

BOUNDING THE LAND

To take advantage of their land's diversity, Indian villages had to be mobile. This was not difficult as long as a family owned nothing that could not be either stored or transported on a man's or—more probably—a woman's back. Clothing, baskets, fishing equipment, a few tools, mats for wigwams, some corn, beans, and smoked meat: these constituted most of the possessions that individual Indian families maintained during their seasonal migrations. Even in southern New England, where agriculture created larger accumulations of food than existed among the hunter-gatherer peoples of the north, much of the harvest was stored in underground pits to await later visits and was not transported in large quantities. The need for diversity and mobility led New England Indians to avoid acquiring much surplus property, confident as they were that their mobility and skill would supply any need that arose.

This, then, was a solution to the riddle Thomas Morton had posed his European readers. If English visitors to New England thought it a paradox that Indians seemed to live like paupers in a landscape of great natural wealth, then the problem lay with

English eyesight rather than with any real Indian poverty. To those who compared Massachusetts Indians to English beggars, Morton replied, "If our beggars of England should, with so much ease as they, furnish themselves with foode at all seasons, there would not be so many starved in the streets." Indians only *seemed* impoverished, since they were in fact "supplied with all manner of needefull things, for the maintenance of life and lifelyhood." Indeed, said Morton, the leisurely abundance of Indian life suggested that there might be something wrong with *European* notions of wealth: perhaps the English did not know true riches when they saw them. In a passage undoubtedly intended to infuriate his Puritan persecutors, Morton counterposed to the riddle of Indian poverty a riddle of Indian wealth: "Now since it is but foode and rayment that men that live needeth (though not all alike,) why should not the Natives of New England be sayd to live richly, having no want of either?"

Why not indeed? It was not a question that sat well with the New England Puritans, who had banished Morton for just such irreverence (not to mention his rival trade with the Indians). Criticism of Indian ways of life was a near-constant element in early colonial writing, and in that criticism we may discover much about how colonists believed land should be used. "The *Indians*," wrote Francis Higginson, "are not able to make use of the one fourth part of the Land, neither have they any settled places, as Townes to dwell in, nor any ground as they challenge for their owne possession, but change their habitation from place to place." A people who moved so much and worked so little did not deserve to lay claim to the land they inhabited. Their supposed failure to "improve" that land was a token not of their chosen way of life but of their laziness. "Much might they benefit themselves," fumed William Wood, "if they were not strong fettered in the chains of idleness; so as that they had rather starve than work, following no employments saving such as are sweetened with more pleasures and profit than pains or care." Few Indians, of course, had actually starved in precolonial times, so Wood's criticism boiled down to an odd tirade against Indians who chose to subsist by labor they found more pleasurable than hateful. (Ironically, this was exactly the kind of life that at least some colonists fantasized for themselves in their visions of the natural bounty of the New World.) Only the crop-planting (and

therefore supposedly overworked) women were exempted from such attacks. As we have seen, the full scorn of English criticism was reserved for Indian males, whose lives were perhaps too close to certain English pastoral and aristocratic fantasies for Calvinists to tolerate. At a time when the royalist Izaak Walton would soon proclaim the virtues of angling and hunting as pastimes, the Puritan objections to these "leisure" activities carried political as well as moral overtones.²

More importantly, English colonists could use Indian hunting and gathering as a justification for expropriating Indian land. To European eyes, Indians appeared to squander the resources that were available to them. Indian poverty was the result of Indian waste: underused land, underused natural abundance, underused human labor. In his tract defending "the Lawfulness of Removing Out of England into the Parts of America," the Pilgrim apologist Robert Cushman argued that the Indians were "not industrious, neither have art, science, skill or faculty to use either the land or the commodities of it; but all spoils, rots, and is marred for want of manuring, gathering, ordering, etc." Because the Indians were so few, and "do but run over the grass, as do also the foxes and wild beasts," Cushman declared their land to be "spacious and void," free for English taking.³

Colonial theorists like John Winthrop posited two ways of owning land, one natural and one civil. Natural right to the soil had existed "when men held the earth in common every man sowing and feeding where he pleased." This natural ownership had been superseded when individuals began to raise crops, keep cattle, and improve the land by enclosing it; from such actions, Winthrop said, came a superior, civil right of ownership. That these notions of land tenure were ideological and inherently Eurocentric was obvious from the way Winthrop used them: "As for the Natives in New England," he wrote, "they inclose noe Land, neither have any settled habytation, nor any tame Cattle to improve the Land by, and soe have noe other but a Naturall Right to those Countries." By this argument, only the fields planted by Indian women could be claimed as property, with the happy result, as Winthrop said, that "the rest of the country lay open to any that could and would improve it." The land was a *vacuum Domicilium* waiting to be inhabited by a more productive people. "In a vacant soyle," wrote the minister John Cotton, "hee

that taketh possession of it, and bestoweth culture and husbandry upon it, his Right it is."⁴

This was, of course, little more than an ideology of conquest conveniently available to justify the occupation of another people's lands. Colonists occasionally admitted as much when they needed to defend their right to lands originally purchased from Indians: in order for Indians legitimately to sell their lands, they had first to own them. Roger Williams, in trying to protect Salem's claim to territory obtained from Indians rather than from the English Crown, argued that the King had committed an "injustice, in giving the Countrey to his *English* Subjects, which belonged to the Native *Indians*." Even if the Indians used their land differently than did the English, Williams said, they nevertheless possessed it by right of first occupancy and by right of the ecological changes they had wrought in it. Whether or not the Indians conducted agriculture, they "hunted all the Countrey over, and for the expedition of their hunting voyages, they burnt up all the underwoods in the Countrey, once or twice a yeare." Burning the woods, according to Williams, was an improvement that gave the Indians as much right to the soil as the King of England could claim to the royal forests. If the English could invade Indian hunting grounds and claim right of ownership over them because they were unimproved, then the Indians could do likewise in the royal game parks.⁵

