Crossing boundaries, drawing anew: exploring the treatment of American Indian land with a Penobscot lens through The life and traditions of the Red man by Joseph Nicolar

Andrea Guerrero

University at Albany, State University of New York, andrea.guerrero.000@gmail.com

The University at Albany community has made this article openly available. Please share how this access benefits you.

Follow this and additional works at: https://scholarsarchive.library.albany.edu/legacy-etd

Part of the American Literature Commons, and the Native American Studies Commons

Recommended Citation

This Master’s Thesis is brought to you for free and open access by the The Graduate School at Scholars Archive. It has been accepted for inclusion in Legacy Theses & Dissertations (2009 - 2024) by an authorized administrator of Scholars Archive. Please see Terms of Use. For more information, please contact scholarsarchive@albany.edu.
Crossing Boundaries, Drawing Anew: Exploring the Treatment of American Indian Land with a Penobscot lens through *The Life and Traditions of the Red Man* by Joseph Nicolar

by

Andrea Guerrero

A Thesis

Submitted to the University at Albany, State University of New York

in Partial Fulfillment of

the Requirements for the Degree of

Master of Arts

College of Arts & Sciences

Department of English

Summer 2019
ABSTRACT

The relationship between the Wabanaki and the land informs their creation myths, their cultural expertise, and individual and communal identity. The connection is so integral to their identity that when privatization of property usurps their connections to the land, an entire Wabanaki people become veiled under a dominant topography. This thesis explores alternative methods for considering the land by juxtaposing two conceptions of land at work at the time when Joseph Nicolar writes *The Life and Traditions of the Red Man*. One conception predates colonization, I call it the veiled topography (mapping), that of the Wabanaki working with and having a symbiotic relationship with the land they live on. The other is what I call the dominant topography (mapping), one that requires possession and transaction of land, derived from a one-sided relationship with it. Ultimately I will argue how the Penobscot allow the land to have a voice, without which, one instead promotes the irony of the nation: disallowing a member to be part of the community despite their efforts to work with it. Land possession is what signals membership into the nation by law, but when American Indians are prevented from practicing these rights; the nation opts for Indian reservations to demote their sovereignty while eradicating their population.
ACKNOWLEDGEMENTS

To my thesis advisors, Dr. Wendy Roberts and Dr. Vesna Kuiken. Thank you for being patient with me during the writing process. This was a particularly large subject and I always wanted to capture it all in just one bite.

Thank you to the Master’s program director, Dr. Kir Kuiken. Your support during those small conferences were always challenging and a good reminder of where I needed to work harder and that it was okay to breathe and work slowly.

Most importantly, I want to thank my friends who always asked micro questions about my project, wanted to help me organize, challenged my thought process, and kept kicking me in the butt or tapping me on the shoulder to keep working and not give up on this project. Your support has always helped when I needed it most. You know who you are.
# TABLE OF CONTENTS

**Introduction** .................................................................................................................. 1

**Chapter One** .................................................................................................................. 2

  The Problem of the Court .................................................................................................. 2

**Chapter Two** .................................................................................................................. 20

  Geography Matters .......................................................................................................... 20
  Annette Kolodny on Dividing Labor .................................................................................. 22
  The Speaking Land ........................................................................................................... 22
  Warfare ................................................................................................................................ 23
  Titles and Disputes with Europeans .................................................................................. 24
  Transfer of Power .............................................................................................................. 25
  Dividing the Penobscot ..................................................................................................... 26
  Food Allocation .................................................................................................................. 27
  Veiled Topography ............................................................................................................ 27
  Holding Knowledge .......................................................................................................... 28

**Chapter Three** ................................................................................................................. 30

  Klose-kur-beh .................................................................................................................... 30
  Land Ties to the Community and Identity ......................................................................... 32
  Land’s Vital Food and Resources ....................................................................................... 35
  Warnings, Temporal Changes in Man .............................................................................. 39

**Conclusion** ..................................................................................................................... 51

**What Does Nicolar Teach Us** .......................................................................................... 51

**Works Cited** ..................................................................................................................... 54
INTRODUCTION

The relationship between the Wabanaki and the land informs their creation myths, their cultural expertise, and individual and communal identity. The connection is so integral to their identity that when privatization of property usurps their connections to the land, an entire Wabanaki people become veiled under a dominant topography. This thesis explores alternative methods for considering the land by juxtaposing two conceptions of land at work at the time when Joseph Nicolar writes *The Life and Traditions of the Red Man*. One conception predates colonization, I call it the veiled topography (mapping), that of the Wabanaki working with and having a symbiotic relationship with the land they live on. The other is what I call the dominant topography (mapping), one that requires possession and transaction of land, derived from a one-sided relationship with it. The current Maine landscape exists through a colonialist perception of the Penobscot environment and reasserted by our current understanding of land, which is all reasoned through the notion of private property. Whatever land exists already belongs to someone, and necessitates that another human being is off limits to that territory. Therefore my image of dominant mapping is both literal and metaphorical. My wish is to clarify how working the land in this way means colonizers master a body of people as well. Ultimately I will argue how the Penobscot allow the land to have a voice, without which, one instead promotes the irony of the nation: disallowing a member to be part of the community despite their efforts to work with it. Instead, erasure of a people is feasible, for the hypocrisy of the nation-state is also evident in the form of reservations that divide the Wabanaki by their allocated space. The tribes have a stake to the land before colonization; they knead and mold the topography, however, they do not have proper legal and cultural representation. Land possession is what signals membership into the nation by law, but when American Indians are prevented from practicing
these rights; the nation opts for Indian reservations to demote their sovereignty\(^1\) while eradicating their population.

**THE PROBLEM OF THE COURT**

Through the use of *American Indian Sovereignty and the U.S. Supreme Court*, David E. Wilkins allows me to track major cases during Joseph Nicolar’s time. About 80 years of cases are possible and within this time frame there are also a plethora of ways American Indians were constrained in terms of property rights and sovereignty. The cases also set the precedent for understanding land use and ownership under the Supreme Court’s decisions and the U.S.’s tactics to slowly eradicate American Indian communities/tribes. Perhaps a softer word to use would be control, seeing that the first goal for the courts was to maintain jurisdiction over tribes and the residual effects became their eradication. Around eleven cases occurred during this time that responded to the manner American Indians were or were not sovereign. I relate Wilkins’s findings here to establish the historical ground I am working on and interrogate the ways voices are silenced, as well as cases that the U.S. interprets to serve its convenience. Though I only focus on the historical period of Joseph Nicolar’s time, it is merely to constrain this project rather than encapsulate the issues that intersect with and continue to affect the tribes of North America today. Furthermore my project is interested in the Penobscot tribe because there has been little work done on their tribe compared to the Midwestern tribes, and therefore *Life and Traditions of the Red Man* also becomes sidelined instead of taking part in the great research done to restore the American Indian narrative in relation to the shared land history between us and the

\(^1\) According to David E. Wilkins, “the state is the ultimate arbiter of its own fate in relation to the outside world” For modern times it has evolved into “the power of a culturally and territorially distinctive group of people to develop institutional arrangements that both protect and limit personal freedoms by social control” (Wilkins 375).
Penobscot. David E. Wilkins is the primary scholar I speak through in regards to the historical laws at work during Nicolai’s lifetime and the publication of his book.

In American *Indian Sovereignty and the U.S. Supreme Court*, Wilkins succinctly notes that United States law is “so anomalous, so hard to bring within any precise definition” with regards to American Indians that “the diminution of the sovereign status of tribes has placed tribes and their citizens/members in a virtually destabilized state” (Wilkins viii). The elusive nature of the laws, which is meant to protect its people, actually functions to force the American Indians to the outskirts of American soil. Wilkins’s decision to name American Indians “citizens/members” point to the fallacy of the term “citizen”. To give them this label implies that the tribes benefit under the constitutional contract. However, the shaky ground tribes like the Penobscot are put on work to destabilize their history and identity, a systematic method for eradicating Wabanaki people. The mechanism works by forcing one identity onto the people, but also through promising integration into a new system of law, only to use workaround language that robs them of their rights and culture. In the 2018 documentary *Dawnland*, a Wampanoag lecturer named gkisedtanamoogk, calls such social integration soft eradication for its elusive and seemingly harmless nature.

One of the issues one has to confront regarding questions of American Indian sovereignty falls in the domain of American law. So vital is it to have faith in the law protecting its people: “belief in the sanctity of law is essential to the perpetuation of the dream that the United States is a perfectible society” (Wilkins 2). There is no doubt then that we would want laws to work for a homogeneous audience. If law promotes a moral and ethical individual, the goals toward a perfectible community become more possible, we get an image of a nation going through linear progression. However, once we debunk this misconception, law becomes disconnected from the
human rather than serving the people. Namely, it is apt at, “magically removing humanity from the legal process” (Wilkins 8).² Rather than see that human beings are involved in a complex process and system of negotiation, the laws stand in front of them to speak for them, away from humanity and closer to a wall of rules. As I move forward in the legal cases it becomes more apparent that the tribes’ sovereignty is peculiar precisely because they fight for their own communal rights and law, not necessarily a fair and equal integration as other minority groups might advocate for. Therefore the tribes wish to have a stake in the American land because it becomes a requirement for them to have ownership over their personhood.

