⁹⁰ General Court Correspondence to Jonathan Tyng, Mass. Archives, 37: 325-26; Haefeli and Sweeney, Kevin, "Wattanummon's World, 216.

⁹¹ Nathan Dane, ed., *The Charters and General Laws of the Colony and Province of Massachusetts Bay* (Boston Mass., 1814), 307-8; Calloway, "Wannalancet and Kancagamus," 286; Haefeli and Sweeney, *Captive Histories*, 84.

duress after successive wars furthered Pawtucket-Pennacook impoverishment and the demise of many communities. Even Boston judge Samuel Sewall saw the injustice in total Native land loss. He served as commissioner for the Society for Propagation the of Gospel in New England, which oversaw Eliot's Christian missions, stating: "I should think it requisite that convenient tracts of Land be set out to them, and that by plain and natural boundaries, as much as may be, as Lakes, Rivers, Mountains, Rocks- upon which for any Englishman to encroach, should be accounted a crime."⁹²

During the last decade of the century, intermittent Native raids on the lower Molodemak by disaffected northern Abenaki and French allies, killed and captured colonists. David Stewart Smith suggests that these attacks were a way to establish their own frontier borderlands in the old Pawtucket territories, including Haverhill, Newbury, Rowley, Andover, Groton, Dunstable: "Like a hammer on the anvil the eastern Indians sought to forge a different shape to the frontier, one which might restore some of their homelands back to tribal control."⁹³ One of the last raids of the war was led by Wattanummon on Andover in 1698, to revenge the murder of his kin by Pasco Chub. Chubb was killed, but Wattanummon spared the Bradstreet family and other former neighbors. These raids furthered retaliation, fear and uncommon ground between displaced Essex County Natives and English.⁹⁴

Shortly after the end of the second Anglo-Abenaki war in 1699, widespread loss of Pawtucket-Pennacook homelands on the upper and lower Molodemak, prompted Samuel and Joseph English and their sister Betty, grandchildren of Masconomet, the first Pawtucket

⁹² Sewall cited in Pulsipher, *Swindler Sachem*, 249.

⁹³ Stewart-Smith, "The Pennacook Indians and the New England Frontier," 236-37.

⁹⁴ Official Documents Related to Essex County Raids, 1693-8, Mass. Archives, 37: 206; 69: 267, 285, 357; Currier, *History of Newbury*, 229; Stewart-Smith, "The Pennacook Indians and the New England Frontier," 244-45; Wattanummon led the Deerfield raid after his kin were killed by colonial militia. See Haefeli and Sweeney, *Captive Histories*, 79-85; Sweeney, and Haefeli, "Wattanummon's World," 212-24.

proprietor of Agawam, to initiate a final series of quit-claim deeds in Essex County, seeking retroactive compensation for their ancestral homelands. Masconomet's heirs made a number of successive title claims, receiving token payment for land which was either settled without or before adequate remuneration to their Sagamore ancestor and to which they were subsequently denied any legal use rights or hereditary proprietorship to.

Evidence from these deed transactions suggests that Masconomet's heirs had converted and taken Christian names. They may have only briefly, if ever resided in Agawam, but would have been well aware of their prominent ancestor's land exchanges with Winthrop Jr. in the 1630's. Masconomet's original deeds had included much of this land, long settled as Essex County townships. As those first Agawam deeds were considered legal and approved by the court, these towns could have contested these last claims by Masconomet's heirs but likely consented to renewed contracts, in order to secure legal title, following charter disputes and war. Perhaps the recent violence and Native raids on Essex County also motivated these towns to make token payments to keep the peace.

A Beverly deed had been discussed in 1680, by the town and Masconomet's heirs, but never came to fruition. Salem historian Sidney Perley suggested that these first title deliberations may have been in response to an earlier challenge to the Massachusetts charter, made by the grandson of Captain John Mason, whose original land grant from the crown and territorial boundary was long disputed by Massachusetts. These negotiations followed a 1673 deed transacted for Misery Island, off the Beverly coast by Thomas Tyler, Sagamore Masconomet's son, then living on Martha's Vineyard, who conveyed to Bartholmew Gale of Salem all his "right title and interest Island forty acres more or less comonly called and

known by ye name of Moultons Miserie. . . ”⁹⁵ In this deed, signed by Thomas Mayhew, the Governor’s son, and guardian to Natives of Martha’s Vineyard, Sagamore George attested to Tyler’s hereditary rights. Tyler’s deed was not originally recorded in the Essex County legal records, but was confirmed in 1684, during subsequent deed negotiations between his heirs and Essex County townships. In 1686 a deed for Beverly was legally transacted between Tyler’s kin (Masconomet’s grandchildren) and Beverly for the sum of Six pounds, six shillings eight pence, however, no payment was made at that time to these hereditary heirs.

Finally in 1700, after years of failed litigation and protracted legal disputes, Masconomet’s grandchildren succeeded in gaining some retroactive compensation for their ancestral lands, which they had been denied any benefit from. A title payment for Beverly was eventually made in Salem, entered into the Essex County Registry. Signatories to this deed included Masquenomet’s grandsons, Joseph and Samuel English, their sister Betty, Samuel’s wife Susannah, and Betty’s husband Jeremiah Wauches. Nashobah Natives, John Thomas and James Speen testified that Samuel, Joseph, and Betty were Masconomet’s last living kin. Englishmen Joseph Foster of Billerica and Moses Parker of Chelmsford accompanied Masconomet’s heirs in this and subsequent deed negotiations, suggesting that these Pawtucket grantors were living on the upper Molodemak, perhaps near Wamesit, at the time of these transactions. These men likely served as legal representatives to these Pawtucket litigants, though the records are unclear as to whether the grantors sought the legal services of these Englishmen or if they were mandated to accompany them.⁹⁶

⁹⁵ Perley, *The Indian Land Titles of Essex County*, 86-87.