It was a fair argument. Williams's opponents could only reply that English game parks were not just hunted but also used for cutting timber and raising cattle; besides, they said, the English King (along with lesser nobles holding such lands) performed other services for the Commonwealth, services which justified his large unpeopled holdings. If these assertions seemed a little lame, designed mainly to refute the technical details of Williams's argument, that was because the core of the dispute lay elsewhere. Few Europeans were willing to recognize that the ways Indians inhabited New England ecosystems were as legitimate as the ways Europeans *intended* to inhabit them. Colonists thus rationalized their conquest of New England: by refusing to extend the rights of property to the Indians, they both trivialized the ecology of Indian life and paved the way for destroying it. "We did not conceive," said Williams's opponents with fine irony, "that it is a just Title to so vast a Continent, to make no other improve-

ment of millions of Acres in it, but onely to burn it up for pastime."⁶

Whether denying or defending Indian rights of land tenure, most English colonists displayed a remarkable indifference to what the Indians themselves thought about the matter. As a result, we have very little direct evidence in colonial records of the New England Indians' conceptions of property. To try to reconstruct these, we must use not only the few early fragments available to us but a variety of evidence drawn from the larger ethnographic literature. Here we must be careful about what we mean by "property," lest we fall into the traps English colonists have set for us. Although ordinary language seems to suggest that property is generally a simple relationship between an individual person and a thing, it is actually a far more complicated social institution which varies widely between cultures. Saying that A owns B is in fact meaningless until the society in which A lives agrees to allow A a certain bundle of rights over B and to impose sanctions against the violation of those rights by anyone else. The classic definition is that of Huntington Cairns: "the property relation is triadic: 'A owns B against C,' where C represents all other individuals." Unless the people I live with recognize that I own something and so give me certain unique claims over it, I do not possess it in any meaningful sense. Moreover, different groups will permit me different bundles of rights over the same object. To define property is thus to represent boundaries between people; equally, it is to articulate at least one set of conscious ecological boundaries between people and things.⁷

This suggests that there are really two issues involved in the problem of Indian property rights. One is individual *ownership*, the way the inhabitants of a particular village conceived of property vis-à-vis each other; and the other is collective *sovereignty*, how everyone in a village conceived of their territory (and political community) vis-à-vis other villages. An individual's or a family's rights to property were defined by the community which recognized those rights, whereas the community's territorial claims were made in opposition to those of other sovereign groups. Distinctions here can inevitably become somewhat artificial. Because kin networks might also have territorial claims—both *within* and *across* villages—even the village is sometimes an arbitrary unit in which to analyze property rights: ownership

and sovereignty among Indian peoples could shade into each other in a way Europeans had trouble understanding. For this reason, the nature of Indian political communities is crucial to any discussion of property rights.

A village's right to the territory which it used during the various seasons of the year had to be at least tacitly accepted by other villages or, if not, defended against them. Territorial rights of this kind, which were expressions of the entire group's collective right, tended to be vested in the person of the sachem, the leader in whom the village's political identity at least symbolically inhered. Early English visitors who encountered village sachems tended to exaggerate their authority by comparing them to European kings: Roger Williams and John Josselyn both baldly asserted of New England Indians that "their Government is Monarchicall." Comparison might more aptly have been made to the relations between lords and retainers in the early Middle Ages of Europe. In reality, sachems derived their power in many ways: by personal assertiveness; by marrying (if male) several wives to proliferate wealth and kin obligations; by the reciprocal exchange of gifts with followers; and, especially in southern New England, by inheriting it from close kin. Although early documents are silent on this score, kin relations undoubtedly cemented networks both of economic exchange and of political obligation, and it was on these rather than more formal state institutions that sachems based their authority. As William Wood remarked, "The kings have not many laws to command by, nor have they any annual revenues."⁸

Polity had less the abstract character of a monarchy, a country, or even a tribe, than of a relatively fluid set of personal relationships. Although those relationships bore some resemblance to the dynastic politics of early modern Europe—a resemblance several historians have recently emphasized—they were crucially different in not being articulated within a state system. Kinship and personality rather than any alternative institutional structure organized power in Indian communities. Both within and between villages, elaborate kin networks endowed individuals with greater or lesser degrees of power. A sachem—who could be either male or female—asserted authority only in consultation with other powerful individuals in the village. Moreover, the sachem of one village might regularly pay tribute to the sachem

of another, thus acknowledging a loose hierarchy between villages and sachems. Such hierarchies might be practically unimportant until some major conflict or external threat arose, whereupon the communities assembled into a larger confederacy until the problem was solved. The result, like Indian subsistence patterns, entailed a good deal more flexibility and movement than Europeans were accustomed to in their political institutions. As the missionary Daniel Gookin indicated, it was a very shifting politics:

Their sachems have not their men in such subjection, but that very frequently their men will leave them upon distaste or harsh dealing, and go and live among other sachems that can protect them: so that their princes endeavour to carry it obligingly and lovingly unto their people, lest they should desert them, and thereby their strength, power, and tribute would be diminished.⁹

Insofar as a village "owned" the land it inhabited, its property was expressed in the sovereignty of the sachem. "Every sachem," wrote Edward Winslow, "knoweth how far the bounds and limits of his own Country extendeth." For all of their differences, a sachem "owned" territory in a manner somewhat analogous to the way a European monarch "owned" an entire European nation: less as personal real estate than as the symbolic possession of a whole people. A sachem's land was coterminous with the area within which a village's economic subsistence and political sanctions were most immediately expressed. In this sovereign sense, villages were fairly precise about drawing boundaries among their respective territories. When Roger Williams wrote that "the *Natives* are very exact and punctuall in the bounds of their Lands, belonging to this or that Prince or People," he was refuting those who sought to deny that legitimate Indian property rights existed. But the rights of which he spoke were not ones of individual ownership; rather, they were sovereign rights that defined a village's political and ecological territory.¹⁰