Wilkins further explains removing the human from law when he cites John T. Noonan, who describes masks of law as labels that make individuals stand-ins for “court” or “property” or “the law”. Again, masking allows the court system to function effectively because rather than dealing with groups of people, they instead think of it as dealing with the dependent wards in the case of American Indians. While summarizing Noonan, Wilkins refutes that masks of law are “simply tools of power” (Wilkins 9), yet I would push back on this claim. If a tribe’s identity and sovereignty are highly dependent on their relationship to the land then these masks the government uses serve to silently erase the person from not only legislative existence but also from spiritual existence. This to me makes the legal process ‘magical’, as Wilkins describes, precisely because these “sets of communication” are some of the only tools one needs, and the Supreme Court abuses, to suppress tribal voices.

---

² Wilkins uses African Americans as the basis for explaining masking of identities. The two types of bodies are meshed within similar issues of property and their dehumanization. Yet Wilkins immediately warns against parallelism with other minority groups (Wilkins 19). This is an interesting move despite using African Americans as an example for masking and for laws toward its people. This also makes it difficult to situate the audience and myself, as it is more tempting to create the comparison and furthermore to modernize the case since the conversation is heavily planted in 21st century cases.
Wilkins argues for a threefold perspective that shapes the way the government positions itself in relation to American Indians as well as the legal actions it takes. The first is a belief that legal disputes are founded on a constitutional and treaty-making basis. That is, that the tribes are exempt from constitutional constraints and therefore only require a treaty that will resolve their issues. Secondly, the law takes shape in a paternal savior complex, one that promises civilizing a savage community through careful calculated legislation. Finally, law is necessary for a nation-state to further modernize in a stable political framework. I found it especially important to highlight Wilkins’s conception of integration: one being national and another territorial. Territorial integration “is the establishment of ‘national central authority over subordinate political units or regions. [It] means objective territorial control” (Wilkins 10-15). I find this useful for my project, in that Nicolar writes in a state of forced acclimatization and depicts a narrative where conceptions of land are already reworked, they are already fenced in and looking outward, Nicolar looks backward to capture his history as it is fleeting and combine the American Indian cultures he is living at once. Based on Wilkins’ understanding of the government’s actions we can figure that the modes of treating American Indians and their land involve treaties, savior complex, and laws to maintain a progressive nation-state.

Under constitutional or tribal consciousness, Wilkins claims that Worcester v Georgia (1832), Kansas Indians (1866), Ex parte Crow Dog (1883), and Talton v Mayes (1896) gave American Indians victories in holding the sanctity of Indian treaties, the political standing of tribes and their freedom from state, sovereignty of tribes, and extraconstitutional basis of Cherokee sovereignty, respectively (Wilkins 11). However it is noteworthy that the tribes included in these cases are all tribes that became located in the Midwest after the Intercourse Act of 1834. The Penobscot tribe resides in Maine, which by that time is a state already established
and thus already absorbed by federal and state law/power. Despite Wilkins tracing these cases for tribal sovereignty it appears the Northeastern Wabanaki people are nowhere to be found in these scenarios. Representation for them must be a different battle, or one that does not exist in this time frame for Wilkins.

Additionally, if we describe what sovereignty might look like for a tribe there are two aspects that we can tackle. One is the political dimension of sovereignty that includes the makeup of governmental policy and for that responsibility to fall into tribes’ hands (Wilkins 20). Their own policies would combat the fact that the “bill of rights does not protect tribes or their members from congressional actions” (Wilkins 26). If an American Indian is not guaranteed this protection it becomes a matter of the pursuit of happiness being inextricably linked to property but more broadly speaking, linking affect with the ability (or lack thereof) of ownership. Rather, the promise of an increase in affect (fulfillment), namely of someone’s happiness, is a result of one’s right to property. Thus the move to re-envision another conception of land, namely the exploration of a Penobscot conception of land, addresses the problem of American Indians who are exempt from the protection and benefits of “property”. The distinct path to happiness is achieved based on the colonial terms for it. By linking property and happiness so close together, the Penobscot path of identity becomes muddled as well. On the other hand, cultural sovereignty would entail something like what Gerald Alfred described for the Mohawk: “tewatatowie...Mohawk sovereignty, then, is seen as much more than interests and boundaries, it has to do with the balance and harmony between the various human communities, between the Mohawk people and the land, and between the Mohawk and other communities” (Wilkins 21, emphasis mine). Precisely, their sovereignty is dependent on various relationships, one being Penobscot ties to land. Besides the political framework, land here has a cultural voice alongside
the tribes typically silenced under U.S jurisdiction. Yet the need to control these tribal bodies stems from an old enduring stereotype of the savage Indian who needs rehabilitation from the U.S. In United States v Clapox (1888) the decision to uphold the Courts of Indian Offenses’ decision endorsed COF “punishing tribal members who engaged in tribal dances, polygamy, traditional healing ceremonies, or any activity deemed ‘heathenish’” (Wilkins 12). As part of a sustained effort to civilize the American Indian the Supreme Court successfully “alter[s] indigenous reality” through its elusive use of language of law (Wilkins 17).

Wilkins focuses on Johnson for one of the first and major decisions regarding “possessory rights” (Wilkins 28). In Johnson v McIntosh (1823), citizens cannot obtain land from natives, which also means natives cannot legally sell “their” land because it belongs to the U.S. The negotiations that are held must stem between federal bodies and the tribes; the tribes are like children needing their allowance divided and voice shut. This case is fundamental for its use of the notorious discovery doctrine. This concept allows the U.S. to dominate European property laws and create its own network between themselves and American Indians (Wilkins 32). Judge Marshall ends up supporting the doctrine in his decision, citing that, “However extravagant the pretension of converting the discovery of an inhabited country into conquest may appear; if the principle has been asserted in the first instance, and afterwards, sustained...it becomes the law of the land and cannot be questioned” (Wilkins 34). Marshal shrewdly washes his hands of responsibility while rewriting the history of the American Indian as one of pure discovery and conquest. The Johnson case models superiority: “this doctrine effectively excluded Indian tribes from direct participation as national entities in the process of international community development” (368).
Although not much time is spent on two seminal cases, Cherokee Nation v Georgia (1831) and Worcester v Georgia (1832), Wilkins argues these drove two major beliefs for later cases. In Cherokee Nation Judge Marshall “blended his federalist convictions and his sense of moral obligation to Indians with a pragmatic need to reconcile tribal status within the constitutional framework of the United States” (22). The domestic-dependent status comes from this case, for the tribes are deemed free but still under the U.S.’s separate but dominant status (42). It was taken a step further in Worcester where the court specifically cited the tribes as “foreign” entities (42). Wardship and guardianship stem from this case as well and guide much of the discussion in courts regarding the U.S. as a paternal parent over the inferior tribes (77). Worcester was important for promoting the tribes as foreign-and-therefore-separate idea. The case “recognized the political distinctiveness of the Cherokee Nation and the supremacy of Indian treaties over state laws” (22). There was also a focus on the language used for making treaties. It should be plain rather than working against the “unlettered people”. Despite this precedent, in Ward v Race Horse tribal rights and sovereignty are rebuked in favor of the state, or municipal law (100). Yet another attempt for giving power to the American Indian was held in Mitchel v U.S. (1835) because it “emphasized the fact that tribes were the possessors of a property title that was as ‘sacred as fee-simple’” (44). Fee-simple is understood as “an estate in land of which the inheritor has unqualified ownership and sole power of disposition” (369). This is vital because here Indian titles were understood to be on equal standing as the powers white citizens had over their property. The attempt to incorporate the American Indian into the constitutional network of property benefits was sometimes there, however from these cases one

---

3 I also stray from Mitchel because it involves the Spanish conquest and the Forbes Purchase. This third party opens up another route I will not be going down here.
could see the confusion in giving the tribes complete autonomy in favor of the U.S. maintaining ultimate control.

This umbrella power the government holds over the natives continues in the case involving United States v Rogers (1846), a Cherokee-adopted Indian who is presumably under Cherokee law is exempt from U.S. jurisdiction, however the congress deems that in fact he is white, and still part of the U.S, therefore under U.S. law must stand trial for murdering another adopted Indian. This boils down to the Cherokee having their own law so long as it does not interfere with USA and its state territory, therefore enveloping Indian law under USA as well as territory. This is what Wilkins calls “geographic incorporation as compared to political–legal incorporation” (Wilkins 42). The focus on geography is interesting here because depending on the topographical boundaries the tribes and the federal governments find themselves discussing the members of the Cherokee tribe have little to no say in how they are to govern and instead how they are to be governed under the paternalistic U.S. What Justice Taney decides in this case “ignored the evidence of several hundred preexisting treaties which European nations and later the United States had negotiated with Indian nations” (Wilkins 44). Again, law serves not the human, but the bodies of political power who also rewrite history in a manner that succeeds in absorbing American Indian sovereignty. I agree with Wilkins when he says the Supreme Court aptly removed the years of history between the American Indians and the U.S. in dealing with their right to self-governing. Treaties are ignored and years of communication are wiped off in the case Taney responds to.

