

NATIVE AMERICANS

Jury to decide if group is a tribe

By Judy Polumbaum
MASHPEE, MASS.—For more than 200 years Mashpee was a reservation for Christianized Cape Cod Indians. In 1870 it was incorporated as an ordinary Massachusetts town, although most residents claimed descent from Indians rather than Pilgrims. In 1970, for its centennial, the town hung up three large wooden signs welcoming visitors to the "Land of the Wampanoag."

Seven years later the signs are still here but the message is in dispute. The local Wampanoag Indians are suing to recover some 13,000 acres of land they say was taken from them in violation of a federal law designed to protect Indians from unscrupulous land-grabbers—the Indian Nonintercourse Act of 1790, which prohibits transfer or sale of tribal territory without congressional approval.

It is commonly acknowledged that land was taken by force and fraud from the Indians and in recent years more than 150 tribes have turned to the courts to regain what their ancestors lost.

The Mashpee lawsuit is one of a dozen filed by eastern tribes on the basis of the 1790 law. The largest involves the Passamaquoddy and Penobscot of Maine, who claim 12.5 million of the state's 20 million acres. The Cayuga, Oneida and Mohawk Nations in New York, the Catawba in South Carolina and the Narragansett in Rhode Island also have claims ranging from 3,200 to 246,000 acres.

Real estate vs. cultural survival.

The Mashpee case is a face-off between real estate interests and the Indians' effort to ensure their economic and cultural survival. Mashpee was the last town on Cape Cod to be discovered by developers, who began to carve private roads through the scrub oak and pine woods in the early 1960s to pave the way for luxury homes, condominiums, country clubs and golf courses. They razed Indian hunting grounds and fenced off beaches where Indians had dug clams and fished for centuries.

The population of Mashpee 15 years ago was about 500—mostly Indians who had intermarried with Cape Verde Island-

ers, Portuguese and a few Yankees. Today there are about 3,000 permanent residents and another 2,000 summer inhabitants. Newcomers outnumber Indians 10 to one.

The lawsuit, filed in August 1976, has frozen all real estate dealings in the town. Every title is clouded, no loans or mortgages are available, and anyone trying to sell a home must find a buyer who will pay cash and risk it. The suit was amended this year to exclude homeowners' property, but a recent effort in Washington definitively to clear homeowners' titles fell through.

The land the Indians claim is mainly undeveloped woods interspersed with marshes and cranberry bogs—but does include three golf courses.

Since the Wampanoag have no treaty with the federal government or other form of official federal recognition, they must first convince a jury that they are indeed a tribe and therefore protected by the 1790 law. This phase of the case opened Oct. 17 in Boston's federal district court.

Judge Walter Jay Skinner explained to the 12 jurors and two alternates that, "This is a partial trial, to determine the status of the plaintiff as an Indian tribe. The rest of the case depends on how this part of the case comes out." If the Mashpee Wampanoag are found to be a tribe after an anticipated two months of testimony, the subsequent litigation could drag on for five to 10 years.

Two interpretations of history.

Boston lawyer Lawrence Shubow, his associate Anne Gilmore and three attorneys from the Native American Rights Fund (NARF) represent the Indians. NARF, which opened in Colorado six years ago with 10 cases and today handles about 400 in 40 states, is footing the bill.

Mashpee selectmen have committed about \$200,000 in town funds to fight back. (The defense effort is hurried by one group of residents, the Mashpee Action Committee, which opposes any "surrender" to the Indians; and be-moaned by another group, the moderate Mashpee Coalition for Negotiation.)



In 1970, for its centennial, Mashpee put up three signs welcoming visitors to the "Land of the Wampanoag." The Wampanoag now want their land back.

James St. Clair, best known for his role as counsel to President Nixon during the final days, speaks for the Town of Mashpee; seven of his colleagues represent various private interests, including New Seabury, a developer, and Makepeace, a cranberry concern.