The distinction becomes important in the context of how such territorial rights could be alienated. Williams said that he had "knowne them make bargaine and sale amongst themselves for a small piece, or quantity of Ground," suggesting that Indians

were little different from Europeans in their sense of how land could be bought or sold. When two sachems made an agreement to transfer land, however, they did so on behalf of their two political or kinship communities, as a way of determining the customary rights each village would be allowed in a given area. An instructive example of this is the way Roger Williams had to correct John Winthrop's confusion over two islands which Winthrop thought Williams had bought from the Narragansett sachem Miantonomo. Williams had indeed gotten permission to use the islands for grazing hogs—a land transaction of sorts had taken place—but it was emphatically not a purchase. "Be pleased to understand," cautioned Williams, "your great mistake: neither of them were sold properly, for a thousand fathom [of wampum] would not have bought either, by strangers. The truth is, not a penny was demanded for either, and what was paid was only gratuity, though I choose, for better assurance and form, to call it sale." What had been transacted, as Williams clearly understood, was more a diplomatic exchange than an economic one. Miantonomo, like other New England sachems, had no intention of conducting a market in real estate.¹¹

That this was so can best be seen by examining how a village's inhabitants conceived of property *within* its territory. Beginning with personal goods, ownership rights were clear: people owned what they made with their own hands. Given the division of labor, the two sexes probably tended to possess the goods that were most closely associated with their respective tasks: women owned baskets, mats, kettles, hoes, and so on, while men owned bows, arrows, hatchets, fishing nets, canoes, and other hunting tools. But even in the case of personal goods, there was little sense either of accumulation or of exclusive use. Goods were owned because they were useful, and if they ceased to be so, or were needed by someone else, they could easily be given away. "Although every proprietor knowes his own," said Thomas Morton, "yet all things, (so long as they will last), are used in common amongst them." Not surprisingly, theft was uncommon in such a world.¹²

This relaxed attitude toward personal possessions was typical throughout New England. Chrétien Le Clercq described it among the Micmac of Nova Scotia by saying that they were "so generous and liberal towards one another that they seem not to

have any attachment to the little they possess, for they deprive themselves thereof very willingly and in very good spirit the very moment when they know that their friends have need of it." Europeans often interpreted such actions by emphasizing the supposed generosity of the noble savage, but the Indians' relative indifference to property accumulation is better understood as a corollary of the rest of their political and economic life. Personal goods could be easily replaced, and their accumulation made little sense for the ecological reasons of mobility we have already examined; in addition, gift giving was a crucial lubricant in sustaining power relationships within the community. As Pierre Biard noted, guests thanked their hosts by giving gifts that were expressions of relative social status, and did so "with the expectation that the host will reciprocate, when the guest comes to depart, if the guest is a Sagamore, otherwise not." Willingness to give property away with alacrity was by no means a sign that property did not exist; rather, it was a crucial means for establishing and reproducing one's position in society.¹³

When it came to land, however, there was less reason for gift giving or exchange. Southern New England Indian families enjoyed exclusive use of their planting fields and of the land on which their wigwams stood, and so might be said to have "owned" them. But neither of these were permanent possessions. Wigwams were moved every few months, and planting fields were abandoned after a number of years. Once abandoned, a field returned to brush until it was recleared by someone else, and no effort was made to set permanent boundaries around it that would hold it indefinitely for a single person. What families possessed in their fields was the *use* of them, the crops that were produced by a woman's labor upon them. When lands were traded or sold in the way Williams described, what were exchanged were usufruct rights, acknowledgments by one group that another might use an area for planting or hunting or gathering. Such rights were limited to the period of use, and they did not include many of the privileges Europeans commonly associated with ownership: a user could not (and saw no need to) prevent other village members from trespassing or gathering nonagricultural food on such lands, and had no conception of deriving rent from them. Planting fields were "possessed" by an Indian family only to the extent that it would return to them the

following year. In this, they were not radically different in kind from other village lands; it was *European* rather than Indian definitions of land tenure that led the English to recognize agricultural land as the only legitimate Indian property. The Massachusetts Court made its ownership theories quite clear when it declared that "what landes any of the Indians, within this jurisdiction, have by possession or improvement, by subdueing of the same, they have just right thereunto, accordinge to that Gen: 1: 28, chap: 9: 1, Psa: 115, 16."¹⁴

The implication was that Indians did *not* own any other kind of land: clam banks, fishing ponds, berry-picking areas, hunting lands, the great bulk of a village's territory. (Since the nonagricultural Indians of the north had *only* these kinds of land, English theories assigned them no property rights at all.) Confusion was easy on this point, not only because of English ideologies, but because the Indians themselves had very flexible definitions of land tenure for such areas. Here again, the concept of usufruct right was crucial, since different groups of people could have different claims on the same tract of land depending on how they used it. Any village member, for instance, had the right to collect edible wild plants, cut birchbark or chestnut for canoes, or gather sedges for mats, wherever these things could be found. No special private right inhered in them. Since village lands were usually organized along a single watershed, the same was true of rivers and the coast: fish and shellfish could generally be taken anywhere, although the nets, harpoons, weirs, and tackle used to catch them—and hence sometimes the right to use the sites where these things were installed—might be owned by an individual or a kin group. Indeed, in the case of extraordinarily plentiful fishing sites—especially major inland waterfalls during the spawning runs—several villages might gather at a single spot to share the wealth. All of them acknowledged a mutual right to use the site for that specific purpose, even though it might otherwise lie within a single village's territory. Property rights, in other words, shifted with ecological use.¹⁵

Hunting grounds are the most interesting case of this shifting, nonagricultural land tenure. The ecological habits of different animals were so various that their hunting required a wide range of techniques, and rights to land use had to differ accordingly. The migratory birds in the ponds and salt marshes, for example,

were so abundant that they could be treated much like fish: whoever killed them owned them, and hunters could range over any tract of land to do so, much like the birds themselves. (In this, Indian practices bore some resemblance to European customs governing the right of hunters, when in pursuit of game, to cross boundaries which were otherwise legally protected.) Likewise, flocks of turkeys and the deer herds were so abundant in the fall that they were most efficiently hunted by collective drives involving anywhere from twenty to three hundred men. In such cases, the entire village territory was the logical hunting region, to which all those involved in the hunt had an equal right.¹⁶