The seesawing between tribal sovereignty remains in the Parks v Ross case (1850) and Dred Scott v Sandford (1857), whereby Justice Taney maintains, “although they were uncivilized, they were yet a free and independent people, associated together in nations or tribes,
and governed by their own laws” (Wilkins 50). The court, specifically Taney, reverses his statements made in *Rogers*, causing tribal sovereignty to again, become ignored. Discovery doctrine does not hold up the way it does in *Johnson* and though this could be considered hopeful (because in this particular case they are independent nations) Wilkins observes that it is *Rogers* which is constantly cited as precedent. Thus the court also chooses to highlight the cases that decide the tribes are dependent and subjugated. It is these cases that become the crux of congress’ reasoning for domination over the Cherokee tribe, and by extension the rest of the tribes. In the Cherokee Tobacco, United States v Kagama, and Cherokee v Southern Kansas Railway, *Rogers* becomes constantly cited as the reason for having the tribes submissive to American law, without the American Indians being American citizens.

The *Cherokee Tobacco* case (1870) is very interesting for prioritizing the law and material before the human, as Wilkins notes the case name is only inclusive of the items in question rather than the person’s name. It is also that from this case congress decides general laws do apply to the tribes unless they are explicitly named to be outside of them. (Wilkins 54-55). This is contradicting to the preceding cases that call the tribes independent and with their own laws. The language the courts use rely on self-evident truths, givens, and the ability for material to be foregrounded rather than people arguing and defending their positions. There is no space for discussion in many if not all of these cases. The result of conflating the treaty made with the Cherokee in 1866 and the Revenue Act “even though the laws had separate origins and separate purposes” (58) results in the advantage of the court picking the more appropriate act for the appropriate time. Wilkins calls this method and effect of it the “last-in-time” rule (Wilkins 59). Whichever act, treaty, law, or statute comes latest is the superseding law of the case. Although the two dissents from Justice Bradley and David problematize the moral code of the
U.S, it is under the reasoning that the treaties are a sacred “compact between a guardian and ward” (Wilkins 62). However much these two aided in bringing another perspective to the case it was unfortunately still under the assumption that as a nation we are obligated to care for the “small people” who rely on us for “protection” (Wilkins 62). Under the guise of protection, inferiority, and the good of the U.S, the Supreme Court rescinds its previous attempts to negotiate with American Indians and instead chooses to move forward with their own goals. Nicolar’s text uses a combination of the material, that is land and its resources, and the human needed to do the work of combining and fertilizing the land for a proper resonating dialectic between man and the Earth they’re on. Thus there is no foregrounding, but the text has the voices of the land, the spiritual, and the people in conversation throughout the story.

Increasingly the State of Indian Affairs would also argue that unless they intervened, the savagery and lawless nature of tribes would lead to their extinction. Their persistence on being the provider and caretaker of all tribes continued in United States v Kagama (1886). The case involves a murder between two parties of American Indians. Unlike the Rogers case however, this involved two native parties and the interference of the court on internal tribal affairs. Kagama and Mahawaha were charged with murdering Iyouse. This also takes place on territory deemed a reservation, which their lawyer stresses its purpose “is predicated upon the theory that the Indians are not citizens, are not foreign subjects, are not subject to the jurisdiction of the United States” (Wilkins 69). Despite this, the court decides that the powers granted to the tribes are due to congress, which can be revoked or modified at any moment in time. For this case, the courts extend their American crime laws onto the American Indians in their efforts to exercise paternal power and protection over the tribes. The five tribes exempted from the Major Crimes Act were able to do so because the government deemed them civilized enough because their
“forms of governance modeled loosely after those of the United States” (Wilkins 70). Therefore, not all tribes were savage, and not all tribes dealt with the constant encroachment from the U.S. However, everyone else was termed under the protection of the fatherly wing of the U.S. Wilkins also summarizes what the ultimate decision meant for the tribes included in this crimes act: “that Indians would exterminate themselves if congress was not allowed to step in and assert control over internal tribal criminal matters” (Wilkins 71). This is pretty absurd, and yet follows suit with the reasoning the government maintains for the most part of their relationship with American Indians. The only argument Wilkins can discern that caused the change in this case is that the Congress had slowly transformed in perspective, becoming more inclined to believe they had power and status that the tribes did not. Justice Miller thus equipped his decision with various masks, what Wilkins threads throughout as the layers of rhetoric that function for the unilateral benefit of the government and distance the human and humanity from the process. He names them “geographical interpretation, Indian wardship, plenary power, and the discovery doctrine” (Wilkins 76). Wilkins describes plenary power as a challenging concept especially as it pertains to American Indian Law. “Plenary is sometimes defined as exclusive” when it is required to specify the American Indian in law. “Plenary is often defined as an exercise of federal power which may preempt state law”: therefore federal government obtains a powerful and exclusive overarching right to decide how the tribes and its members are to be related to the states. Finally, “plenary is ‘unlimited or absolute’” (Wilkins 26). This definition becomes the poisonous one that is taken up by cases when dealing with American Indian affairs. Thus, the court cites not the enumerative or commerce clauses as being the basis for their penetration into Indian affairs, but instead re-labels them as territories and claims their location within the larger nation as subject to the “exclusive sovereignty” of the U.S. (Wilkins 77). While manipulating the
language in order to serve their immediate needs, the U.S. Supreme Court also enforces the central issue that Nicolar’s text explores: “that land ownership generates unfettered power” (Wilkins 77). By the time the Kagama case is brought to the court, its judges “had abandoned the idea of the existence of tribal political or territorial sovereignty” (Wilkins 78). The logic of a dependent nation needing a parental protection was a major drive for the overarching federal power over all American Indian matters. Also important was Justice Miller’s use of “extraconstitutional reasons for holding a statute to be constitutional” (79). The Supreme Court had inexplicably given themselves full hegemonic oversight despite knowing the Commerce clause and independence of the tribes was to be upheld. Wilkins’ reasoning is pivotal to the argument I make concerning Nicolar’s understanding of land and his tribe. That is, the Penobscot are not seeking to “be imbued with the exalting egotism of America civilization, so that he will say ‘I’ instead of ‘we’ and ‘this is mine’ instead of ‘this is ours’” (Wilkins 80). Wilkins, like many other scholars, probably recognizes the collective concept that dominates the American Indians and infuses them with a strong sense of identity which pushes back against America’s equally strong notion of the individual. Nicolar’s text instead reminds us of an intertwining relationship with people and the landscape. This is not to say that he or the Penobscot do not have any overlapping ideals, for the paternal mindset is also evident when Nicolar spends a considerable amount of time teaching the children, as well as writing the story to save the future generations from forgetting. However, this paternal drive differs from the court’s insistence that the American Indian be forcibly and repeatedly under the U.S.’s wing. By doing so, the tribes become crippled rather than educated the way Nicolar’s Klose-kur-beh does in his text.

Alongside this crippling loss of power, new land boundaries are drawn once the Dawes Act of 1887 is passed. Nicolar is in his final years during this time, and his text become a stark
contrast to how he sees land treatment, and how the government envisions a new way of integrating the American Indian into white American culture. The Cherokee v Southern Kansas Railway (1890) started with a surprisingly strong defense on the side of the American Indians. Railroads had an advantage in congress due to modernization, which the U.S was gladly promoting. Their construction was very much encouraged and seen as progress for the nation. However, President Cleveland declared that allowing railroads through reservations “invites a general invasion of Indian country” (Wilkins 82). The issue with this case, and many if not all cases presented here, is the granted permission to build a road through Cherokee land “without the consent of the Cherokee nation” (Wilkins 82). Instead, it was assumed by the government that the best route for all citizens would be the goal and in good faith create the necessary additions to the railroad system. In this case we also have an issue of physical representation in the court and the proceedings thereafter, for the Cherokee are never there. The Cherokee Nation protested the plan to build the railroad but they were ignored entirely. Additionally, the officers appointed to handle the issue were already on the President’s side and unaware of the Cherokee’s background. At most, the Cherokee understood their property rights as well as their ability to charge a minimum of $500 for every mile that was to be laid; they prepared a report to push back against SKRC. According to the officers who gave the initial amount, this would be around 35.5 miles of land that they wished to bypass, not including the telephone line that they also wanted to add but only pay a minimum amount for doing so. By this point in time the dependency argument as well as the federal power argument fueled cases such as these, with Judge Parker proclaiming “if they are a dependent nation” (Wilkins 85), as a given statement rather than a question, then it was the dependency on the larger U.S., not its states, that the tribes were dependent on. The dependency that Judge Parker describes is ironically used, since it is actually
every case, rather than the tribes, that ‘depends’ on the present conditions of the U.S., the
government’s immediate goals, and the amount of flexibility they want to impart on the cases.
The argument used for the decision is dependent on “the peculiar relations” between the two
parties, which bans “the application of strict rules of interpretation” (Wilkins 86). There can be
no strict application to the laws because to the U.S. Supreme Court “this unlettered people”
requires specific language that makes sense “not according to the technical meaning of its words
to learned lawyers, but in the sense in which they would naturally be understood by the Indians”
(Wilkins 86). Again, using the words “learned lawyers” and “natural understanding” for its
primary reasoning continues to romanticize and provide the picture of a ‘noble savage’ who is
helpless but uncivilized and unlearned. Nicolar’s text would say otherwise, for they teach their
children knowledge that pertains to their community as well as vocabulary that directs their
knowledge of the land around them. Certainly, the learned lawyer has a different set of tools of
understanding, however as it pertains to land, transactions, and mutual understanding through
contracts or treaties, the American Indian is neither unlettered nor unaware of the strict versus
flexible interpretation of texts. In fact, the opposite is true; rather than admit the sovereignty and
authority the Cherokee had over their land, the court and Judge Harlan “in keeping with his
radically revisionist history” (Wilkins 88) said the Cherokee are not sovereign the way the States
and the United States are. Additionally, Judge Harlan cites the tribes’ wardship relationship to
the nation as a given “from the beginning of the government” (Wilkins 88). Suddenly switching
into an origin-based and natural narrative, Harlan reorients memory of the agreements made with
tribes in order to silence them and bypass their autonomy. Harlan even cites Worcester and
various treaties between the Cherokee and U.S. only to say it gave them limited title to lands but
never “with no superior” available to aid in pushing forward with “the independent existence and
perpetuity of the United States” (Wilkins 89). The government is only concerned insofar as the health of the greater nation may increase, and that the power they accumulate is greater than before. One could discern how the logic is construed so that the tribes begin with firm understanding from the U.S about their independent status, and slowly through the cases brought to court the argument is a concretely dependent relationship based on a hierarchical understanding: The U.S. is at the top of the pyramid, the states, then at the bottom comes the tribes. Wilkins puts it best when he observes that “tribes...were only temporarily landholders with a secure title only so long as the government had not arrived at a ‘germane’ reason to take it” (90). The railroad case is interesting because it offers monetary compensation as a way to settle the business, only doubling the initial offer made and allowing the railroad’s construction in argument of its public use superseding the Indian land agreements (Wilkins 91).

