The Passamaquoddies and the State

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The Passamaquoddies and Penobscots, in what is now Maine, were assiduously courted during the Revolutionary War by agents of the emergent United States. But, after the Treaty of Paris was signed in 1783, they were no longer a critical military variable; and the federal government took no further notice of them. Indian affairs in the northeast was left by default to Massachusetts, which negotiated separate treaties with these two tribes, divesting them of nearly all of their remaining real estate.

In 1820 Maine and Massachusetts separated, and Maine became a state. The Articles of Separation provided that Maine would assume Massachusetts’s treaty obligations to the Indians. For the next 107 years Maine Indian Affairs were handled by agents appointed by the Governor and Council. These agents were paid by the state and were accountable only to the state; but it must be said that at least some of them were aggressive advocates of their disempowered and chronically impoverished Indian “wards” and did what they could to mitigate their hardships and support their efforts to maintain some social and cultural continuity. George W. Nutt, for example, the agent to the Passamaquoddies in 1860, wrote in his report to the “Honorable Governor and Council” that the school at Pleasant Point was run by the “School Committee of Perry,” the nearby town. “I think it would be much better,” he said,

to employ teachers who are acquainted with the manners and customs of the Indians, and would make rules for the government of the schools to which the scholars could easily conform, for it is quite impossible to adopt our common school system with them at present (Nutt 1860).

Another passage in Nutt’s 1860 report suggests that his concern for hapless Indians was shared by at least some other White people in the area. Seventeen Passamaquoddies at Magaguadavic, across the border in New Brunswick, contracted smallpox during the winter and two died. “The people of Magaguadavic,” Nutt wrote,

deserve great thanks for their exceeding kindness manifested to those poor, unfortunate creatures; they not only furnished them with fifty or sixty dollars worth of provisions, but on their recovery, the doctor cleansed them two or three times, and the inhabitants furnished them
with new suits as often, showing that spirit of love to the creatures of Almighty God that we all should feel (Nutt 1860).

Another agent to the Passamaquoddies, C.H. Porter, included in his 1881 annual report a radical proposal to compensate them for the state’s annexation of their treaty land. The remainder of the peninsula, on which the Pleasant Point Reservation is located, he said, can all, or nearly all, be bought at a fair price; and I would recommend that an appropriation of fifteen hundred dollars ($1,500.00) be made and a commission be appointed to purchase the aforesaid land .... This would, I consider, be an act of simple justice to the Indians, as an equivalent to the leasing for a term of nine hundred and ninety-nine years ... of part of the Indian Township by the whites, now being carried on agreeable to an act of the legislature in 1879 (C.H. Porter 1881).

Porter’s 1886 report indicates that the Pleasant Point Passamaquoddies, their priest, and the Indian Agent were all working harmoniously that year on a joint project. “From the contingent fund,” Porter wrote, I expended $50.00 in shingles for the church at Pleasant Point. The labor of shingling was done by the Indians. During the year the Rev. Father O’Dowd, with his usual untiring industry, has collected a basket each week from every family at Pleasant Point, taken them to Bar Harbor and sold them, and with the proceeds, together with the whole amount of his salary from the State ($100.00), has put new stained glass windows in the church at Pleasant Point, a noble example of zeal and self sacrifice (C.H. Porter 1886).

In this same 1886 report Porter makes an impassioned but carefully researched case for the inequity of applying the State’s game laws to the Passamaquoddies: “I have not felt authorized,” he wrote, to expend the funds entrusted to me, in defending Indians who violate the State Game Laws, and yet there are, I think, strong arguments both in law and equity against the punishment of Indians for the violation of such laws (C.H. Porter 1886).

The right to hunt and fish was expressly reserved to the Indians in their treaty with Massachusetts of 1725, Porter wrote, was never abrogated by any subsequent treaty, and was always exercised prior to the enactment of the Maine game laws. The Passamaquoddies never received compensation for the loss of this right, guaranteed to them by the 1725 treaty, the obligations of which Maine assumed in the Articles of Separation. “What the state gains without compensating the Indians for their loss,” Porter wrote, “is sheer robbery. It is the adoption by the State of Maine of the rule that might makes right.”
Porter went on to recount the numerous instances in which the state, without the consent of, or notification to, the Indians, confiscated Passamaquoddy treaty land, or stripped it of its timber, or leased it for 199 years.

Then he wrote the following passage, which was replicated a few months later in a speech to the legislature delivered on March 8, 1887 by Louis Mitchell, the Passamaquoddy representative (without vote) to the Maine Legislature. "This great state," wrote Porter to the Governor and Council, and said Mitchell to the Legislature, with its increasing population, its riches, its homes of wealth and refinement, its vast capital seeking investments in every western state, cannot afford to be unjust to a few friendless and helpless Indians, nor would it have been so had the facts been generally known, but the records show the facts to be as I have stated (CH. Porter 1886, Mitchell 1887).

That this passage from Porter's report found its way into Mitchell's speech to the Legislature suggests that Agent Porter and the tribal leaders were working closely together in 1886-'87. Their efforts came to nothing, however; and in 1892 the Maine State Supreme Court found in the case of State vs. Newell that

Though these Indians are still spoken of as the "Passamaquoddy Tribe", and perhaps consider themselves a tribe, they have for many years been without a tribal organization in any political sense. They cannot make war or peace, cannot make treaties; cannot make laws; cannot punish crime; cannot administer even civil justice among themselves .... They are as completely subject to the State as any other inhabitants can be ...(O'Toole and Tureen 1971:17).