The same was not true, on the other hand, of hunting that involved the setting of snares or traps. The animals prey to such techniques were either less numerous, as in the case of winter deer or moose, or sedentary creatures, like the beaver, which lived in fixed locales. These were best hunted by spreading the village population over as broad a territory as possible, and so usufruct rights had to be designed to hold the overlap of trapped areas to a reasonable minimum. Roger Williams described how, after the harvest, ten or twenty men would go with their wives and children to hunting camps which were presumably organized by kin lineage groups. There, he said, "each man takes his bounds of two, three, or four miles, where hee sets thirty, forty, or fiftie Traps, and baits his Traps with that food the Deere loves, and once in two dayes he walks his round to view his Traps."¹⁷

At least for the duration of the winter hunt, the kin group inhabiting a camp probably had a clear if informal usufruct right to the animals caught in its immediate area. Certainly a man (or, in the north, his wife) owned the animals captured in the traps he set, though he might have obligations to share which created *de facto* limits to his claims on them. The collective activities of a camp thus tended to establish a set of rights which at least temporarily divided the village territory into hunting areas. The problem is to know how such rights were allocated, how permanent and exclusive they were, and—most crucially—how much their interaction with the European fur trade altered them. The full discussion of this issue, which anthropologists have debated for decades, must wait for the next chapter. For now, we can conclude that, however exclusive hunting territories originally

were and however much the fur trade changed them, they represented a different kind of land use—and so probably a different set of usufruct rights—than planting fields, gathering areas, or fishing sites.¹⁸

What the Indians owned—or, more precisely, what their villages gave them claim to—was not the land but the things that were on the land during the various seasons of the year. It was a conception of property shared by many of the hunter-gatherer and agricultural peoples of the world, but radically different from that of the invading Europeans. In nothing is this more clear than in the names they attached to their landscape, the great bulk of which related not to possession but to use. In southern New England, some of these names were agricultural. Pokanoket, in Plymouth County, Massachusetts, was “at or near the cleared lands.” Anitaash Pond, near New London, Connecticut, meant, literally, “rotten corn,” referring to a swampy location where corn could be buried until it blackened to create a favorite Indian delicacy. Mittineag, in Hampden County, Massachusetts, meant “abandoned fields,” probably a place where the soil had lost its fertility and a village had moved its summer encampment elsewhere.¹⁹

Far more abundant than agricultural place-names, however, throughout New England, were names telling where plants could be gathered, shellfish collected, mammals hunted, and fish caught. Abessah, in Bar Harbor, Maine, was the “clam bake place.” Wabaquasset, in Providence, Rhode Island, was where Indian women could find “flags or rushes for making mats.” Azoiquoneset, also in the Narragansett Bay area, was the “small island where we get pitch,” used to make torches for hunting sturgeon at night. The purpose of such names was to turn the landscape into a map which, if studied carefully, literally gave a village’s inhabitants the information they needed to sustain themselves. Place-names were used to keep track of beaver dams, the rapids in rivers, oyster banks, egg-gathering spots, cranberry bogs, canoe-repairing places, and so on. Some were explicitly seasonal in their references, just as the Indian use of them was. Seconchqut Village in Dukes County, Massachusetts, was “the late spring or summer place.” The Eackhonk River in Rhode Island was named to mark “the end of the fishing place,” meaning the inland limit of the spring spawning runs. Unlike the

English, who most frequently created arbitrary place-names which either recalled localities in their homeland or gave a place the name of its owner, the Indians used ecological labels to describe how the land could be used.²⁰

This is not to say that Indian place-names never made reference to possession or ownership. A variety of sites refer to "the boundary or ending place" which divided the territories of two different Indian villages or groups. One of the more graphic of these was Chabanakongkomuk, in Worcester, Massachusetts, a "boundary fishing place" whose name could be rendered, "You fish on your side, I fish on my side, nobody fish in the middle—no trouble." Such regions between two territories were often sites of trade: thus, Angualsicook meant the "place of barter." Most importantly, they were eventually places marking a boundary with the truly different people from across the sea. The Awanna Path in Middlesex County, Connecticut, carried the very suggestive label "Who are you?" as a reference to "Englishmen" or "strangers."²¹

Boundaries between the Indians and these intruding "strangers" differed in fundamental ways from the ones between Indian villages, largely because the two interpreted those boundaries using very different cultural concepts. The difference is best seen in early deeds between the two groups. On July 15, 1636, the fur trader William Pynchon purchased from the Agawam village in central Massachusetts a tract of land extending four or five miles along the Connecticut River in the vicinity of present-day Springfield, leaving one of the earliest Indian deeds in American history to record the transaction. Several things are striking about the document. No fewer than thirteen Indians signed it, two of whom, Commucke and Matanchon, were evidently sachems able to act "for and in the name of al the other Indians" in the village. In defining their claims to the land being sold, they said that they acted "in the name of Cuttonus the right owner of Agaam and Quana, and in the Name of his mother Kewenusk the Tamasham or wife of Wenawis, and Niarum the wife of Coa," suggesting that both men and women had rights to the land being transferred. On the Indian side, then, an entire kin group had to concur in an action which thus probably had more to do with sovereignty than ownership.²²

Moreover, village members evidently conceived of that action

in strictly limited terms. Though they gave permission to Pynchon and his associates "for ever to trucke and sel al that ground," they made a number of revealing reservations: in addition to the eighteen coats, eighteen hatchets, eighteen hoes, and eighteen knives they received as payment, they extracted the concessions that

they shal have and enjoy all that cottinackeesh [planted ground], or ground that is now planted; And have liberty to take Fish and Deer, ground nuts, walnuts akornes and sasachiminesh or a kind of pease.