   The final case I will be looking at occurred two years after Nicolar’s death and three years after his book’s publication. Ward v Race Horse (1896) dealt with hunting the food source of the Shoshone and Bannock Indians in Wyoming. Again, my thesis is based on Maine Penobscot, however it is interesting that all of the major cases involving American Indians are predominantly from the western expansion era. In this case the Indian officers cite hunger, necessity, and therefore the rights under treaty of 1868 to hunt outside of the reservation for their game. Unlike the whites, they claimed they were not interested in sport, but needed to hunt to fend off starvation on the reservation. The manner in which a case is created reads as a complete manipulation on the part of the Department of Justice. The Indian commissioner for the Office of Indian Affairs asks Province McCormick, inspector of the United States Indian Service, to discuss with the governor of Wyoming the possibility of a “test case” (Wilkins 94) which will determine whether the tribes have a right to hunt and be protected by the treaty, or else whether it
can be ignored if it is ruled that the State laws supersede treaty agreements. Based on the rhetoric that the judges used before this case, it is no surprise that this is only a way in which more power is taken from the tribes. Precedent similarly deems treaties to be under state law, which are under federal law. However, Judge Riner ruled that Wyoming’s new statehood did not give them the power to revoke treaties based on a federal government agreement. Therefore the treaty that allowed them to hunt remained intact. Despite this superficial win, the agents and attorneys in the case used the opportunity to request that the hunting rights of the Indians be “‘surrender[ed] or at least a major ‘modification’ of the Indians’ right to hunt ‘to such an extent that they shall be amenable to State game laws and regulations”’ take place for their safety (Wilkins 96). When the case was appealed to the Supreme Court, they deemed that it was entirely irrelevant where elk was killed and that “the ‘sole question’ to be considered was whether the treaty ‘gave’ the Shoshone-Bannock the ‘right to exercise the hunting privilege’, which was now in violation of Wyoming’s laws” (Wilkins 97). To the court, it was understood that hunting was a right given to the Shoshone-Bannock (97). If the paternal government could give this right then they also understood it their right to take it away from the tribes. The argument brought forth was similar to the SKRC v Cherokee Nation case in that the language used for the treaty could be interpreted “‘as the Indians understood them’” or how the court decided it was to be interpreted. Though some cases were concerned with sympathizing with the ‘unknowledgeable Indian’, Justice White argues that the court’s interpretation is law. State law rules over treaties despite the treaty existing before Wyoming is a state and its protection under the U.S. Constitution. While the precedent is ignored entirely White also uses hunting districts as a way of introducing new borders and constraints that conflate with the treaty’s rules: “the unoccupied lands contemplated were not all such lands of the United States wherever situated, but were only lands of that
character embraced within what the treaty denominates as hunting districts” (Wilkins 99). Additionally, if the hunting is only conditioned as a right rather than an agreement between both parties, White also argues “‘so long as the necessities of civilization did not require otherwise’...such rights were ‘absolutely’ dependent ‘upon the will of the Congress’” (Wilkins 99). This fact also stood when the introduction of a new state cloaked the rights of the treaty, as the land was no longer unoccupied but part of the U.S. and therefore under their dominion. “White stated that the federal government had the sole power of determining who could do what on the lands in question” (Wilkins 100). So long as the U.S. does not discover the land in question then it is American Indian free reign under their treaty. But once the land is discovered it is mandate that the occupants, the tribes, are under the power of the state and federal governments. There was only one dissent in this case, and it was not enough to avoid the State’s “elevated state power not only over tribes’ vested rights, but also over the federal government itself as a trustee for the Indians” (Wilkins 104). Important here is that the states now have similar powers over the tribes, as did congress or federal government increasingly over time.

Throughout Wilkins’ book the Penobscot, also known as Wabanaki or Abenaki are mentioned very briefly. They are part of a larger whole of eastern Indian tribes, which claimed land was illegally taken and they “had not been served by the Indian Claims Commission because their land losses had occurred as a result of actions by individual states, not the federal government” (Wilkins 216) in Joint Tribal Council Of The Passamaquoddy Tribe et al. v Morton et al. However they were persistent and cited that “the states had unlawfully purchased or otherwise secured title to much of their aboriginal territory in direct violation of the Indian Trade and Intercourse Act of 1790” (Wilkins 216). It took until 1975 for this case to take the stage, and is therefore a success in that it gave some reparations back despite the length of time it took to
rematerialize the sovereignty promised in treaties. In addition, Wilkins addresses the differences between these land claims cases and the United States v. Sioux Nation of Indians case. The Lakota nation has not accepted the monetary award they were given to this date; Vine Deloria Jr. says “the claim would not be fully resolved as long as the Court persisted in regarding it simply as a real estate deal” (Wilkins 217). The statement summarizes a large object of this section, that the continued treatment of land throughout this time period enforced a transactional relationship between the American Indian tribes and the United States government. That the nation had not taken the money was “a powerful testament to the tribe’s principled position—land is more precious, and certainly more enduring than money” (Wilkins 234).

My initial questions for this project started off as passions against the legal system, one that I view as pushing for privatization of property by the government and therefore disabling communities, here being American Indians. Though my impulse during this process is to see the Penobscot and American Indians as a microcosm for what is being done to other communities who are made nonmembers of the political body, it seems they are to stand apart from other minorities and given a distinct place in American history. As I scavenged Wilkins for evidence to support my initial hypothesis, I found increasingly that the types of legal battles comprised of governing-to-governing bodies. In other words, the American Indians desire property as well as their self-governing rights; this has probably changed with the advent of modernity and contact with Eurocentric ideologies. Based on the research, tribes seek the chance to govern themselves, and to decide property on their terms. This is a slightly different angle than what I had initially anticipated. The problem is not that the American Indian tribes stray away from private property, but rather that their private property agreements are never considered strong enough to stand on their own. Instead they are subject to the courts’, Congress’s, or Constitution’s fabricated
interpretations of their standing. As for solutions, there is the possibility of including the American Indian in the Constitution or Bill of Rights, so that we stop excluding and erasing their voice. As Wilkins notes, because land is more enduring than money, the capitalist solution cannot catch all, especially a nation that banks on actual banks rather than the financial institutions. If there can be a reconsideration of the relationship one has to land, then the Penobscot voice in Nicolar’s text offers another manner of understanding what is usually left out in the court’s decisions.