⁹⁶ Records indicate that the Natives and their English companions were provided food, lodging and travel expenses in this and other towns involved in subsequent deed negotiations. See Perley, *The Indian land titles of Essex County*, 86-87; In this period, praying towns had English overseers who presided over legal affairs. See Kawashima, *Puritan Justice and the Indian*, 32-33, 55-56; Mary Ellen Lepionka suggests that Foster and Parker initially agreed to pro bono assistance, but soon took a percentage of the proceeds for their assistance and were eventually dropped as legal representatives by the Pawtucket grantors. She points to pervasive myths in recent historical narratives, which perpetuate the paradoxical idea that the Native

In the Beverly deed, Masconomet's heirs affirmed that their Sagamore ancestor had invited the English to settle Beverly without title payment: "old Sagamore John of Agowan alias Amasquanamett Do for & in considerations that our grandfather did formerly grant and give his approbation to ye English to settle One a tract of land called Beverly in ye country of Essex..." The litigants requested and received payment for this quit-claim, which voided any prior negotiations of their ancestor, themselves or their kin: "...and more especially for six pounds six shillings and eight pence to us paid...all the Upland swampy meadow marsh ground...with all ye ponds streames fishing places and all other ye profits privileges & appurtenances ...clearly acquitted of & from all other gifts grants bargains sales alienations of what kind soever..."⁹⁷ Considering the appreciation in value over time, six pounds was less than a meager price to pay for vast tracts of long settled land. This and subsequent payments for tens of thousands of acres contrasts with title payment of 20 pounds, negotiated two decades earlier by Old Will's heirs for less than two hundred acres. Further quit-claims were soon transacted by Masquenomet's heirs in December, including one for Manchester, signed by Samuel and John Umpee. Although his name appears in the transcription, Joseph English did not sign this deed for reasons unknown. The grantees were paid just three pounds nineteen shillings for the entire town, which confirmed it had also been granted long ago without title payment to Masquenomet's kin:

whereas ye said town...have quietly and peaceably without molestacon enjoyed...their township with ye growth thereupon and appertances belonging thereto... for ye space of sixty years and upward & that in the first place by ye consent and approbation of our Grandfather Sagamore John of Agawam alias Masquenomet and ever since by consent and approbation of his children and by his grandchildren being now surviving and proper heirs

litigants took advantage of Essex County towns in "Ancient Prejudice Against "the Indians" Persists in Essex County Today," <https://historicipswich.org/2020/08/06/prejudice-against-indians/> (accessed, November 1, 2020).

⁹⁷ Perley, *The Indian Land Titles of Essex County*, 90; Southern Essex District Registry of Deeds, book 14, 42 (Salem, Mass.).

... there hath been yet no deed or legal conveyance either by our said Grandfather... nor by his heirs successively unto this day.⁹⁸

Shortly following the Manchester transaction, Samuel English and John Umpee signed a deed to Wenham, receiving three pounds ten shillings. Curiously, this was not formally recorded in the Essex Registry until it appeared as evidence in a nineteenth century Supreme Judicial Court case. Then, on Christmas, 1701, Samuel English alone, made a title claim to the town of Gloucester, which included Rockport. He was paid seven pounds, raised through a tax on the town's residents.⁹⁹ The language and terms of these last two contracts was nearly identical to the Manchester deed, suggesting that these towns had been long settled at the invitation of the claimants' ancestor, Masquenomet and his Pawtucket kin.

On January 10, 1701, another deed for Newbury was executed by Samuel English. Witnesses Moses Parker and Joseph Foster testified before Justice of the Peace Daniel Peirce that they knew Sagamore Masquenomet's daughter Sarah and grandson Samuel were his lawful heirs. Ten pounds was paid to Samuel English for approximately 10,000 acres. Masconomet's deed for Agawam with John Winthrop Jr., had included Newbury lands, for which he was paid twenty pounds, for largely unsettled territories.¹⁰⁰ It is telling that these same lands, which had significantly appreciated in value were now being sold by the Sagamore's grandchildren for half of what Masconomet was paid for Agawam, furthering the claim by Pulsipher, Kawashima and others, that prices paid for Native title continued to decline, one of the leading causes of impoverishment, displacement and dispossession.¹⁰¹

⁹⁸ Perley, *The Indian Land Titles of Essex County*, 92-96; Southern Essex District Registry of Deeds, book 14, 82 (Salem, Mass.).

⁹⁹ This deed was legally recorded on January 14, 1700/01 in Ipswich. Perley, *The Indian Land Titles of Essex County*, 98-103; Southern Essex District Registry of Deeds, book 14, 214 (Salem, Mass.).

¹⁰⁰ Perley, *The Indian Land Titles of Essex County*, 45-48; Currier, *History of Newbury*, 185; Coffin, *A Sketch of the History of Newbury, Newburyport, and West Newbury*, 364-66.

¹⁰¹ Pulsipher, "Defending and Defrauding the Indians," 95-100; Pulsipher, *Swindler Sachem*, 96-104; Kawashima, *Puritan Justice and the Indian*, 69-70.

Just days after the Gloucester deed, Samuel English transacted another quit-claim on January 16, 1701 for Boxford, receiving eight pounds for “a certain tract of land by estimacon twelve thousand acres thereof...” Samuel initially came without his siblings, however, they signed a similar deed the following October and were paid an additional two shillings and six pence along with “rum and victuals enough.”¹⁰² On the day after the Boxford deed, a quit-claim for Rowley was executed by Masquenominet’s heirs, for a payment of nine pounds. No record of this deed exists, and it is not known if an original copy survives. Rowley town records indicate that the grantors were represented by “attorneys,” likely referring to Foster and Parker, who had previously accompanied the grantors.¹⁰³

January 30, 1701 another deed was executed between the Pawtucket and Bradford, paying six pounds ten shillings for roughly eight thousand acres. The claimants came separately to sign, Samuel in March (alone), Joseph in July 1701, with Parker. Foster went with John Umpee to Andover to witness his signing.¹⁰⁴ In March, Samuel, alone, transacted a separate deed for Phillips farm in Bradford, about 300 acres of valuable agricultural land, for which he received eighteen pounds. This was made without the knowledge of Joseph Foster and probably Moses Parker. Foster, perturbed by being left out of Samuel’s deed, gave a deposition in the Essex County Registry of Deeds, September 1701, claiming that Samuel:

had no power or right of himself to reserve any part of said Bradford to himself or to make any particular conveyance of any part of said land either to Moses Parker or any other without my consent having before the time that Bradford Commitey purchased their Indian title committed all ye power into ye hands of Joseph Foster abovesaid & Moses Parker to act in his or their behalf neither had he any power of himself without ye approbation of said

¹⁰² These deeds were recorded in the Essex Registry several years later. Perley, *The Indian Land Titles of Essex County*, 110-15; Sidney Perley, *The History of Boxford, Essex County, Massachusetts: From the Earliest Settlement Known to the Present Time: A Period of about Two Hundred and Thirty Years* (Boxford, Mass.: 1880), 135-38; Southern Essex District Registry of Deeds, book 16, 188, book 18, 33, (Salem, Mass.).