Understood in terms of the usufruct rights discussed above, it is clear that the Indians conceived of this sale as applying only to very specific uses of the land. They gave up none of their most important hunting and gathering privileges, they retained right to their cornfields, and evidently intended to keep living on the land much as they had done before. The rights they gave Pynchon were apparently to occupy the land jointly with them, to establish a village like their own where cornfields could be planted, to conduct trade there, and perhaps to act as a superior sachem who could negotiate with other villages about the land so long as he continued to recognize the reserved rights of the Agawam village. The Agawam villagers gave up none of their sovereignty over themselves, and relinquished few of their activities on the land. What they conferred on Pynchon was a right of ownership identical to their own: not to possess the land as a tradeable commodity, but to use it as an ecological cornucopia. Save for cornfields, no Indian usufruct rights were inherently exclusive, and transactions such as this one had more to do with sharing possession than alienating it.²¹

On the English side, the right "for ever to trucke and sel al that ground" of course carried rather different connotations. In the first place, the transaction was conducted not by a sovereign kin group but by a trading partnership operating under the much larger sovereignty of the Massachusetts Bay Company and the English Crown. None of the three partners who acquired rights to the land—William Pynchon, Henry Smith, or Jehu Burr—was actually present at the transaction, which was conducted for them by several men in their employ. Insofar as we can make a

valid distinction, what the Indians perceived as a political negotiation between two sovereign groups the English perceived as an economic transaction wholly within an English jurisdiction. As we have seen, Massachusetts recognized that Indians might have limited natural rights to land, and so provided that such rights could be alienated *under the sanctions of Massachusetts law*. No question of an Indian village's own sanctions could arise, for the simple reason that Indian sovereignty was not recognized. The Massachusetts Bay Company was careful very early to instruct its agents on this point, telling them "to make composition with such of the salvages as did pretend any tytle or lay clayme to any of the land." Indian rights were not real, but pretended, because the land had already been granted the company by the English Crown.²⁴

Land purchases like Pynchon's were thus interpreted under English law, and so were understood as a fuller transfer of rights than Indian communities probably ever intended. Certainly Pynchon's deed is unusual in even mentioning rights reserved to the Indians. Later deeds describe exchanges in which English purchasers appeared to obtain complete and final ownership rights, however the Indian sellers may have understood those exchanges. In 1637, for instance, John Winthrop received lands in Ipswich, Massachusetts, from the Indian Maskonomett, who declared that "I doe fully resigne up all my right of the whole towne of Ipswich as farre as the bounds thereof shall goe 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." Deeds in eastern Massachusetts—when they existed at all—typically took this form, extinguishing all Indian rights and transferring them either to an English purchaser or, as in this case, to an English group with some corporate identity. As the English understood these transactions, what was sold was 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. Once the land was bounded in this new way, a host of ecological changes followed almost inevitably.²⁵

European property systems were much like Indian ones in expressing the ecological purposes to which a people intended to put their land; it is crucial that they not be oversimplified if their

contribution to ecological history is to be understood. The popular idea that Europeans had private property, while the Indians did not, distorts European notions of property as much as it does Indian ones. The colonists' property systems, like those of the Indians, involved important distinctions between sovereignty and ownership, between possession by communities and possession by individuals. They too dealt in bundles of culturally defined rights that determined what could and could not be done with land and personal property. Even the fixity they assigned to property boundaries, the quality which most distinguished them from Indian land systems, was at first fuzzier and less final than one might expect. They varied considerably depending on the region of England from which a group of colonists came, so that every New England town, like every Indian village, had idiosyncratic property customs of its own. All of these elements combined to form what is usually called "the New England land system." The phrase is misleading, since the "system" resided primarily at the town level and was in fact many systems, but there were nevertheless common features which together are central to the subject of this book. Their development was as much a product as a cause of ecological change in colonial New England.

Colonial claims to ownership of land in New England had two potential sources: purchases from Indians or grants from the English Crown. The latter tended quickly to absorb the former. The Crown derived its own claim to the region from several sources: Cabot's "discovery" of New England in 1497-98; the failure of Indians adequately to subdue the soil as Genesis 1.28 required; and from the King's status—initially a decidedly speculative one—as the first Christian monarch to establish colonies there. Whether or not a colony sought to purchase land from the Indians—something which Plymouth, Connecticut, and Rhode Island, in the absence of royal charters, felt compelled as a matter of expediency or ethics to do—all New England colonies ultimately derived their political rights of sovereignty from the Crown.²⁶

The distinction between sovereignty and ownership is crucial here. When a colony purchased land from Indians, it did so under its own system of sovereignty: whenever ownership rights were deeded and purchased, they were immediately incorporated into

English rather than Indian law. Indian land sales, operating as they did at the interface of two different sovereignties, one of which had trouble recognizing that the other existed, thus had a potentially paradoxical quality. Because Indians, at least in the beginning, thought they were selling one thing and the English thought they were buying another, it was possible for an Indian village to convey what it regarded as identical and nonexclusive usufruct rights to several different English purchasers. Alternatively, several different Indian groups might sell to English ones rights to the same tract of land. Uniqueness of title as the English understood it became impossible under such circumstances, so colonies very early tried to regulate the purchase of Indian lands. Within four years of the founding of Massachusetts Bay, the General Court had ordered that "noe person whatsoever shall buy any land of any Indean without leave from the Court." The other colonies soon followed suit. The effect was not only to restrict the right of English individuals to engage in Indian land transactions but—more importantly, given the problem of sovereignty—to limit the rights of Indians to do so as well. Illegal individual sales nevertheless persisted, and titles in some areas became so confused that the Connecticut Court in 1717 made a formal declaration:

That all lands in this government are holden of the King of Great Britain as the lord of the fee: and that no title to any lands in this Colony can accrue by any purchase made of Indians on pretence of their being native proprietors thereof.