GEOGRAPHY MATTERS

This chapter locates the Penobscot, an eastern Algonquin tribe, and the place names it inhabits to eliminate the homogenization of American Indians and specify the geographical stakes. Annette Kolodny’s introduction to The Life and Traditions of the Red Man teaches us that the word Penobscot is literally “the rocky place”, or “descending rocky ledge” (Kolodny 1). However, the Penobscot had many other words for the same being due to their focus on “the identification and naming of the specific geographical features that they would encounter as they canoed” (Kolodny 1) Not only do we see the importance of naming, but also a different way of orienting oneself to the landscape. Fannie Hardy Eckstorm explains her methodology and plights in writing Indian Place-Names, a guidebook, one of which includes the meshing of language before any contact was recorded in English history books. She notes, “In Indian words there is always the possibility of pre-Columbian influences—Basque, Norse, or Portuguese” (Eckstorm xviii). Such a phenomenon happens most certainly in Nicolar’s text, the reader would not know unless they read Kolodny’s footnotes, showing how delicate the language boundaries are and how hidden they become throughout time. When explaining the errors in interpreting place names, Eckstorm reveals the lack of English words on the part of the American Indians to
understand concepts we might know today. When describing boundaries to each other, the American Indians lacked ‘boundary’ in their vocabulary (Eckstorm xix). This is very important to think about in light of the colonists’ goal to delineate various boundaries and to do so through their understanding, foregoing the tribes’ method of description and images versus root words. Eckstorm amusingly points out that “closet students, who know nothing but books, blunder badly when they undertake to interpret a word without having seen the place” (Eckstorm xx). In this statement it is clear that the relationship American Indians would have had to have with their surroundings dictates the way they speak and live with each other. By having this way of understanding replaced without any time to acclimate is like potting a tree plant and drowning it with water. Eckstorm is adamant about the code meshing that is already well in place by the time Nicolar’s text comes out. However, perhaps it is the pace and methods on the part of the United States which becomes the central issue. Nicolar writes in a moment when the need to compromise has been forgotten and the only rhetoric set in place is to see the American Indians as below, outside, and less than their counterparts. The way Eckstorm has us understand the place names is valuable for partially thinking about the way Nicolar is orienting his historical narrative. For “an Indian’s point of view was that of a canoeman working his way upstream” (Eckstorm 1). The physical orientation and destination of the individual is equally if not more important to their communication, enlightening the way we read Nicolar and orient our own vision beyond that of boundaries and gridlines for possession and aesthetic marking. Just as we place heavy importance on our words and naming, the Penobscot are interested in a close alliance between the physical and spiritual nature of their land to interact with it. Throughout Nicolar’s text his story telling repeats, focusing on symbols like numbers, cardinal direction, animals, and the cultural hero Klose-kur-beh in the narrative to physically orient the reader.
Doing such work in literature is nothing new; many authors thrive on temporal and special play. However it is past literature that the narrative functions to add another push toward tribal sovereignty. Once the “Penobscot lifeways had evolved into regular and repeated seasonal patterns” the people had “moved the bands from summer residence on the coast to winter residence in the villages” (Kolodny 3). The physical movement from one home to another would signal a rejection of stagnant and permanent demarcation of home.

ANNOTTE KOLODNY ON DIVIDING LABOR

Nicolar demonstrates the separation of work throughout chapters three and four of his narrative. Kolodny also describes the work as “hunting, fishing, warfare, and the fabrication of canoes and implements of warfare were the responsibilities of men, while women wove basswood or birch-bark mats and baskets, attended to cooking, childcare, and the preparation of skins and clothing” (Kolodny 3). As population increased after Klose-kur-beh’s arrival, “the division of labor gradually coalesced into around relatively fixed gender roles” (Kolodny 3). Similarly political roles such as “clan membership was patrilineal” and it “mediated both intra- and inter-tribal disputes and disagreements” (Kolodny 3). Thus the divisions did not differ from the European systems of patrilineal merit, and councils such as the Grand Fire Council described in Nicolar’s narrative are not unique. The Wabanaki Confederacy, another council for discussing tribal affairs, consists of “the Penobscot, Passamaquoddy, Maliseet, Micmac, and possibly also the Montagnais-Naskapi of Labrador” (Kolodny 7).

THE SPEAKING LAND

The importance of land to the Penobscot involves more than transactional relationships between humans. As I previously mention, the idea follows that the land has a voice in the whole matter between American Indians and the settling colonists. The latter ignores the impact they
make on the soil as well as the cultural markers they eventually remove. Kolodny expounds on just how important the material world was to the Penobscot: “the very grammar of their dialects rendered certain kinds of stones or even a snowball as animate and potentially endowed with personhood” (Kolodny 4). If the way they interacted with the world meant that words were always considered in light of what they were talking about or towards, then to look back on cases Wilkins describes becomes more powerful. Cases such as Johnson or Clapox become more than a push to civilize American Indians; the jurisdiction overlooks that “traditional Penobscot belief systems were deeply respectful of the indwelling sanctity of the world and imbued with a profound sense of the interconnectedness of all creation” (Kolodny 5). Besides the cultural elimination, the U.S. makes use of the American Indians as additional numbers in their cavalry, without the due honor and benefit of actually counting as an active participant in their wars.

WARFARE

Kolodny notes, “there was warfare” as well as “far-flung trade networks” but the “healers, spiritual leaders, and dream diviners in the tribes were dismissed as charlatans, tricksters, or jongleurs” (Kolodny 4). Often, as Clapox shows, the American Indians’ beliefs were easier dismissed as savage or primitive aspects rather than another manner of seeing divinity the way Catholics or Christians might see it through altars or hymns. The incessant desire to tame the American Indian, acclimate him, and also use his ignorance of the European world meant that Natives were highly reliant on their working together despite previous warfare. Increasingly with the advent of the French, English, and Dutch, “as long as Native people could keep the Europeans dependent upon them as local ethnic mercenaries and partners in the fur trade, they could play the European powers off against one another and retain some measure of political and economic control over their traditional territories” (Kolodny 7). The method the
Natives resort to is an interesting way of keeping the boundaries on their terms, often the other way around as Indian boarding schools and the government system became more complex and more insistent on their assimilation. In fact, the developing states benefitted from the fact that the American Indians did not have the same understanding as them concerning legal documents.

TITLES AND DISPUTE WITH EUROPEANS

Kolodny tells us “Native peoples did not understand the European concept of legal title” (Kolodny 9). Miscommunicating the function of a deed, from one of transaction to sharing, meant, “in sharing use of the land, the English would also enter into a relationship with that land based on reciprocity and respect for the inherent personhood of the terrain and its creatures” (Kolodny 9). Not only was material culture and religious authority of shamans altered, but also Catholic worship from the French was embraced by the Penobscot in the early 18th century. Because Kolodny cites this as a precarious and unwarranted dispute between the French and the British, one can cleanly follow this blood trail to the foreword found in Frank G. Speck’s book *Penobscot Man*, where Lieutenant Spencer Phips and the court of Massachusetts in 1755 asks for Indian scalps so that “for every scalp of such female Indian or male Indian under the age of twelve years, that shall be killed and brought in as evidence of their being killed” (Speck xix) there is a huge price in return. Scholar Peter Anastas will also make use of this statistic in his *Glooskap’s Children* book, making the information about scalps for money widely known in studying the Penobscot. The institutional powers preemptively insert themselves, Boston “vot[ing] to raise the bounty price for Penobscot scalps to the unprecedented sum of 300 pounds” (Kolodny 13). Systematic eradication was without a doubt the method the British chose to eliminate their French rivals’ allies. What follows after is a petition by 1769, long before Nicolar’s time, which asks for land specifically for exclusive Penobscot use (Kolodny 13).
Kolodny’s observation here is imperative to the argument that the American Indian is a pure entity that is one with the land, that they seek to transfix themselves on this sublime image, to say that all they sought was one-ness, is a fallacy. Working in tangent with this, religious freedom also took the form of requesting a Catholic priest for the Penobscot community, not necessarily adhering to the purely shamanistic ways of belief and spirituality. In fact, in *The Penobscot Dance of Resistance*, Pauleena MacDougall says the Penobscot “sent a letter requesting a Catholic priest to the leaders of the Catholic Church in New England” (MacDougall 116). Additionally to their spiritual health, the priests saved Indians by playing a larger role: “No one else was willing to live among them and minister to their faith, health, and social welfare” (MacDougall 117). It is interesting that the Penobscot and Passamaquoddy resided with Catholic priests, and dissuaded from Protestant views, which held that “Farming would provide the Indians with an appreciation for private property...and stability to organize in permanent, self-governed communities” (MacDougall 114). Nicolar’s text does rely heavily on Catholic influence, however the Great Being in his text combines a Christian god and Algonquin creator, according to Kolodny. The meshing throughout the story gives life to the idea that Nicolar’s story unravels homogeneity. Unlike the cases of the court, there is one story, but many voices to it.

**TRANSFER OF POWER**

Americans continued the tradition of the English by promising protection and representation, and then failing on these promises just as the English had. Kolodny brings up the Trade and Intercourse act of 1790, which prohibited the transfer, or sale of Native lands without federal authority. Massachusetts’ requests for the Penobscot lands were a firm illegal transaction to begin with, which we see outlined in Wilkins’ court analyses. MacDougall similarly reports
“to New England leaders, ‘civilization’ entailed a process of land ownership in which individuals owned and improved the land by building permanent buildings, raising fences, and growing crops” (MacDougall 112). The colonialists’ understanding of a progressive community meant that boundaries must be drawn anew, must be bettered for the sake of everyone. To restate a core issue, the land transactions that take place are successful to Americans because they envision an empty, wild, conquerable nature, one that “unlike the Natives, they improved it and turned it into portable wealth” (Kolodny 16). With this hegemonic concept in place the Penobscot had little choice but to assimilate and adopt the economy of the industrializing Americans.