¹⁰³ Perley, *The Indian Land Titles of Essex County*, 118-19.

¹⁰⁴ The deed was registered in the Essex Registry in 1702. Southern Essex District Registry of Deeds, book 15, 136 (Salem, Mass.).

Foster to Except Mr. Phillip's farm which he never had for he said Samuel English had by an act under hand & seale acknowledged before major Hinchman that he had committed the whole concern of this matter into ye hands of said Foster and Parker abovesaid.¹⁰⁵

Foster's testimony indicates that he may have had some personal stake in these deed negotiations, although the nature of this financial benefit or his precise relationship with the Pawtucket claimants is unclear. The reference to Major Hinchman indicates that these Pawtucket claimants may have been living under the legal jurisdiction of colonial authorities who monitored their land exchanges. Foster's deposition also suggests that Samuel may have attempted to benefit himself, by independently transacting the second Bradford deed and possibly others, without knowledge or legal consent of his English guardians. The payments he received alone, in this and other deeds, were also often more than in transactions with his kin, perhaps suggesting Samuel's greater legal literacy and savvy in this series of claims.¹⁰⁶

The last Essex County deed negotiated by Masconomet's heirs was for Topsfield, executed by Samuel English alone, in March 1701. Topsfield town selectmen testified that the land fell within the bounds of the original deed to Agawam transacted by Sagamore Masconomet in 1638. However, they agreed to accommodate the Sagamore's heirs, rather than contest the claim, paying just three pounds.¹⁰⁷ Whether or not Topsfield or any of these towns would have disputed these claims if prices demanded were remotely commensurate with the current market value of these vast tracts of lands is questionable.

It is not clear why Samuel was the only signatory to this or other deeds. However,

¹⁰⁵ Southern Essex District Registry of Deeds, book 14, 160, 195 (Salem, Mass.); Perley, *The Indian Land Titles of Essex County*, 120-30.

¹⁰⁶ Mary Ellen Lepionka suggests, "Some of Samuel English's kin may have died in the smallpox outbreak of the late 1690s. If Samuel was acting alone, he was probably protecting the English, Umpee, and Wauches families from risk of infection, in addition to refusing further exploitation by their white "helpers." See Lepionka, "Ancient Prejudice Against "the Indians" Persists in Essex County Today," <https://historicipswich.org/2020/08/06/prejudice-against-indians/>.

¹⁰⁷ Perley, *The Indian Land Titles of Essex County*, 131-34; George Francis Dow, and Topsfield Historical Society, *Town Records of Topsfield, Massachusetts, 1659-1778*, vol. 3 (Topsfield, Mass.: Topsfield Historical Society, 1917): 111.

colonial records reveal that shortly after these negotiations, Joseph English served as an English scout in the third Anglo-Abenaki War. It is significant and sadly ironic that Joseph guided a war party, led by William Tyng (Jonathan Tyng's son who acquired Wannalancet's lands), killing the wife and sister of exiled Pawtucket-Pennacook sagamore Wattanummon, long displaced from his Essex County birthplace, first legally deeded to the English by Joseph's ancestor Masconomet and sold last by Joseph and his kin.¹⁰⁸

As with the quit-claims made in the 1680's, these Essex County deeds served mainly to secure towns' legal title claims against rival European powers and crown interference in the wake of the charter controversy. Perhaps, however, these also served a moral claim of fairness, as Pulsipher, Leavenworth and others have suggested, as a symbolic token gesture of accommodation to these Pawtucket heirs, acknowledging their ancestor as the original proprietor of Agawam/Essex County. They were not, however, successful in gaining adequate compensation, restoring Pawtucket territorial autonomy, use rights or legal status.

In March 1701, shortly after the last deeds were executed between Masconomet's heirs and Essex County townships, one additional Pawtucket-Pennacook deed was transacted, for lands north of the Molodemak, between John Indian and colonists Samuel Simons, John Simons, and Christopher Bartlett, senior and junior. This was witnessed by James and Mary Rumneymarsh of Natick, who affirmed that, " John Indian abovementioned, appearing to be sober and in his right mind, signed, sealed and delivered this instrument..." This alludes to the role of alcohol in prior illicit Native land transfers, which new laws sought to mitigate. This clause was increasingly employed after this period as a safeguard against

¹⁰⁸ George W. Brown, "The Snow Shoe Scouts," in *Manchester Historic Association Collections*, vol. 4, Part 1 (Manchester, N.H.: 1896), 16. Joseph English died shortly after Tyng's raid, guiding the English; Sweeney, and Haefeli, "Wattanummon's World," 218.