Even by the late seventeenth century, Indian lands were regarded as being entirely within English colonial jurisdiction; indeed, the logic of the situation seemed to indicate that, for Indians to own land at all, it had first to be granted them by the English Crown.²⁷

If all colonial lands derived from the Crown, how did this affect the way they were owned and used? As with an Indian sachem, albeit on a larger and more absolute scale, the King did not merely possess land in his own right but also represented in his person the collective sovereignty which defined the system of property rights that operated on that land. In the case of the

Massachusetts Bay Company's charter, the King conferred the lands of the grant "as of our manor of Eastgreenewich, in the County of Kent, in free and common Socage, and not in Capite, nor by knightes service." Land tenure as of the manor of East Greenwich put a colony under Kentish legal custom and was the most generous of feudal grants, involving the fewest obligations in relation to the Crown. It was ideally suited to mercantile trading companies, since it allowed easy alienation of the land and did not impose the burden of feudal quitrents on its holders. Both of these features made Kentish tenure attractive to would-be settlers and promoted the early development of a commercial market in land. As opposed to tenure in capite or by knight's service, which carried various civil and military obligations for their holders, free and common socage—in some senses, the least feudal of medieval tenures—conceived of land simply as property carrying an economic rent, a rent which was often negligible. In Massachusetts, the Crown's only claim was to receive one-fifth of all the gold and silver found there. Given New England geology, the burden did not prove onerous.²⁸

The royal charter drew a set of boundaries on the New England landscape. Unlike those of the Indians, these were not "boundary or ending places" between the territories of two peoples. Rather, they were defined by lines of latitude—40 and 48 degrees north—that in theory stretched from "sea to sea." Between those lines, the Massachusetts Bay Company was given the right

TO HAVE and to houlde, possesse, and enjoy all and singuler the aforesaid continent, landes, territories, islands, hereditaments, and precincts, seas, waters, fishings, with all and all manner their commodities, royalties, liberties, prehemynences, and profitts that should from thenceforth arise from thence, with all and singuler their appurtenances, and every parte and parcell thereof, unto the saide Councell and their successors and assignes for ever.

It was an enormous grant, no doubt in part because the King's personal claim to the territory was so tenuous. For our purposes, its significance lies in the sweeping extent and abstraction of its rights and boundaries, its lack of concern for the claims of exist-

ing inhabitants, its emphasis on the land's profits and commodities, and its intention that the land being granted could and would remain so bounded "forever." In all of these ways, it implied conceptions of land tenure drastically different from those of the Indians.²⁹

Because the King's grant was so permissive, and gave so little indication as to how land should be allocated within the new colony, the company and its settlers found themselves faced with having to devise their own method for distributing lands. Initially, the company thought to make grants to each shareholder and settler individually, as had been done in Virginia, but this idea was rapidly—though not completely—replaced with grants to groups of settlers acting together as towns. The founding proprietors of each town were collectively granted an average of about six square miles of land, and from then on were more or less free to dispose of that land as they saw fit. In terms of sovereignty, the chief difference between Indian and English villages lay in the formal hierarchy by which the latter derived and maintained their sovereign rights. But in terms of ownership—the way property and usufruct rights were distributed *within* a village—the two differed principally in the ways they intended ecologically to use the land. When the Agawam villagers reserved hunting and gathering rights in their deed to William Pynchon, they revealed how they themselves thought that particular tract of land best used. Likewise, John Winthrop's deed to Ipswich—clearly an English rather than an Indian document—in speaking of "woods meadows, pastures and broken up grounds," betrayed the habits of thought of an English agriculturalist who was accustomed to raising crops, building fences, and keeping cattle. Conceptions of land tenure mimicked systems of ecological use.³⁰

The proprietors of a new town initially held all land in common. Their first act was to determine what different types of land were present in their territory, types which were understood to be necessary to English farming in terms of the categories mentioned in Winthrop's deed: forested lands for timber and firewood, grassy areas for grazing, salt marshes for cutting hay, potential planting fields, and so on. Like their Indian counterparts, English villages made their first division of land to locate where houses and cornfields should be; unlike the Indians, that

division was conducted formally and was intended to be a permanent one, the land passing forever into private hands. Land was allocated to inhabitants using the same biblical philosophy that had justified taking it from the Indians in the first place: individuals should only possess as much land as they were able to subdue and make productive. The anonymous "Essay on the Ordering of Towns" declared that each inhabitant be given "his due proportion, more or lesse according unto his present or apparent future occasion of Employment." A person with many servants and cattle could "improve" more land than one who had few, and so was granted more land, although the quantities varied from town to town. In this way, the social hierarchy of the English class system was reproduced, albeit in modified form, in the New World. Grants of house lots and planting grounds were followed by grants of pastures, hay meadows, and woodlots, all allocated on the same basis of one's ability to use them.¹¹

In these and later grants as well, the passage of land from town commons to individual property was intended to create permanent private rights to it. These rights were never absolute, since both town and colony retained sovereignty and could impose a variety of restrictions on how land might be used. Burning might be prohibited on it during certain seasons of the year. A grant might be contingent on the land being used for a specific purpose—such as the building of a mill—and there was initially a requirement in Massachusetts that all land be improved within three years or its owner would forfeit rights to it. Regulations might forbid land from being sold without the town's permission. But, compared with Indian villages, grants made by New England towns contemplated much more extensive privileges for each individual landholder, with greater protection from trespass and more exclusive rights of use. The "Essay on the Ordering of Towns" saw such private ownership as the best way to promote fullest use of the land: "he that knoweth the benefit of inclosing," it said, "will omit noe dilligence to brenge him selfe into an inclusive condicion, well understanding that one acre inclosed, is much more beneficiall than 5 falling to his share in Common."¹²

Different towns acted differently at first in relation to their common lands, their behavior usually depending on the land practices of the regions of England from which their inhabitants

came. Some settlers, like those of Rowley or Sudbury, came from areas with open-field systems, where strong manorial control had been exercised over lands held in common by peasant farmers. They initially re-created such systems in New England, making relatively few small divisions of common holdings, regulating closely who could graze and gather wood on unenclosed land, and not engaging extensively in the buying or selling of real estate. Settlers in towns like Ipswich or Scituate, on the other hand, came from English regions where closed-field systems gave peasant proprietors more experience with owning their lands in severalty. They proved from the start to be much interested in transferring lands from common to private property as rapidly as possible, so that their land divisions were more frequent and involved more land at an earlier date. In these towns, a market in real estate developed very early, both to allow the consolidation of scattered holdings and to facilitate limited speculative profits in land dealings.³³