The responsibility for Maine Indians was reassigned to the Department of Forestry in 1927. In 1933 it was given to the Department of Health and Welfare; and the activities of the agents came to be limited largely to dispensing medical supplies and groceries to Indian paupers in the form of vouchers redeemable at specified stores.

In 1965, when I evaluated two Headstart programs, each of which served both Passamaquoddy and White children, I talked with the Commissioner of Health and Welfare and with his agent to the Passamaquoddies. Both were of the opinion that nearly all Passamaquoddies were inherently unreliable and lazy and many or most were alcoholic, promiscuous, and so socially and politically disorganized as to be incapable of managing their own affairs. Moreover, they were almost entirely deculturated (Walker n.d.). These same opinions were attributed to state officials in a number of newspaper articles in the 1960s (E.F. Porter 1964; Will-
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The state's only solution was to encourage the Indians to move off the reservations and join the dominant society. The Health and Welfare agent to the Passamaquoddies in 1967 was merely echoing the conventional wisdom when he said, "They're like rats in a barrel as long as they're out there on the reservations, living on welfare" (Williamson 1967).

The officials I met in 1965 were not receptive to the notion that the behavioral patterns they disparaged might be, in part at least, a consequence of living in isolated enclaves on the dole for over 100 years. Nor did they seem to have any inkling that Passamaquoddy behavior might be governed by a set of values associated with a distinctive Passamaquoddy culture. Rather than lazy deadbeats, those who could not conform to a 40-hour week might have been versatile opportunists like their hunter ancestors. It is not clear that they consumed more alcohol than Whites, only that they did so more openly and unabashedly. As to promiscuity, the agents were, of course, unaware of the continued viability of Passamaquoddy lineage exogamy (Stevens 1978:320).

A booklet published by the State of Maine in 1966, Facts About Maine, contains statements consistent with the views expressed by Health and Welfare officials. It tells us, for example, that "The Abnaki language, when compared to modern tongues, was a limited and awkward method of talking" (Anonymous 1966:48-51).

In 1957 an elderly, illiterate, and virtually monolingual Passamaquoddy woman showed John Stevens, a Korean War veteran who was the elected "governor," or sakom, at Indian Township, some old papers with writing on them in a cardboard box, the archives, if you will, of a largely illiterate tribe (McLaughlin 1977:71-2). One of these papers was the Treaty of 1794, that specified the tracts of land and other prerogatives reserved to the Passamaquoddies in that year by duly authorized representatives of the Commonwealth of Massachusetts. Since the treaty was concluded after passage of the Non-Intercourse Act, an act of the 1st Congress of the United States that forbade all transfers of real estate by Indians to Whites unless ratified by Congress, a federal court found, in January, 1975, that the Treaty of 1794 was null and void. This decision was upheld by the U.S. Court of Appeals in Boston in December of the same year. The frayed, eighteenth-century document could not serve as the basis, either for continued White possession of aboriginal land or for an Indian claim to alienated land. But this antique document representing
the compact entered into by Massachusetts and later subscribed to by Maine was of inestimable value in changing the Passamaquoddies’ relationships with everyone else. With the discovery of this document the Passamaquoddies got something with which they could persuade a lawyer to take their case. This gave them detailed information about their supposed treaty rights and the exact particulars on the illegally alienated lands, so they gradually became more and more aware of precisely what had been done over time to them as a corporate group. This is evident in a careful assessment of the role of State Indian Agents written by Passamaquoddies and published by the Passamaquoddy-Maliseet Bilingual Program in the late 1970s (Anonymous n.d.:13-15). Awareness of past and continuing abuses engendered a new sense of unity that was clearly evident by 1964, when Indians were arrested for standing on treaty land to block the expansion of a White-owned motel, in 1968, when they brought Georgia Pacific Corporation’s logging operations on Indian Township to a halt by sharing beer and baloney sandwiches with the loggers, and in 1969, when they set up a roadblock and, for a brief period, exacted tolls on the portion of U.S. Route 1 that had been built on treaty land without the consent of, or compensation to, the Passamaquoddies.

The magical piece of paper had other consequences. Joint meetings of the governors and councils of the two reservation communities occurred with increasing frequency; and tribal leaders became increasingly sophisticated in their use of the media, the courts, federal War-on-Poverty programs, and such activist organizations as the American Friends Service Committee, the Civil Rights Commission, and the Indian Services Bureau of the Catholic Archdiocese of Portland. All this led ultimately to the Maine Indian Land Claims Settlement Act of 1980 that provided the Passamaquoddies, Penobscots, and Houlton Maliseets $81.5 million, two thirds of which was specifically for land acquisition. The Passamaquoddies and Penobscots also received federal recognition and improved relationships with the state.

John Stevens, the Governor at Indian Township for over 30 years and a key player in the Settlement 20 years ago, now regrets the Settlement for the compromises it entailed. But the Settlement did accomplish one thing, he said in a recent interview. “It gave Maine’s Indians the confidence and determination to fight for what they believe...” (Scruggs 2000). He might have said the same thing of that paper in the cardboard box. The Passamaquoddies don’t always disperse and withdraw now
when confronted by the state. Sometimes they present a united front to their adversary and assert their perceived corporate interests, like vociferous White folks. It's a kind of acculturation, I guess; but a kind that emphatically does not involve assimilation.

REFERENCES


L’illustration de la couverture représente une des «marques» apposées à la «Ratification de la Paix» de Montréal. 1701 (fo. 43v de la copie contemporaine, Archives Nationales de France).