Native proprietors who might later contest deeds, claiming they were intoxicated.¹⁰⁹

John Indian's status or kinship with these Pawtucket-Pennacook witnesses is unclear, although he may have been an heir of Papisseconnewa. The deed states that "John Indian of Pennicook in New England huntsman for good and valuable consideration... especially for five pounds in currant silver money paid... a certain tract of land near to Haverhill... being ten miles square lying on ye west of Haverhill bounds..." This attests to ongoing kin networks and hereditary title claims made by northern Pennacook proprietors, who continued to legally negotiate deeds for territories north of the Molodemak, into the 18th century, despite wide scale dispossession and diaspora, illustrating persistence in legal strategy.¹¹⁰

Unlike the other quit-claims executed in this period, between Pawtucket-Pennacook proprietors and long settled Essex County towns, this was for lands which had still not been legally chartered as a settlement on the northern side of the Molodemak. This deed opened the way for legal grants of what eventually became Lawrence, Methuen, and other Essex County towns. Petitions filed previously by settlers seeking to establish a settlement in the same region, on land acquired decades earlier by Jeremiah Belcher for a debt owed by Ned Indian, prior to King Philip's War, also attest to the impact of ongoing conflicts on Pawtucket-Pennacook/Anglo territorial relations and frontier settlements north of the Molodemak, in the years following Pometacomet's resistance.¹¹¹

The same year that these last Native deeds were transacted in Essex County, a new

¹⁰⁹ Kawashima, *Puritan Justice and the Indian*, 61.

¹¹⁰ Norfolk Registry of Deeds, Book 4, 48-49; "Native American Deeds," Southern Essex District Registry of Deeds, <https://saleddeeds.com/NAD/nativeamericandeedsImage.aspx?q=JohnIndianText&t=methuen> (accessed November, 2020).

¹¹¹ A 1694 petition to the court by some of the same colonists and one by Belcher's son in 1711, suggest that initial efforts to begin a town failed due to unrest during the Anglo-Abenaki wars. Belcher and Colonist Petitions for Land, Massachusetts Archives, 1694, 1711, 45: 213, 215-18, 388. See also the Native Northeast Research Collaborative, <https://nativeneastportal.com/digital-heritage/petition-samuel-belcher-newbury-massachusetts-general-court> (accessed 2021).

series of laws was passed regulating Native land sales, bearing a close resemblance to the first laws passed in the early 1630's. Essex County historian Sidney Perley, has noted in his deed research that these legal statutes passed in 1701, made clear that "the greatest force given by the courts to Indian deeds was in treating them as releases or estoppels, relinquishing and not conveying an interest in the soil."¹¹² By the first decade of the eighteenth century, these and most Native deeds served the primary purpose to corroborate colonial and crown land grants and land laws, as they had in the last century. These precluded any remaining Pawtucket-Pennacook legal territorial autonomy, proprietorship, or future claims for Native spaces, within largely colonized places in Massachusetts Bay. The timing of these last Essex County quit-claim deeds also begs the question as to whether these rapid succession legal title claims made by Pawtucket proprietor heirs may have in some way influenced or been influenced by this new legislation, passed the same year.

These new laws made some stipulations to safeguard Natives from unscrupulous prospectors or illicit speculation: "Sundry persons for private lucre have presumed to make purchases of land from the Indians not having any license or approbation...to the injury of the Natives & great disquiet and disturbance of many of ye inhabits of this province in the peaceable possession of their Lands and Inheritances." In addition, retroactive penalties were issued for twice the value of the land or imprisonment of up to six months for any illegal sales which had been made after 1667. However, as in the first laws passed in the 1630's these last ones of the century mainly secured Massachusetts Bay charter grants and title claims, becoming the foundation of colonial land policy for the next century.¹¹³

¹¹² Perley, *The Indian Land Titles of Essex County*, 18.

¹¹³ The laws did not apply east of Piscataqua, Marthas Vineyard or Nantucket, where purchases from Natives were prohibited. See *The Acts and Resolves, Public and Private, of the Province of the Massachusetts Bay: To Which Are Prefixed the Charters of the Province 1* (Wright & Potter, 1869): 471; Kawashima, *Puritan Justice and the Indian*, 53; O'Brien, *Dispossession by Degrees*, 72.

At the time these laws were passed, paradoxical land policies sowed confusion, providing opportunity for large scale speculators to secure title based on exchange with Natives, often coerced into land sales by economic destitution. This further illuminates the inherent contradictions in English attitudes towards Native land rights, essentially an admixture of claims to morality and altruism, representing the ideal of “a city on a hill,” but primarily preserving the economic and legal interests of colonial elites. These laws claimed to protect Natives from being “imposed on and abused” but mostly shielded colonists from Native title claims, causing “disturbance” of “lands and inheritances lawfully acquired.”¹¹⁴

New laws also voided prior Native deeds transacted without court permission retroactively to 1634, when the original set of similar policies regulating Native/Anglo land exchange was passed by the court. Like those first land laws passed in 1634, these last ones provided limited recourse for Pawtucket-Pennacook seeking land rights or retroactive compensation. Primarily, like earlier laws, they served the interests of the crown and colony, justifying and reifying a hierarchy of legal land title, emanating first from the crown, then the colonial charter which made grants to towns, and in turn to colonists. Like those passed in 1634, these laws prohibited any independent land negotiations or deeds transacted by Native and Anglo proprietors, ensuring the legal dominance of Massachusetts Bay Colony. Furthermore, these laws safeguarded land holdings of English proprietors and large scale speculators whose previous titles were secured against any new claims by Native proprietors or threats by rival foreign powers. These laws, like those passed before, failed to protect Pawtucket-Pennacook lands from being legally seized by towns by eminent domain or right of conquest and granted to settlers without compensation or sold by Native proprietors under

¹¹⁴ Ian Saxine points to the failure of these laws to achieve the colony’s dual goals of orderly title allocation and settlement, while maintaining independence from the crown on the northern frontier. See, Saxine, *Properties of Empire*, 42-43.

economic duress, for pennies on the dollar, a primary process of legal dispossession.¹¹⁵

In 1721, Newbury Minister Christopher Toppan wrote to Boston Judge Samuel Sewall, speaking poignantly to Pawtucket displacement. He claimed that Natives have “as full and firm a right to their lands, as any which men have to theirs...” Toppan argued not only for Native legal rights, but suggested that some land should be returned, “The Indians should have convenient lands allowed for themselves and posterity...in case it be found that the Indians formerly disposes of so much of their land as they have not left lands convenient for themselves, that then so much as may be thought proper, of what was purchased of them should be relinquished to them again.”¹¹⁶ This letter sums up the ultimate inability of Pawtucket-Pennacook strategic accommodation, hybrid land exchange and litigation, to prevent legal dispossession and eventual diaspora from Essex County, resulting in permanent relations of uncommon ground with the English.