DIVIDING THE PENOBSCT

Kolodny draws up the divisions that were present in the Penobscot nation all while they are being pressured from America’s conceptions of land and property. The community dealt with whether or not priests or Indian agents had an appropriate amount of influence, and the matters of education, conversion, and citizenship were also topics they were split on and that deepened the fractures within. Kolodny addresses Nicolar’s position in the historical fracture, that of the Old Party, which maintained that public schooling should be the choice for the Penobscot children and that political leaders should be hereditary rather than elected (Kolodny 20). We could see this in his cultural retelling where the tribe always seeks the counsel of the elder before taking action. The tribe eventually “agreed to have the state survey their lands and allot individual plots to individual families” (Kolodny 21). The compromise the community decides on is to request aid from the state. They decide to reorient their lives in an attempt to incorporate vast change rather than a blank rejection of the colonialist’s way of life. The Penobscot attempt to work things out the white man’s way, by accepting the allocation of land to individual families and changing their wigwams for square houses. Rather than my argument that imagines an
isolated and sturdy community, the decisions the people cannot agree on also serve to fracture the traditional ways of life. This is not to say the Penobscot chose to hand themselves to the U.S., however their divided opinions in the face of industrialization were probably another aspect Nicolar addresses by amalgamating the various stories and beliefs into one narrative. Despite their allocation, Penobscot population was 400 in 1890 (Kolodny 21). This is evidence of the rapid and effective eradication of their people.

**FOOD ALLOCATION**

In terms of food, “many Penobscots were cut off from their ancient sources of sustenance or were forced to break the law to survive” (Kolodny 22). Ward v Race Horse is an example of tribes needing to provide food for their families, and being forced to give up hunting in the face of new state laws. Food being a staple form of ritual, gratitude, and plain traditional skill passed down, Nicolar points to just how knowledgeable Penobscot were of their sources for survival. This becomes one of the pertinent types of information he thinks one must know: that one must not forget their stories are not merely based figuratively, but are the literal means of consumption and prosperity for the community.

**VEILED TOPOGRAPHY**

I propose bringing to the surface a veiled topography, what I call a veiled mapping of the Maine land, as a way of reclaiming not only land but also Penobscot identity. It is veiled because it exists and haunts us, promising to speak out, it is veiled because it is there and not (legally) all at once. Law makes the Penobscot boundaries invisible. Nicolar’s map is unseen, yet present for a multi-audience at different points of the text. It exists for whites, for Wabanaki, for the learned and the unlearned children of the tribe, while keeping his mission foregrounded, that of his Penobscot community. The creators of the veil, the one that dictates new boundaries and a new
gridline by which to live include the government, the law, Supreme Court, Congress, and Justices on the panel that consistently arrest the land and maintain boundaries only when it is convenient and ignore them when it is not.

The use of these constructed images also aids in breaking the assumption that our history is linear. If the text addresses various audiences then a simple historical model of cause and effect logic is not enough to capture the variety of voices at work to build the land such as this. Instead the land shows a veiny living history, much like Foucault’s model of knowledge in *Archive of Knowledge*. I read Nicolar as a historicist, one who acknowledges his limits to mapping (sorting) out the veiled topography. The “full” account of his story cannot exist; we romanticize that it can with enough work. Similarly we are responsible for knowing when to stop. When can we tell the stories of the land and to whom? These become vital checkpoints that balance our limits and promote responsible narrativization.

Nicolar himself could be understood as an important case study, a man with various influences, but one who represents a larger possibility...so we arrive at his text. This is not Nicolar’s biography, for there is something beyond him that must be said. Charles Norman Shay says, “the Indian way of life and culture is built largely on legends and passed down from one generation to the next” (Kolodny x-xi). If life depends on legends that rely on the origins of land then it would also be the case that life ceases to be once the land is dominated by a stronger narrative, that of a capitalist nation. I argue then that Nicolar has already begun to lie out a roadmap for a multi-audience to follow.

**HOLDING KNOWLEDGE**

Frank G. Speck offers one approach to the Penobscot, that approach aligns with my initial impulse to trace Joseph Nicolar and his people as genuine, traditional, pure, and reclamation of
“lost identity”. The book begins with an awareness of the critique Speck would face upon publishing the book; however the first image we have is the proclamation from the British for the scalps of Penobscot Indians. Compared to Kolodny’s deeper sensitivity to the way a book is delivered on a people that is not her own, she has the picture of Nicolar’s text, and a preface by Nicolar’s grandson, rather than fore fronting the violence enacted on them in history. If Speck is seen as one of the sole (major) holders of knowledge then the book *Penobscot Man* must be read with caution, his research must be practiced with caution. Fannie Hardy Eckstorm reviews the book and corrects a lot of wrong information, while also noticing its invaluable contributions. When there are a limited number of scholars in possession of such narratives we read with caution. However I do not intend to throw away such knowledge either. Peter Anastas in *Glooskap’s Children* recommends Eckstorm and Speck calling them “really fine” and “He’s thought of highly by such diverse men as Loren Eiseley and Edmund Carpenter, both of whom I trust” (Anastas 1). Fannie and Speck are some of the more careful scholars compared to very racist ones who came before them. One of the more recent scholars explains his methodology as a way of reclaiming Wabanaki history.

Frederick Matthew Wiseman’s book *Reclaiming the Ancestors: Decolonizing a Taken Prehistory of the Far Northeast* cites Joseph Nicolar as presenting us with “the far past, when the world was made and the people learned to live in it” as well as “the origins of known political systems and the historical relations between extant nations” (Wiseman 2). This compares differently from the documents Wiseman critiques as falling under someone else’s private property. “Once the materials and/or data were liberated through the act of their collection, they were converted through analysis, curation, display, and publication into privately owned commodities that were now held by museums, universities, and scholars’ copyrighted
documents” (Wiseman 4). Unlike their legal guardians, “The Wabanakis were seen as social, technological, and intellectual lightweights who were imitative and accepting of innovations from elsewhere” (Wiseman 13). Wiseman challenges this enduring idea in his book and combines the known myth with the scientific procedures necessary to tell another tale. Although his is an archaeologist’s perspective, he combats the idea that “to correctly portray Indian history, they [scholars] would have to give up linear and analytic thinking and use ‘mythic’ and connectivity models instead” (Wiseman 18). Wiseman notes there is a scientific procedure that is needed to combat the legal system and its efforts to make the American Indian a non-intellectual. For example, he studies the tale of Klose-kur-beh in Nicolar’s text and discusses how Nicolar might have been laying out a plan from Klose-kur-beh to man so that he may sail across the ocean (Wiseman 119 & 120) and accidentally or purposely, contacted Europeans in their direction.4 Wiseman’s book fuses the scientific and the cultural hypotheses to give a sovereignty model of the Wabanaki. The responsibility similarly lies in us to pick up Nicolar, to let it tell us its history, and to allow a nation within our nation.

KLOSE-KUR-BEH

Nicolar’s tale begins with Klose-kur-beh, the Penobscot cultural hero. His inclusion in the beginning points to his great influence and American Indians’ knowledge about him. Horace P. Beck in Gluskap the Liar, & Other Indian Tales introduces him as a distinct character for American Indians, since he is “friendly to man. He is neither stupid nor brilliant, but appears of average intelligence with a super abundance of magical prowess” (Beck 58). When the hero awakens in the text, Klose-kur-beh sees “all that the world contained...he saw the land, the sea,

4 Horace P. Beck speaks similarly when he is confused why little is known about American Indians on water. They were no doubt also skilled in sea faring navigation and “that they went early in their history is proved from remains of marine life left deep in their shell heaps” (Beck 31)
mountains, lakes, rivers, and the motions of the waters, and in it he saw the fishes” (Nicolar 97). The interconnectedness of all beings and the land they share is of essence to the storyteller, and therefore his audience. After establishing the Great Being and Klose-kur-beh in dialogue with each other, Nicolar is able to share “a full account of all the original traditions” (100). However previous to this moment, Nicolar engages the catholic trinity with, not above or against, the cultural hero. We will recall Kolodny revealing that Catholicism was an accepted religion by the Penobscot, and here its incorporation signals an infused narrative that will continue until the end of the tale. The specific name, Klose-kur-beh is given its own history by Nicolar. Rather than conceptions that rely on the recent, or last meaning in time, Nicolar is preoccupied with restoring the etymology of a cultural hero prominent in many Penobscot tales. This is important because the history we are taught otherwise perverts the words the colonists could not pronounce or grasp the meaning of. Nicolar says language, has been “changed, very often corrupting the word into something else, or changing its meaning” (Nicolar 100). Through the tale in the first chapters, Nicolar relies on “the original Indian phraseology,” which “remedies this corruption” (Nicolar 101). The narrative begins by introducing the origin of humanity through the Great Being and Klose-kur-beh’s conception. The cultural hero is in charge of recalling the lessons taught to him by the Great Being and relating them back to the storytellers who will do so for the rest of the community. The repetition and sharing of stories is also a function of Nicolar’s text, which intertwines history and the story simultaneously to seek a perspective truth. Nicolar triangulates the data so to speak, interjecting Klose-kur-beh’s journey with his own historical data: that the “people began to look for the appearance of other people in that [eastern] direction” corroborates the journey Klose-kur-beh goes on (Nicolar 101). By intersecting both mediums of information, Nicolar reclaims traditional Penobscot culture while building on its traditional foundation as
well. Thus, Klose-kur-beh’s elusive journey, “there still lies a veil over the period during the seventy times seven days” he travelled (Nicolar 101), is significant because, as Wiseman says, the Penobscot may have also been searching for who was walking about the land. Since the Penobscot are nomadic and participate in sharing the land they inhabit, looking for others’ existence does not seem strange. The introduction therefore uses a reparative method that establishes an immediate dialogue between seemingly differing beliefs, interconnectedness, and a didactic mission in mind for various audiences.