In the long run, it was this latter conception of land—as private commodity rather than public commons—that came to typify New England towns. Initial divisions of town lands, with their functional classifications of woodlot and meadow and cornfield, bore a superficial resemblance to Indian usufruct rights, since they seemed to define land in terms of how it was to be used. Once transferred into private hands, however, most such lands became abstract parcels whose legal definition bore no inherent relation to their use: a person owned everything on them, not just specific activities which could be conducted within their boundaries. Whereas the earliest deeds tended to describe land in terms of its topography and use—for instance, as the mowing field between a certain two creeks—later deeds described land in terms of lots held by adjacent owners, and marked territories using the surveyor's abstractions of points of the compass and metes and bounds. Recording systems, astonishingly sloppy in the beginning because there was little English precedent for them, became increasingly formalized so that boundaries could be more precisely defined. Even Indian deeds showed this transformation. The land Pynchon purchased from the Agawam village was vaguely defined in terms of cornfields, meadows, and the Connecticut River; an eighteenth-century deed from the same county, on the other hand, transferred rights to two entire town-

ships which it defined precisely but abstractly as "the full Contents of Six miles in Weadth and Seven miles in length," starting from a specified point.³⁴

The uses to which land could be put vanished from such descriptions, and later land divisions increasingly ignored actual topography. What was on the land became largely irrelevant to its legal identity, even though its contents—and the rights to them—might still have great bearing on the price it would bring if sold. Describing land as a fixed parcel with purely arbitrary boundaries made buying and selling it increasingly easy, as did the recording systems—an American innovation—which kept track of such transactions. Indeed, legal descriptions, however abstracted, had little effect on everyday life *until* land was sold. People did not cease to be intimately a part of the land's ecology simply by reason of the language with which their deeds were written. But when it came time to transfer property rights, those deeds allowed the alienation of land as a commodity, an action with important ecological consequences. To the abstraction of legal boundaries was added the abstraction of price, a measurement of property's value assessed on a unitary scale. More than anything else, it was the treatment of land and property as commodities traded at market that distinguished English conceptions of ownership from Indian ones.

To present these arguments in so brief a compass is of course to oversimplify. Western notions of property, commodity, and market underwent a complex development in both Europe and America over the course of the seventeenth and eighteenth centuries, one which did not affect all people or places in the same way or at the same time. Peasant land practices which had their origins in the manorial customs of feudal England were not instantly transformed into full-fledged systems of production for market simply by being transferred to America. Many communities produced only a small margin of surplus beyond their own needs, and historians have often described them as practicing "subsistence agriculture" for this reason. When seventeenth-century New England towns are compared with those of the nineteenth century, with their commercial agriculture, wage workers, and urban industrialism, the transition between the two may well seem to be that from a subsistence to a capitalist society. Certainly Marxists wedded to a definition of capitalism in terms

of relations between labor and capital must have trouble seeing it in the first New England towns. Most early farmers owned their own land, hired few wage laborers, and produced mainly for their own use. Markets were hemmed in by municipal regulations, high transportation costs, and medieval notions of the just price. In none of these ways does it seem reasonable to describe colonial New England as "capitalist."¹⁵

And yet when colonial towns are compared not with their industrial successors but with their Indian predecessors, they begin to look more like market societies, the seeds of whose capitalist future were already present. The earliest explorers' descriptions of the New England coast had been framed from the start in terms of the land's commodities. Although an earlier English meaning of the word "commodity" had referred simply to articles which were "commodious" and hence useful to people—a definition Indians would readily have understood—that meaning was already becoming archaic by the seventeenth century. In its place was the commodity as an object of commerce, one by definition owned for the sole purpose of being traded away at a profit. ("Profit" was another word that underwent a comparable evolution at about the same time: to its original meaning of the benefits one derived from using a thing was added the gain one made by selling it.) Certain items of the New England landscape—fish, furs, timber, and a few others—were thus selected at once for early entrance into the commercial economy of the North Atlantic. They became valued not for the immediate utility they brought their possessors but for the price they would bring when exchanged at market. In trying to explain ecological changes related to these commodities, we can safely point to market demand as the key causal agent.¹⁶

The trade in commodities involved only a small group of merchants, but they exercised an influence over the New England economy beyond their numbers. Located principally in the coastal cities, they rapidly came to control shipping and so acted as New England's main link to the Atlantic economy. Because of their small numbers, it might reasonably be argued that the market sector of the New England economy was a tiny isolated segment relatively unconnected to the subsistence production of peasant communities in the towns. Certainly we should make a distinction between ecological changes resulting directly from

the activities of merchants and those caused by the less market-oriented activities of farmers. But the farmers had their own involvement in the Atlantic economy, however distant it might have been. Even if they produced only a small surplus for market, they nevertheless used it to buy certain goods from the merchants—manufactured textiles, tropical foodstuffs, guns, metal tools—which were essential elements in their lives. The grain and meat which farmers sold, if not shipped to Caribbean and European markets, were used to supply port cities and the “invisible trade” of colonial shipping. Not all of this commodity movement was voluntary. Town and colony alike assessed farmers for their landholdings and so siphoned off taxes which were used to run government and conduct trade. Although taxes bore some resemblance to political tributes in Indian societies, the latter were not based on possession of land and did not reinforce the sense that land had an intrinsic money value. Taxes thus had the important effect of forcing a certain degree of colonial production beyond the level of mere “subsistence,” and orienting that surplus toward market exchange.³⁷