After the turn of the eighteenth century, the Pawtucket-Pennacook dispersed throughout and beyond Massachusetts Bay Colony, largely marginalized by English land encroachment, speculation, assimilation policies and laws. While Pawtucket-Pennacook strategies of accommodation and litigation ultimately failed to preserve land rights, many survived violent displacement and legal dispossession of their traditional homelands through mobilization, enabling them to maintain a degree of cultural and territorial autonomy, persisting through alliance with the English, French and Pennacook Confederacy on the northern frontier. Some also adopted English names, living as “settlement Indians,” in

¹¹⁵ Pulsipher, *Swindler Sachem*, 249.

¹¹⁶ Samuel Sewall was one of MA Bay Colony’s most influential puritan magistrates of Boston. Sewall’s father Henry, was engaged in land disputes and litigation with a Pawtucket family of Old Will in Newbury. An original copy of this letter is held by the PEM Phillips Library, in Rowley, Mass. Joshua Coffin Papers, MSS 457, Phillips Library, Peabody Essex Museum, Salem, Mass; Toppan’s letter also cited in Coffin, *A Sketch of the History of Newbury, Newburyport, and West Newbury*; “Joshua Coffin Papers,” *Essex Institute Historical Collections* 35 (Salem, Mass: Essex Institute, 1899): 141-44, <https://hdl.handle.net/2027/osu.32435069736452?urlappend=%3Bseq=528>.

Massachusetts. Native servants were still listed in eighteenth century Essex County household probate inventories. In 1723, Newbury Vital records note the marriage of Pegge, an “Indian servant.”¹¹⁷ Others remained in or near praying towns (as long as they existed), attempting to retain land rights and kin connections. Many migrated to French missions or Native villages in New England, New York, and Canada, including Odonak in Quebec.¹¹⁸

¹¹⁷ In a 1715 Rowley inventory, Hagar is listed as an “Indian Maid” in “Early Records of Rowley, Mass.,” *Essex Institute Historical Collections* 34, (Salem, Mass., Essex Institute, 1899): 89; For marriage records see “Vital Records of Newbury, Massachusetts, to the End of the Year 1849,” *Vital Records of the Towns of Massachusetts*, vol. 2 (Salem, Mass.: Essex Institute, 1911): 530.

¹¹⁸ The praying town Natick lasted until the late eighteenth century. O’Brien, *Dispossession by Degrees*; Gordon M. Day and Canadian Ethnology Service, *The Identity of the Saint Francis Indians* (National Museums of Canada, 1981); Colin G. Calloway, *After King Philip’s War: Presence and Persistence in Indian New England* (Hanover, NH: University Press of New England), 1997, 5-10.

CHAPTER 5

EPILOGUE- COMMEMORATING PAWTUCKET-PENNACOOK PERSISTENCE, HISTORICAL, AND LEGAL RECOGNITION

Jean O'Brien and others remind us that by the nineteenth and early twentieth centuries, historians interpreted the already biased colonial record, through the lens of their own cultural perspective and historical period, which sentimentally lamented the vanishing Indian. This led to "firsting and lasting," erasing Indigenous peoples from history through narratives of the last Indians being replaced by first settlers, who were divinely destined to inherit the land. What O'Brien calls "the rhetoric of Indian declension and inevitable extinction," also influenced legal assimilation and termination policies, which misrepresented changing Native identity "...and reinforced ideas about Indian societies as rigidly bounded and Indian cultures as static and fixed in the past."¹

While the Pawtucket are no longer a self-identifying or recognized group, this does not mean they have vanished. A deeper look at documentary sources, ethnohistorical and archaeological records, as well as contemporary Indigenous groups throughout the northeast reveals, however, that the Pawtucket-Pennacook did not disappear, but adapted and persisted, throughout Native spaces and colonized places in and beyond Massachusetts Bay, despite

¹ Jean M. O'Brien, *Firsting and Lasting Writing Indians out of Existence in New England* (Minneapolis: University of Minnesota Press, 2010). Jean M. O'Brien, *Dispossession by Degrees: Indian Land and Identity in Natick, Massachusetts, 1650-1790* (New York: Cambridge University Press, 1997), 215; Colin G. Calloway, *After King Philip's War: Presence and Persistence in Indian New England* (Hanover, NH: University Press of New England, 1997), 4-5.

great odds. According to O'Brien, "survival into the present, not extinction in the remote and distant past is the appropriate narrative" for understanding New England Native peoples.²

Today, many Pawtucket-Pennacook descendants reside throughout their vast Ckuwaponahkik ancestral homelands. Amongst these are the Abenaki Nation at Missisiquoi, the Koasek Band of the Koas Abenaki Nation, Elnu and Nulhegan Tribes, are recognized by the state of Vermont.³ The New Hampshire Cowasuck band of the Pennacook Abenaki, however, like many New England groups are not state or federally legally recognized.

Cowasuck leaders, Paul and Denise Pouliot, speak publicly about their ongoing litigation strategies to regain land and legal recognition.⁴ The Cowasuck official "goals statement," counters erasure narratives, by asserting their past and present survivance:

There is a growing effort to bring back into focus and to correct many misconceptions about the relationship of Native People, such as us, and the founding of the United States. We were not all killed off by disease or warfare and did not disappear with the colonization of this country. Many of us became the individual fibers of the weave that made the cloth of the United States and Canada. We are among you, working beside you in all walks of life. Unless we told you who we were, you would probably never know us.⁵

The Cowasuck also address one of the greatest challenges facing them and other New England Native groups- the legal burden of proving their identity and lineal descent:

Any other ethnic or religious group in the world need only to declare their existence. Only the American Indian is required to document genealogy to the beginning of time and blood quantum to show how much real "**Indian**" they are. The United States has divided us between those that they acknowledge versus those they do not. This polarizes Native People to compete and work against one another in many ways."⁶

² O'Brien, *Dispossession by Degrees*, 4.