LAND TIES TO THE COMMUNITY AND IDENTITY

Within the teachings lie more teachings. Such is the nature of Nicolar’s tale to his audience, and it can be seen in the Great Spirit teaching the hero Klose-kur-beh who in turn teaches the Red man one of the main facets of Algonquin belief, that “the world was all spiritual, that there was a living spirit in all things, and the spirit of all things has power over all” (Nicolar 103, emphasis mine). Such a teaching would mean that from the origins of the Penobscot to the American Indians of the East, all life around them and underneath them is imbued with spirit that must be given “signs of reverence and worship” (Nicolar 102). This distinct definition for what land meant for the people seems simple and obvious from this teaching and yet remains invisible and continuously denied in the treaties and court cases Wilkins analyzes. Specifically, the teachings Klose-kur-beh professes rely on the understanding that land is to be regarded with respect and remembrance. The land they have been given must never be abandoned and their first mother, Earth, must never be forgotten (Nicolar 102). Once the first people arrive to meet Klose-kur-beh he teaches them that “the land be our home, and a home for the people who will come after us” (Nicolar 106). Again, the Penobscot think in temporalities that surpass the now. Compared to the conceptions in court that only imagine land allocation according to what is
convenient in their current times, it seems the tale urges its people to remember they are but a moment in time. The greater context is beyond them, and depends on the people who come after them and inherit the homeland. So to tie a community’s identity so strictly to the land would mean that when it is stripped of them there is a great dissociation that occurs from within, in fact their truth becomes void. What binds the Penobscot to their history derives from the repeated transmission of stories to their people. Klose-kur-beh is a teacher who repeats the saying until “the things of the world will get so sweet to the people they will forget the words of the Great Spirit and shall begin to teach their children only on things they see in the world” (Nicolar 109). The conditions under which the hero returns are simply when the people forget, thus establishing the importance of ritual and teachings to their children: Ritual keeps them bound to the land, which is tied to their connection with the Great Being.

Teachings are not merely delivered to the children, chapter four discusses the seasonal changes to the land, which help illuminate the mortality of the Penobscot but most importantly how treating the land with equal respect and fear drives the symbiotic relationship between the Penobscot and their respective soil. When a boy of seven years comes and announces himself as the frost the tribes’ people do not realize that a severe winter is approaching them. Again as in chapter three, the story uses the corporal to signal great changes to the community as it applies in respects to their environment. Just as the first mother gave her body to the Earth, the boy in this story eats the children’s tongues as a symbol of the adults’ ignorance and the well-known term “frost bite”. The community’s response is to slay the boy who is causing the deaths of children but the same boy comes in trembling and proceeds to warm himself, “took from his bosom two tongues which he cooked as before, and after eating them went to sleep as usual” (Nicolar 144). Eating the children’s tongues becomes not only a gruesome deed by frost but also an important
detail that symbolizes the communication between the natives. The tongue, a sensitive yet integral part of human communication, becomes the bridge for negotiation between the women of the clans and the boy. When he is offered material treasures he denies the artifacts, instead “was very much moved, and said he was sorry for what he had done” to the mothers (Nicolar 146). Frost was interested in teaching the people to notice but also to listen. The boy replies, “I have been among you seven years, and in all these years no notice has been taken of me” therefore “death by sickness will come upon you” if the people are not prepared to take notice of him (Nicolar 147). The boy cries, “I shall have pity on no one” but also speaks mercifully: “I have brought medicine for all kinds of sickness” and “I have heard the wailing of your young men because no power had been given them to shave out implements from the stone” (Nicolar 147). Frost warns the Penobscot of its power, possessing both the power to heal, “I have come to bring medicine to you” as well as destruction, “I also bring death” (Nicolar 148). This simultaneous richness in the land is not without the natural mortality it brings with it, and the people are reminded every year through the seasonal changes of this lesson. The temporality issue haunts the people similarly to when the Great Being warns Klose-kur-beh in the beginning of the narrative. Though the villagers are born into prosperity they are doomed to sorrow as a part of natural cyclical processes. Frost says “I shall bring sorrow unto those that are not prepared for my coming because when I begin to come you shall reckon your time by years” (Nicolar 150). Even when giving spiritual power and greatness to seven chosen men, Frost warns them not to abuse what they are given, “you must never allow yourselves to become so small as to use your power upon or against your brother” (Nicolar 152). This recalls the various warnings Nicolar sprinkles throughout his narrative as a way of tracing what caused the downfall of his people and using a metanarrative to speak to the readers. The spiritual reasons both explain the
way the land is to be run as well as the consequences for disobeying, a concept very familiar in Christianity/Catholicism.

Nicolar’s understanding of the land ties to the community and its individuals become evident in his description of the impatient Penobscots who end up migrating south after the brutal winter they endure. Unlike the rest of the members who waited through the seasonal hardship those who leave are “not contented and will not stay where the Great Spirit has placed him, but sets himself adrift” (Nicolar 161). The move causes “a gloom over the land” (Nicolar 161), which shows a strange tension between the land’s geographical location, imperative to the people’s well being, and the land’s inability to completely cement someone’s identity.

LAND’S VITAL FOOD AND RESOURCES

Another aspect that binds the Penobscot to their land is without a doubt food. Klose-kur-beh understands that land gives them the resources to feed themselves. However his speech to the food, his acknowledgement of its abundance and simultaneous care for how much portion he takes is different from the conception one gets in the court cases, where treaties are ignored and the understanding of what food means in relation to the American Indian land is misconstrued for sport or leisure. Food for Nicolar represents the conception of the land’s resources to the sharing and communal space of the Penobscot. Tracking the food creates a diagram of how staple foods came to be so vital for the survival of the Algonquins. However even more interesting is how food creates a complex image between land and the tribes. Man finds a deep understanding between himself and the animal he consumes, of the potential food has with community building, specifically hierarchy building, and of food as a signifier towards diplomacy.
After eating his first meal with Nok-a-mi, the old grandmother and Klose-kur-beh’s first companion, Klose-kur-beh fishes and asks, “who is willing to become food for my children, bite the meat and I will draw you to the land, and you shall be food for my children” (Nicolar 104). Klose-kur-beh’s use of “children” means he is preoccupied with satisfying his growing pack, rather than solely focusing on his survival. The method of beckoning the animal to him signals that he is aware of his power over the prey but by no means abuses it. Additionally Klose-kur-beh also saves the other food for other men, realizing the meat has more to feed than just him. On top of fending for his growing community Klose-kur-beh knows there must be more men to allocate the resources to when he says food for man is divided by three: the black, white, and red. “The two fishes yet in the water are food for other men” (Nicolar 104). There is a growing, a gathering, and a cold season for each man as well, thus rather than food facilitating mere survival, the ways in which man perceives food preparation and allocation organizes the way communities function (Nicolar 111). In fact, he divides the work necessary to have successful meals; Nok-a-mi prepares the food while the young man catches and hunts for food.

Feeding the pack becomes most literal in the first wife’s sacrifice for her tribe. The relationship the first man and woman have are founded on a mutual desire to make each other happy, leading the husband to ask what the wife wishes he do to make her happy when he sees she is upset. The wife becomes corn and tobacco when she asks her husband to kill her and he complies with her wishes. Once the husband is advised by Klose-kur-beh to heed the wife, “the man did slay the woman and he dragged her body over a large open land and did bury her bones in the center of it as directed” (Nicolar 137). When moons pass and the husband visits the land “he beheld the place filled with tall plants but not green because the sun had faded them to a yellow shade, and upon examining the stock found substance in them which he tasted and it was
sweet” (Nicolar 137). This becomes corn for the community, and “...where the bones lay he found a plant, large with broad leaves, without substance” (Nicolar 137); this becomes tobacco, necessary in ritual and valuable to the Penobscot. “And here corn and tobacco raising began” (Nicolar 138). In this explanation of how crops were provided for the clans, Nicolar uses the female body as a basis for sacrifice, ties to the land, and therefore an integral part of Penobscot identity. The woman had to die to provide the sweetness and mental stimulation that corn and tobacco provide. Her body is given back to the land (Nicolar 138) in a magical yet very literal instance of Mother Nature. The elders are aware of the network that carries out the mother’s spirit and the level of connectedness she has to their resources and well-being. They say, “we must take care that the second seed of the first mother be always with you, because this is her flesh” (Nicolar 139). Rather than understand the mother’s contributions as transferring power from one individual to another, the Penobscots understand the resource as a kin-building one: “as we are all brothers, divide among you the flesh and bone of the first mother, and let all shares be alike, then the love of your first mother will have been fully carried out” (Nicolar 139). This tale not only functions to explain corn or tobacco origin, but most importantly to remember the mother, and to respect the sharing of resources between kin. While the resources available reveal much about the tribe’s culture, “...klose-kur-beh did not recommend any system of organization under which the people might live” (Nicolar 140), leaving the community to build their own hierarchical lineages. The young maidens produce a system of organization and create the council between the Father and 7 first born men to lead them (Nicolar 140). The tale of corn and tobacco strangely turns into one where the tribe must figure out how to organize amongst themselves. This issue, along with a desire to have more power, the “younger people were discontented because there was none among them who had the power not only to shave stone
with wood, but likewise there was no one that was able to talk with the animals, trees, birds and fishes like Klose-kur-beh” (Nicolar 141), occurs when Klose-kur-beh disappears. Chapter three culminates into one that describes corporeal transformations undergone to better serve the Penobscot people. Once the physical world is considered on the same playing field as the spiritual, the land and its resources claim the people and likewise claim their reverence and respect. Working the land from it spiritual origins to its fruitful bearings multiplies the significance they hold to the topography. All aspects of it are considered and marked accordingly to this way of living. So when court dealings ignore the import it holds and impresses their own lifestyle onto the American Indians they continuously impede on another nation’s foundation and individual identities, some of America’s founding philosophies.