Opening statements by Shubow and St. Clair indicated the trial would be an excursion into two contradictory interpretations of Mashpee history. Shubow said the plaintiff, the Wampanoag tribe, has been "a continuous Indian community for over 300 years." He said that ancestry and kinship, cultural tradition, internal organization and leadership, closeness to the land and Indian "consciousness" qualify the plaintiff as a tribe.

St. Clair said the Wampanoag demonstrated "none of the emoluments of a formal state or government or tribe." He said that after the American Revolution, when Indian war widows married non-Indians, Mashpee became populated by blacks and mulattos; and that Indian identification was "of recent resurrection."

St. Clair said, "This is a community, but not a tribe, no more than the Italians of the North End, the Irish of South Boston or the Jewish of Brookline are a tribe."

Experts come in pairs.

Both sides are presenting deeds, censuses,

letters and other documents as evidence; both are calling historians, anthropologists and sociologists as well as Mashpee residents to the witness stand.

Witnesses from Mashpee have treated the jury to descriptions of Indian customs, and shared folktales and native recipes. Reminiscing about growing up as an Indian boy, fisherman Vernon Pocknett said, "I remember that my father once threw me in the snow bare-naked!" and explained that the purpose was to toughen him up to the elements. Ramona Peters related the tale of "Marship"—an Indian rendition of the Moby Dick story. Salena Coombs revealed how to cook Indian stews like "potato bargain" and "eel stifle."

After both sides have made their presentations and closing arguments, the jury will determine whether the Mashpee Wampanoag constitute a tribe, defined in a 1901 U.S. Supreme Court opinion as "A body of Indians of the same or a similar race, united in a community under one leadership or government, and inhabiting a particular, though sometimes ill-defined, territory." If the Indians win their case, other towns may be discouraged from fighting lawsuits as vehemently as the town of Mashpee.

Judy Polumbaum is a free-lance writer in Lincoln, Mass.

LABOR

Housekeepers move to unionize

By Carol Polsky
NEW YORK—After a two week strike, over 200 black and Latina housekeepers here forced the Morrisania Community Corporation, a poverty program community corporation, to agree to a consent election for a union. If the win their election, they will be the first housekeepers in New York State, possibly in the nation, to unionize.

The union, the International Brotherhood of Teamsters Local 854, organized 200 housekeepers at another anti-poverty community corporation here in June, but lost a representational election.

The Morrisania housekeepers, like millions of others nationwide, work for near minimum wages and benefits, and without legal protections taken for granted by other workers.

The laws affecting household workers deny them the protection granted commercial and industrial workers, even though many household workers are now employed by contract cleaning firms, domestic service agencies and vendors like the community corporation.

In New York State, these laws are beginning to change. In recent years, DSOC member and State Assemblyman Seymour (D-Bronx) has sponsored laws that

extend minimum wage law coverage and the right to organize to household workers employed by third parties.

Until now, organizing workers scattered in separate workplaces, earning low wages and with low status, inspired little interest. But unions are discovering that hundreds of housekeepers working for a single employer, such as Morrisania, can be contracted with relative ease and that they are ripe for organization.

The response, an organizer told **IN THESE TIMES**, "has been really enthusiastic."

The Teamsters were called in by employees at Morrisania and at Social Concern, Inc., the two community corporations, and in each case signed a large majority of the housekeepers within a few weeks.

The two community corporations are among 23 non-profit organizations with housekeeping vendor programs under contract with the City of New York to service poor, usually elderly clients. The City's Department of Social Services assigns clients to the vendors, which get Medicaid payments averaging \$4 per hour.

But housekeepers earn only \$2.50 to \$2.80 an hour, have no medical or pension plan, and no lunch break. They must

pay carfare when they travel between the homes of the two clients they service each day.

Housekeepers strike.

After the corporation board made no response to union requests for a meeting, the women struck Morrisania Oct. 24 and mounted daily picket lines and periodic sit-ins. At National Labor Relations Board hearings, lawyers for the corporation attempted to forestall an election but the housekeepers took over the corporation offices off Nov. 2, the night of the monthly board meeting, and addressed the full board for the first time. Incredibly, most board members knew nothing about the strike or the union bid until they "walked in and found all these women here."