But the most important sense in which it is wrong to describe colonial towns as subsistence communities follows from their inhabitants’ belief in “improvement,” the concept which was so crucial in their critique of Indian life. The imperative here was not just the biblical injunction to “fill the earth and subdue it.” Colonists were moved to transform the soil by a property system that taught them to treat land as capital. Fixed boundaries and the liberties of “free and common socage” assured a family that improvements belonged to them and to their heirs. The existence of commerce, however marginal, led them to see certain things on the land as merchantable commodities. The visible increase in livestock and crops thus translated into an abstract money value that was reflected in tax assessments, in the inventories of estates, and in the growing land market. Even if a colonist never sold an improved piece of property, the increase in its hypothetical value at market was an important aspect of the accumulation of wealth. These tendencies were apparent as early as the 1630s. When English critics claimed that colonists had lost money by moving their wealth to New England, the colonists replied that they had simply transformed that money into physical assets. The author of *New England’s First Fruits* declared that the colonists’ “estates

now lie in houses, lands, horses, cattle, corn, etc. though they have not so much money as they had here [in England], and so cannot make appearance of their wealth to those in *England*, yet they have it still, so that their estates are not lost, but changed." Here was a definition of transformable wealth few precolonial Indians would probably have recognized: if labor was not yet an alienated commodity available for increasing capital, land was. "The staple of America at present," wrote the British traveler Thomas Cooper in the late eighteenth century, "consists of Land, and the immediate products of land."²⁸

Perhaps the best single summary of this view is John Locke's famous chapter on property in the *Two Treatises of Government*. Locke sought to explain how people came to possess unequal rights to a natural abundance he supposed had originally been held in common; to accomplish this task, he explicitly contrasted the societies of Europe with those of the American Indians. "In the beginning," he said, "all the world was America." In that original state, possession was directly related to the labor one spent in hunting and gathering: one could own whatever one could use before it spoiled. What enabled people to accumulate wealth beyond the limits of natural spoilage was something Locke called "money." Bullionist that he was, he thought of money as gold and silver which could be stored as a source of permanent value without fear of spoiling. But the way he actually used the word, "money" was an odd hybrid between a simple medium of exchange that measured the value of commodities, and *capital*, the surplus whose accumulation was the motor of economic growth. It was capital—the ability to store wealth in the expectation that one could increase its quantity—that set European societies apart from precolonial Indian ones. As Locke said:

Where there is not something both lasting and scarce, and so valuable to be hoarded up, there Men will not be apt to enlarge their *Possessions of Land*, were it never so rich, never so free for them to take. For I ask, What would a Man value Ten Thousand or a Hundred Thousand Acres of excellent *Land*, ready cultivated, and well stocked too with Cattle, in the middle of the in-land Parts of *America*, where he had no hopes of Commerce with other Parts of the World, to draw

Money to him by the Sale of the Product? It would not be worth the inclosing, and we should see him give up again to the wild Common of Nature, whatever was more than would supply the Conveniences of Life to be had there for him and his Family.

New England had not returned to the "wild Common of Nature" but had in fact abandoned it. However incomplete Locke's analysis of why that had happened, and however inaccurate his anthropological description of Indian society, his emphasis on the market was sound. It was the attachment of property in land to a marketplace, and the accumulation of its value in a society with institutionalized ways of recognizing abstract wealth (here we need not follow Locke's emphasis on gold and silver), that committed the English in New England to an expanding economy that was ecologically transformative.³⁹

Locke carries us full circle back to Thomas Morton's riddle. His characterization of the Indians as being "rich in Land, and poor in all the Comforts of Life," bore a close resemblance to the comparisons of Indians with English beggars which Morton had sought to refute. Locke posed the riddle of Indian poverty as clearly as anyone in the seventeenth century. He described them as a people

whom Nature having furnished as liberally as any other people, with the materials of Plenty, *i.e.* a fruitful Soil, apt to produce in abundance, what might serve for food, rayment, and delight; yet for want of improving it by labour, have not one hundredth part of the Conveniences we enjoy: And a King of a large fruitful Territory there feeds, lodges, and is clad worse than a day Labourer in *England*.

Because the Indians lacked the incentives of money and commerce, Locke thought, they failed to improve their land and so remained a people devoid of wealth and comfort.⁴⁰

What Locke failed to notice was that the Indians did not recognize themselves as poor. The endless accumulation of capital which he saw as a natural consequence of the human love for wealth made little sense to them. Marshall Sahlins has pointed out that there are in fact two ways to be rich, one of which was

rarely recognized by Europeans in the seventeenth century. "Wants," Sahlins says, "may be 'easily satisfied' either by producing much or desiring little." Thomas Morton was almost alone among his contemporaries in realizing that the New England Indians had chosen this second path. As he said, on their own understanding, they "lived richly," and had little in the way of either wants or complaints. Pierre Biard, who also noticed this fact about the Indians, extended it into a critique of *European* ways of life. Indians, he said, went about their daily tasks with great leisure,

for their days are all nothing but pastime. They are never in a hurry. Quite different from us, who can never do anything without hurry and worry; worry, I say, because our desire tyrannizes over us and banishes peace from our actions.

Historians often read statements like this as myths of the noble savage, and certainly they are attached to that complex of ideas in European thought. But that need not deny their accuracy as descriptions of Indian life. If the Indians considered themselves happy with the fruits of relatively little labor, they were like many peoples of the world as described by modern anthropologists.⁴¹

Thomas Morton had posed his riddle knowing full well that his readers would recognize its corollary: if Indians lived richly by wanting little, then might it not be possible that Europeans lived poorly by wanting much? The difference between Indians and Europeans was not that one had property and the other had none; rather, it was that they loved property differently. Timothy Dwight, writing at the beginning of the nineteenth century, lamented the fact that Indians had not yet learned the love of property. "Wherever this can be established," he said, "Indians may be civilized; wherever it cannot, they will still remain Indians." The statement was truer than he probably realized. Speaking strictly in terms of precolonial New England, Indian conceptions of property were central to Indian uses of the land, and Indians could not live as Indians had lived unless the land was owned as Indians had owned it. Conversely, the land could not long remain unchanged if it were owned in a different way. The

swEEPing alterations of the colonial landscape which Dwight himself so shrewdly described were testimony that a people who loved property little had been overwhelmed by a people who loved it much.⁴²