³ "State Recognized Tribes," Vermont Commission on Native American Affairs, accessed April 2021, <https://vcnaa.vermont.gov/recognition/recognized-tribes>.

⁴ "Indigenous Stories," January 14, 2020, Portsmouth New Hampshire Public Library Program.

⁵ "Goals Statement," Cowasuck Band of the Pennacook, accessed February 28, 2021, <http://cowasuck.org/statement.html>.

⁶ "Goals Statement," Cowasuck Band of the Pennacook, accessed February 28, 2021, <http://cowasuck.org/statement.html>.

This speaks poignantly to the historical legacy of assimilation and termination policies, division, and displacement, wrought by settler colonialism, which continues to disenfranchise Native Peoples to this day. The Cowasuck Pennacook people, are not a relic of the past, but look towards the future, working to reclaim their cultural identity, assert their rights to live in their ancestral homelands and seek legal recognition, through diplomacy, strategic accommodation, and litigation, much as their ancestors did.

What we seek is an unconditional acknowledgement of our continuing existence with no monetary, land or gambling commitments by the government. We are seeking federal acknowledgement with the Interior Department Bureau of Indian Affairs. We are requesting a favorable recognition from the Commonwealth of Massachusetts, New Hampshire and other New England states as we once were a party to in the 1700's. We have no desire for gambling. There already is too much gambling- a vice that really profits only a few. What we do want is to preserve our culture, our language, our traditions, and family social customs and our way of life. Our longer term goals are to purchase land and facilities to establish an Indian community and economic base. We want to practice our spiritual heritage and religion in freedom as many other cultures do in this country. In return- all we ask is that you acknowledge that we exist, we are not some footnote in a history book that says the Abenaki were an extinct Native American Indian group from the past-we are alive and well among you.⁷

While the Cowasuck Pennacook work towards federal recognition, the state recognized Massachusett Tribe at Ponkapoag proudly claim ancestral kinship ties to Squaw Sachem, Sagamores Nanepashemet, Kitchemekin and other leaders who forged some of the earliest land exchanges and legal relations with colonists in seventeenth century Essex County and Massachusetts Bay villages, including Naumkeag, Nahant, Cochickawick, Saugus, Wamesit and other regions. This group has persisted, proclaiming:

We are the descendants of the Neponset band of the Massachusett who were at the time of the English Invasion of our territory early in the 17th century led by the Great Sac'hem, Chickataubut. Ours is the indigenous nation from whom the present day Commonwealth of Massachusetts took its

⁷ "Goals Statement," Cowasuck Band of the Pennacook, accessed February 28, 2021, <http://cowasuck.org/statement.html>.

name. We continue to survive as Massachusetts people because we have retained the oral tradition of storytelling just as our ancestors did.⁸

Ponkapoag members are actively engaged in statewide legal initiatives to bring greater public awareness to the complex history of relations with the Commonwealth of Massachusetts. Elizabeth Solomon was recently appointed to the Commission on Indian Affairs committee to revise the state seal, which depicts a false historical image of Massachusetts Natives peoples as dependents.⁹ Solomon and other Ponkapoag members also offer public history programs, including boat tours of Deer Island, where many of their Massachusetts ancestors and Pawtucket kin were forcibly interred by Massachusetts colonial authorities, during Pometacomet's Resistance, enduring grave suffering, and death.

In addition to the Ponkapoag, there are living descendants of Sagamore Masconomet, with the surname Tyler living on Martha's Vineyard and elsewhere today.¹⁰ The spirit of the Pawtucket of Agawam/Essex County lives on in public memorials, pan-Native associations, and gatherings, celebrating cultural survivance, honoring ancestors and homelands. This includes the advocacy work of the Massachusetts Center for Native American Awareness.¹¹

Perhaps the most monumental reminder of Pawtucket/Anglo relations and land exchange in Essex County is the gravesite of Masconomet, atop the recently renamed and reclaimed, *Sagamore Hill*, in Hamilton (formerly *Winthrop Hill*, Ipswich) Massachusetts. This memorial, in the center of a wooded clearing, must be reached by foot, as it shares land

⁸ Originally occupying Neponset, Ponkapoag was the second praying town established by John Eliot in Massachusetts. "The History of the Neponset Band of the Indigenous Massachusetts Tribe," The Massachusetts Tribe at Ponkapoag, accessed April 2021, <http://massachusettstribe.org/the-history-of-the-neponset>.

⁹ "Congratulations to Massachusetts Tribal Council member Elizabeth Dancing Waters Solomon and the newly formed Massachusetts state seal commission," Tribal News, The Massachusetts Tribe at Ponkapoag accessed April, 2021, <http://massachusettstribe.org/congratulations-to-massachusetts-tribal-council-member-elizabeth-dancing-waters-solomon-and-the-newly-formed-massachusetts-state-seal-commission>.

¹⁰ Mary Ellen Lepionka, "Who were the Agawam Indians anyway?" Historic Ipswich, 2014, accessed January 15, 2020, <https://historicipswich.org/2019/10/07/who-were-the-agawam-indians-really/>.

¹¹ "Protecting and Preserving Native American Culture, Traditions and Spirituality," Massachusetts Center for Native American Awareness, accessed April 2021, <https://www.mcnaa.org/mission-history-work>.

with the U.S. Air Force, making it a little known, but well-protected Native space and long colonized resting place of the last known Pawtucket Sagamore (and his wife), who occupied these Agawam/Essex County lands. This public historical site of pilgrimage and its government owned surroundings, serve as a material reminder and mediation between the complex history of Native/Anglo land relations and ongoing processes of settler colonialism.

Monuments have multiple cultural meanings and heritage representations for Natives and non-Native people.¹² At this site, we may remember and reflect on Masconomet's legacy of diplomacy and accommodation of early seventeenth century English settlers, through cross-cultural land sharing and practices, which forged a middle ground. The present tranquility of this memorial, however, belies the harsh impacts of colonization in Agawam, symbolizing displacement, and dispossession of the Pawtucket. This marker stands as a silent testament to a contentious and complex legacy of Pawtucket/Anglo political, economic, legal, and cultural entanglements, eventually resulting in relations of uncommon ground.