A long angry meeting followed with the housekeepers and their supporters waiting in the hall. Board members attacked their chairman for withholding information about the strike and the housekeepers' demands, and the meeting ended with a large majority voting to agree to a consent election.

A board member said later, "There's definitely an accountability factor. Most of the board comes from the community.



While most sympathize with the demands, they also didn't want to face a lot of angry community women."

Potential for long delays still exists, because the bargaining unit has yet to be worked out between the board and the union. Most housekeepers work between 16 and 30 hours a week. The Board and its lawyers will probably push for the smallest possible unit by demanding that a high number of work hours be made the criteria for unit eligibility.

The organizing drives are just beginning. But the women who walked the picket lines around Morrisania are taking the first steps toward organized power for millions of this country's most neglected workers.



Left: Speaking before a meeting of tribes a spiritual leader emphasizes the oneness of all people with each other and the land.



Right: The two medals received by Chief Magesi in 1853 are held by Charles Ackley, a member of the tribal council and son of the late Chief Willard Ackley. These medals establish the government's recognition of the Mole Lake or Sokaogon Chippewa as a separate and distinct tribal unit. See Chippewa story below.

ENVIRONMENT

Dairy state threatened by metal mining

Many former mining areas are still suffering damage from the 1900-1920 mining boom.

By Al Gedicks
Pacific News Service

CRANDON, WISC.—The small farm towns and lake-studded forests and fields of the Upper Great Lakes, dotted by ghost towns of bygone boom times, have been reawakened by signs that the area may boom once again as one of America's richest natural resource regions. The excitement has been sparked by extensive mineral explorations now being conducted by more than 40 major corporations, including Exxon, Kennecott and International Nickel. They are fiercely competing for millions of dollars worth of mineral rights to land believed to contain some of the world's richest deposits of copper, nickel, lead, chromite, zinc, vanadium and uranium.

But while mineral company executives, local bankers and labor officials hail the developments as a return to the good old days, local farmers and dairymen, Indians, sportsmen and others are predicting a new boom-and-bust Appalachia—poisoned, barren and poor.

They fear the short-term gains of massive ore-mining here will mean the end for the area's extensive and long-term agriculture, dairy farming, forestry, fishing and tourism.

Exxon discovery.

Exxon's recent discovery of a "significant" copper-zinc deposit near Crandon, Wisc., is believed by some to be the largest in the world. Jack B. Jacks, a regional geologist with the U.S. Forest Service, speculates the lode may exceed 125 million tons.

Exxon official Paul Jason disputes that figure, but says the company now estimates that there are some 75 million tons of high-sulfide zinc, copper, silver, gold and lead—and exploratory drilling is still in progress, going deeper every day.

But despite the euphoria at Exxon and other companies—and among state and local officials eyeing tax dollars—opposition to the development is mounting.

"If the mining companies go ahead it's going to ruin this part of the country

for dairy farmers," says Louis Havluj Jr., a longtime dairy farmer in Rusk County, Wisc., site of a proposed Kennecott open-pit copper mine.

"They've been surveying and getting land all around this and surrounding counties. They're going to gobble up land all over northern Wisconsin and ruin farming completely."

"All you have after the mines close down," says Havluj, "is piles of rubble and junk. Acid wastes will drain into the rivers, subsoils and wells. Once that happens, we're through. Not even rabbits will want to live here."

Havluj was one of many small farmers who spoke out against the mining operations last November and persuaded the county supervisors to deny a zoning change that would have allowed Kennecott to proceed.

Boom once before.

Some longtime residents remember the last mining boom in northern Wisconsin and Michigan's Upper Peninsula. It peaked around 1920, when there were more than 150 mines working three ranges.

When the mining companies found it more profitable to switch operations to

South America around 1950, massive unemployment and a proliferation of ghost towns followed. Unemployment still runs two to three times the national average in the area, and some 30 percent of all families earn less than \$3,000 a year.