The first known memorial stone marker was placed on *Sagamore Hill* in 1910, inscribed: "Musconomet Sagamore of the Agawams died 1658. Erected on the traditional site of the grave by heirs of W.H. Kinsman and J.F. Patch Le Baron 1910."¹³ Genealogical

¹² Lisa Blee and Jean M. O'Brien, *Monumental Mobility: The Memory Work of Massasoit* (Chapel Hill: University of North Carolina Press, 2019), 12. O'Brien and Blee illustrate how English naming practices were antithetical to Native understandings of marking place and served settler colonialism in erasing indigenous geographic meaning and people from the land. Masconomet's final resting place was named for a colonial official, further evidencing extinction narratives.

¹³ Inquiries made to the Ipswich Museum, Topsfield Historical Society, library archives, local historians and Native groups has turned up limited information on these monuments. According to Essex County anthropologist and historian Mary Ellen Lepionka, there is genealogical evidence that Kinsman and Patch are connected to known surnames of intermarried Pawtucket and English families. The Kinsman's arrived in Ipswich in 1637, and W.H. Kinsman was a Civil war hero. The Patches were also early colonial settlers and intermarried with the Le Barons and Kinsmans. Personal Communication to the author, 2019; 1874 "Indian Villages" Map and letter J. Francis LeBaron, courtesy of Beddall, Thomas. Of note is that J Francis LeBaron, a civil and railroad engineer, conducted one of the earliest surveys and excavations of Agawam which resulted in the creation of an 1874 "Archaeological Map of Castle Neck and Vicinity," showing "Ancient Indian Villages and Remains." This rare and unpublished map was presented by LeBaron to the Peabody Academy of Science "gratuitously," according to an unpublished letter written by LeBaron 9/16/1907 to Rev. Frank T Waters. In this letter LeBaron describes the map and survey which identified "Indian villages, wigwams and other archaeological remains that have been plowed up or discovered in other ways." The letter explains that the Bureau of Ethnology of the U.S. Geological Survey requested a paper on these "Indian antiquities" to accompany the map. This was not completed.

records suggest that the memorial donors may have descended from intermarried Pawtucket and English families, helping to explain a possible motive for publicly memorializing their Indigenous heritage and kinship with Masconomet. Like the donors' identities, the first humble marker was forgotten, and hidden by weeds until the 1950s.¹⁴

The gravesite, long on private land, was donated to the town in 1968, which allocated few resources to its upkeep or public recognition. On Thanksgiving 1971 the first known memorial service for Masconomet was held by a Disabled Veterans group. The mythic Thanksgiving narrative and benign story of Masconomet as an English friend, however, neglects the darker history of disease, violent displacement, legal dispossession, and cultural genocide by English colonists against the Pawtucket. This troubling legacy, along with the fact that Masconomet died in poverty here as a town ward after relinquishing all his land, and that his remains were desecrated by locals, was likely downplayed in this commemoration.¹⁵

In the 1990s a granite boulder (six feet tall) was placed in a small clearing, inscribed: "Traditional Gravesite- Indians of Agawam Masconomet Sagamore of the Agawams- Died March 6, 1658." This inscription perpetuates erroneous history (Agawam is a place not a group). During this time regional Native groups began to break the long silence and false narratives, by actively reclaiming, maintaining, and commemorating Masconomet's grave. In 1993, OeeTash, Chief of the Ponkapoag People, consecrated the site. The same year, a Christian service was held by Rev. Fr. Louis Bourgeois of St. Paul's Church.¹⁶ That these

¹⁴ A 1966 photo and local newspaper article, now in the MA Digital Commonwealth Archives, shows Daley kneeling down to "read the faded inscription." Local boy scouts and Hamilton Historical society curator H.A. Daley "rediscovered" the stone. "Masconomet's grave site, stone marker as of 1966, Sagamore Hill," MA Collections Online, Digital Commonwealth, accessed 2020, <https://www.digitalcommonwealth.org/search/commonwealth:0r96gt468>.

¹⁵ The same year of this Thanksgiving memorial Wampanoag and other Massachusetts groups commemorated the first annual "day of mourning, remembering a contentious history of colonization. Blee, and O'Brien, *Monumental Mobility*, 202.

¹⁶ Jack Hauck, "History of Sagamore Masconomet," In *Treasures of Hamilton History*, 2015, Hamilton Wenham Public Library, accessed January 2019, <https://hwlibrary.org/wp-content/uploads/2015/11/11-Masconomet.pdf>.

historically binary religious traditions honored this leader, suggests syncretic practices, past and present. Masconomet and many Pawtucket adopted Christianity as a survivance strategy, means of accommodation, political subversion, community cohesion and cross-cultural alliance. Many descendant groups practice Native and Christian spiritual traditions today.

2008 marked the 350th anniversary of Masconomet's death, commemorated by the Mass. Archaeological Society in a public event atop *Sagamore Hill*.¹⁷ The late archaeologist Glenn Mairo addressed several dozen assembled near the site of the sagamore, and his wife's remains, the exact location of which cannot be verified. Mairo claimed that it is not clear that Masconomet fully adhered to Christianity. He described the plagues and attacks by rival groups which led him to ally with the English, sell Pawtucket land and take an oath to Massachusetts. Mairo emphasized mutual accommodation between this sagamore and colonial leaders, as well as the deleterious impacts of colonization, which led Masconomet to relinquish his land. He also recounted the heinous disinterment of the sagamore's remains in the seventeenth century. While this event lacked overt Native leadership or perspective, it was an important public recognition of Masconomet, the Pawtucket and the contested historical legacy of anthropology and settler colonialism in Agawam/Essex County.

The year after this acknowledgment of Masconomet's resting place, human remains identified as belonging to an "Agawam" tribal member were interred near the sagamore's grave. Tom Catalano of the Hamilton Historical Commission, which has jurisdiction over the site stated, "We on the commission were proud to have these remains put into the ground on Sagamore Hill."¹⁸ Bruce Curliss of Ipswich, a Nipmuc scholar and tribal leader, unofficially

¹⁷ Wendell Waters, "Chief Masconomet Lasting Presence in a Changed World," *Wicked Local*, September 9, 2008, <https://www.wickedlocal.com/article/20080918/News/309189233>.

¹⁸ These remains were unearthed in the 1980s by a Native American municipal worker during a construction project in Ipswich and given to the Micmac tribe who safeguarded them. After being identified by experts at the Peabody Essex

representing the Commission on Indian Affairs, said: “You want them closest to where they actually came from. People feel connected to the place that they lived, worked, hunted, whatever the case may be...The key to us, in thinking about this, was to get it into a place that's protected, and that these remains will not be disturbed again.” Curliss has dedicated his career to serving Native communities and educating the public about Indigenous survival, providing an important voice and perspective on the significance of repatriation and preservation of place. Curliss describes historical misinformation and silences surrounding Masconomet and the Pawtucket of Agawam as: “indigenous invisibility...It's the idea that although the presence of native names and native areas is recognized, nobody quite understands what that means. It's just a name, not connected to anything.”¹⁹

This reburial alludes to NAGPRA legislation, legally recognizing select groups who seek to repatriate ancestral remains and sacred objects. However Masconomet’s grave site is not subject to NAGPRA, as the Pawtucket are not federally recognized, speaking to ongoing legal inequities faced by Native peoples in their efforts to reclaim cultural identity and authority over their past. Curliss defines the ongoing denial of Native presence in terms of the damaging concept of “authenticity,” used as a term of power, to “devalue, humiliate and degrade people, communities and lifeways and even to conquer or extinguish cultures.” His experience working with the Massachusetts Commission on Indian Affairs, informs his claim that cultural authenticity is still used as a tool of legal dispossession and political power over Native groups.²⁰ After centuries of theft and desecration of graves, including Masconomet’s,

Museum, it was decided to repatriate them through the Wampanoags, a federally recognized tribe. David Rattigan, “Centuries later, Native American to be buried with tribe,” *Boston Globe North*, January 1, 2009.

¹⁹ Rattigan, “Centuries later, Native American to be buried with tribe.” Curliss also served as outreach project director for the We Shall Remain PBS project.

²⁰ Bruce Curliss, “Authentic, Power and Stuck in My Craw,” in *Dawnland Voices: An Anthology of Indigenous Writing From New England*, ed. Senier, Siobhan (University of Nebraska Press, 2014), 412.

repatriation has begun to heal past wounds. This reinterment by Native peoples and the town, symbolizes a new era of cross-cultural reciprocity, in an ongoing quest for common ground.

The year of this repatriation, Native groups gathered in Ipswich to celebrate Masconomet and Indigenous people living in the Agawam/Essex County region today. Masconomet's gravesite is now cooperatively stewarded by the town, Essex County Greenbelt, Native groups, and individuals including the late Anne Springer, of Ipswich, who was "horrified" by the trash she saw on the site when she first visited. After becoming a volunteer caretaker she learned that others were doing the same. When asked why she did this she replied, "Because we have lost so much, and we have lost him...So little remains except the stories and this place." According to Springer, "Native American people and their descendants are still here... We have an opportunity to teach people."²¹ Another caretaker was the late Will Maker, a local firefighter. These Indigenous individuals and groups are a living presence, exemplifying Indigenous survival and stewardship of the past in the present.

Following the repatriation and pan-Native celebration, the town also erected another small stone marker on *Sagamore Hill*, with a plaque reading: "This gravesite provides the public an awareness of a long ago people, an interest in Native American ways and displays the historical significance of the Agawams, giving our children and generations to come, a place to think and reflect in perfect harmony in a natural setting." While seemingly innocuous, this speaks to how people continue to mis/understand and mis/remember the Pawtucket. The phrase "a long ago people" harkens to Victorian nostalgia, lamenting that the once noble Indians had vanished. The incorrect usage of *Agawam* as a group, rather than a Pawtucket place name also persists, limiting the monument's efficacy in conveying historical

²¹ Bonnie Hurd Smith, "Masconomet, Sagamore of Agawam," *North Shore Life Magazine*, 2008.

and cultural accuracy. While likely intended as a respectful remembrance, this inscription echoes O'Brien's "firsting and lasting," by misrepresenting the Pawtucket past and continuing to displace their descendants from the landscape, replacing them with non-Indigenous occupants. If we imagine this site to truly be a place where future generations come to "think and reflect in perfect harmony in a natural setting," we need to critically and reflexively consider how we understand and this memorial and interpret the history of this culturally contested space of competing perspectives and conflicting narratives in the present.

The latest signage, a wood plaque erected by a regional Native group, counters historical inaccuracies and misrepresentation, giving voice to a Native perspective:

Here is the gravesite of Masconomet, Quinakonant, Sagamore of Agawam. As such it is a place of deep spirituality and honor to Native peoples. Only offerings that are traditionally native in manner should be placed here. Nothing should be taken from here, except by the caretakers. Traditional Native offerings are hand-made from Natural materials. Examples include tobacco, sweetgrass, sage, feathers, shells, bone, stone, wood, vines, and prayer bundles or pouches. The giver offers them with the deepest respect. Offerings that do not meet these criteria may be discarded. Offerings of money will be collected to support Agawam Native programs. Thank you and be at peace here.

This narrative speaks of change and continuity in Native cultural practices. It tells us Masconomet's given and honorific names, and that Agawam is a place not a tribe. It also establishes a Native code of conduct for all visitors and claims authority and stewardship of the site. Perhaps most importantly, it affirms persistence and survivance of an active pan-Indigenous community, who serve as contemporary memory keepers in Native spaces, now being reclaimed from historically colonized places, in and beyond Agawam/Essex County.

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FIGURES

Masconomet's Further Release of the Territory of Agawam, 1638. Winthrop Family Papers. MSS 413, box 1, folder 16. Courtesy of Phillips Library Peabody Essex Museum, Rowley, Mass.

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