Many former mining communities are still suffering environmental damage from the mining techniques of the period. Iron River, Mich., for instance, is faced with cleaning up the acid wastes from a local mine, which are polluting the city's water supply and eating away its sewer system.

Modern, state-of-the-art exploration techniques have brought the companies back to the area to locate the minerals long believed to underlie the area.

The real potential of mineral extraction in the area remains one of the industry's best-kept secrets. When Kennecott discovered a huge copper deposit in Rusk County nine years ago, industry sources claimed it was an isolated deposit.

But since then at least four other corporations have laid plans for mining operations in Wisconsin alone. And John Rigg of the Interior department's Metal Mining Division has predicted that northern Wisconsin and northeastern Minnesota may become the largest copper-nickel producing region in North America.

Land or ore.

At the same time, the small citizens' action group that banded together to delay the Kennecott mine in Rusk County last year is spreading to other communities.

Says organizer Roscoe Churchill, a 60-year-old school principal and small farmer, "If this mad destruction of agricultural lands does not end soon, in a short time there will not be enough land to produce food for the people."

The takeover of farmland also threatens the loss of agricultural jobs, which some critics believe will not be equalled by new mining jobs. Mining jobs, in addition, will last for only about 30 years—compared to displaced farming and tourism employment, which lasts for many generations.

Exxon is also facing opposition from the Mole Lake Chippewa tribe, whose reservation is just a mile from the company's huge copper-zinc discovery.

The tribe contends, among other things, that the mine will contaminate nearby Rice Lake and destroy their annual wild rice harvest, a major source of their income and food.

Al Gedicks is a Wisconsin journalist and film producer who has written extensively on mining in the Great Lakes area.

Exxon invades Chippewa territory

By Paul Sequeira

Less than a mile from the site of an Exxon discovery of what may be one of the world's largest zinc and copper sulphide deposits lies the Sokaogon Chippewa reservation. Its 1,900 acres include a portion of Swamp Creek and all of Rice Lake, both of which abound in wild rice, a basic economic and dietary ingredient in Sokaogon Chippewa life even today. Swamp Creek, which feeds Rice Lake, runs just north of the main lode of ore claimed by Exxon.

The Indians, however, also have claims for the land that Exxon wants to mine. The Sokaogon Chippewa, also known as the Mole Lake, Post Lake or Lost Band Chippewa, were excluded from the Treaty of 1854 by which the tribes of the Great Lakes region ceded their ancestral lands to the federal government for reservations. At that time they were lumped together with the Lac de Flambeau Chippewa.

But tribal leaders claim that shortly after those treaties were signed a govern-

ment agent was sent out to survey a reservation site for the Post Lake Chippewa. The reservation included the piece of swampy, wooded area one mile northeast (and uphill) from the present reservation that Exxon wants to mine. This would have given the Indians control over the immediate water source for Rice Lake.

Through an unfortunate set of circumstances, written copies of this treaty have disappeared—the Indian copy was lost on a hunting trip shortly after the signing and the government agent's copy was lost when the agent was reportedly killed en route to Washington. The tribe's contention that it existed, however, is supported by documented testimony around the turn of the century. The tribe also has custody of two medals, dated 1853, given to the tribe in recognition of the treaty.

Apart from the land claim, the tribe opposes Exxon's mining plans for fear of the effects on local water and life-support systems.

An application to mine hasn't been filed by Exxon yet, nor has a required environmental impact report been demanded by the state. But Exxon is already driving prospecting shafts over 2,000 feet down, probing the dimensions of the ore. The Indians worry that sulphide compounds brought up by the shaft, when exposed to sunlight and water, will yield sulphuric acid that could seep into local water systems.

Exxon argues this can be prevented and is using a sealing compound on the outer casing of each of the dozens of probes it has planned to prevent the seepage of water and minerals from lower levels into strata nearer the surface. Nonetheless, a great deal of effluent, mostly water, has already been brought to the top in the prospecting operation and is stored in surface ponds to allow possible contaminants to settle out before it is to be pumped back underground.

Paul Sequeira is a Chicago-based writer and photographer.