Food serves as a way of building hierarchical organization between living things. When Klose-kur-beh meets his dog companion the dog promises to provide man with food just as Nok-a-mi has promised to feed him in the beginning. However, the dog teaches Klose-kur-beh further rules on food distribution that favor a structure between beings, one where man remains at the top. The dog says whatever food he finds, “give me not of it, but give me the crumbs, that is my portion” (Nicolar 128). The dog instructs man that man’s place is dominant to the dog in relation to the food he finds and what is consumed. The dog further coaches man to feed the dog the intestines “but throw it in front of me, because that is my portion and that will be the way you give it to me” (Nicolar 131). In this way food distribution continues to teach what position the red man is to take in the community he builds. “When you are in hunger I will find game for you to kill,” says the dog while burying the beaver liver to mark the area when they find their way back (Nicolar 125). Using parts of the animal to mark locations is further displayed when man kills his first moose and must mark the area that his first hunt took place in. The liver and hind
part are left behind as markers for man’s hunt and his people to see, rather than the beginning of the narrative where food was strictly for consumption (Nicolar 132). The kill becomes increasingly significant for man and his community, both as a marker of strength and as a way of maintaining order. At first this appears contradictory to the equal standing man gives to land and its living beings. One might argue that this is not dissimilar to the colonist hunting for sport to show his manhood and dominance. Despite the similar aspects, it appears that Nicolar’s man considers himself and a holistic perspective that does not show itself in the diplomacy of the court cases.

While highlighting a tribe’s successes, food also functions as a sign of diplomacy when the oyster beds provide a moment of intersection between north and south tribes (Nicolar 177). Food, as we may consider today, becomes the site of cultural and information exchange. “The place [where the tribes meet] contained many people from all parts of the country” (Nicolar 177), who come to relish in the abundance of their oyster beds. Despite living far from the coast the southern tribes found oysters were important for them to harvest during winter. Arrangements and treaties are formed between the communities based on where the resources are found and the tribes can both benefit and reunite at this epicenter. Unlike the court cases that see to it that the tribes are disadvantaged, at this point in the narrative food is but an opportunity to allocate shares for everyone who is willing to maintain connections and peace.

**WARNINGS, TEMPORAL CHANGES IN MAN**

Klose-kur-beh spends a lot of time teaching and in doing so he always warns man of his mortality. From the origins of the Penobscot, Klose-kur-beh relates that “Man must not expect to live always” (Nicolar 106), and “the power of beats of man is subject to change”, including the greatest warning the Great Spirit gives to Klose-kur-beh, that “greater will it be, when the power
changes from man to man” (Nicolar 107, emphasis mine). Nicolar’s tale makes special use out of what Nicolar is currently living through. His experience in the 1800’s allows him to retrospectively predict the coming of other men, and never assume the Penobscot are the only humans who will inhabit the territory they are given by Klose-kur-beh and the Great Spirit. He therefore warns them further of discovery and the desire to have more than what they are given. Klose-kur-beh warns, “you must teach the people never to leave this land to seek other lands” even though another man “shall some day come to this land from the rising of the sun” (Nicolar 110-111). While I see the change Nicolar describes I wonder if his ideas regarding land and impermanence means he in some fashion dooms the red man. He can do this because of his current lifetime when the white man has already arrived and killed many of his people. Rather than simply recount origin, Nicolar reasons the fall of his people through belief tales. In other words, Nicolar finds the rationalization for his people’s oppression in Christianity and the idea that the white man “wanted the whole world...wants all things...wants the power over all earth” and is bent on “power and possession” (Nicolar 112). Nicolar relates this prophecy but also maintains that red man, and Klose-kur-beh specifically shall return to teach, where Nicolar now writes his tale to teach the children of the American Indian why things have changed and what they have forgotten. A similar warning happens at the end of chapter four, where the son of the air spirit, frost, warns the seven chosen men about the conditions under which they will obtain their power. He warns, “when you have so far forgotten my saying and begin to use this power against your brother, then the time is near when it shall depart from you” (Nicolar 152). Just like the beginning of the narrative with Klose-kur-beh and the Great Being, the boy specifically relates information regarding man’s treatment to each other. The warnings function awkwardly compared to the rest of the narrative that appears focused on the cultural retelling and
topographical connections Nicolar makes. Instead, they move outward from the central narrative and induce a spiritual punishment upon the readers and Penobscot peoples. I wonder if this move implicates the people in their downfall just as much as the colonists who arrive. Kolodny observes later on that Nicolar refuses to forefront the victor (Kolodny 76), and this detail would support her statement. However I would add that the result is a re-envisioning of history through the land’s warnings to the Penobscot. The narrative blurs the boundaries between ethnography, history, and folklore, resulting in an ambiguous tale of the Penobscot and how they came to obtain power while losing it later on to his brother. This conception gives the land its voice, and while it rejects concrete dates or personas of traditional history telling, it offers another truth that balances itself between the known and unknown. Frost continues, “you would become a great people” but “should you let [mysterious powers] pass by unobserved, then misfortune will follow” (Nicolar 152).

Recalling the beginning of the narrative where the Great Being describes change imminent to the Penobscot, on a hunt the men discover tracks that cause an elder to weep (Nicolar 163). He relays to the people that indeed, “a great change must follow”...the white man’s “coming will put a bar to our happiness, and our destiny will be at the mercy of the events” (Nicolar 163). The elder man realizes the futility of the coming but interestingly there is no plan of action to move them away from what is to come. The shaman woman who saves the Penobscot from the fish famine also says “there is a covering over all the fish which the power of these people have placed there, it is the spiritual power that is in them, and if the power that is in you has not the force to overcome it, woe unto you” (Nicolar 165). The Great Being’s warnings become realized as the tracks appear and the shamans warn similarly of what is to fall on the Penobscot. The ritual performed to capture the white swan is dependent on all individuals’
participation and fuses all symbolic imagery of the white man. Though the white men escape, the female shaman is able to clear the covering on the waters. This does not divert the changes that come to the Penobscot; they are confronted by what Kolodny describes as Basque or Breton fishermen (Nicolar 169). If we recall that the greatest change occurs when power is transferred from man to man, then Nicolar aptly relates the transfer that occurs slowly but indefinitely. Other than story telling and the natural flow of the narrative I am interested in what Nicolar intends by relating these warnings from the beginning chapters through the end. Is he possibly interested in a history that tells a good story alongside his loyalty to oral storytelling? The didactic function of the entire text is also one that must not be forgotten. In fact, forgetting history, culture, definitions, and specifically the warnings from all beings would make Nicolar more apt to use warnings to always remind. In a sense his warnings haunt the Penobscot past as well as the present where the courts do not seek American Indian voices, let alone their representation. In these legal cases, the American Indian is forgotten. The transfer of power includes the Penobscot men themselves, As the frost boy had warned them of their great power, they turn on each other before the white man arrives and “become jealous of their brother spiritual men who had been selected” to watch over the strange men until “the whole country was thrown into different bands” (Nicolar 170). Nicolar concludes that because the discord begins within the tribe, “the happiness which was in the grasp of the people slipped out from their hands, and has never returned, even to this day” (Nicolar 170). Thus the jealous spiritual men go against the rest of the population and “resorted to all sorts of spiritual power they possessed during the raging of the battle” (Nicolar 171). This change in man’s use of his spiritual power is key in that their wars were focused “only to subdue one another” (Nicolar 172) rather than take possession “of any part of the country that he conquers, nor require any indemnity from the conquered; will not even
take away things belonging to them” (Nicolar 172). Despite the imminent change of man’s power, Nicolar argues that even in their rejection of old teachings and abuse of their power, the Penobscot did not think of war as a matter of conquest or taking collateral to expand.

When the Penobscot conclude, “the white man had come” it is not surprising since “it has been foretold by the old prophets; everybody looked for it, even the children expected it” (Nicolar 174). Intertribal fighting causes ruptures between clans and tribes, emphasizing my earlier notion: to cease the romanticization of the American Indians and instead favoring a separate nation with its own political affairs and distinct style of negotiation. There was torture and death; however there were also negotiations which Nicolar stresses are always kept between them. Nicolar’s brief description demonstrates that unlike the treaties between the United States, government, and Supreme Court, the tribal treaties had more honor and value to them. This includes the arrangements made between the Southern women and the Northern men for the oyster beds and supplies for the winter to keep themselves alive. In trade, the poor and infirm are left alone (Nicolar 176-177). Nicolar without a doubt stresses the sacredness of the treaty, for when, “a wholesome treaty was made” it “was always observed and well kept” (Nicolar 177). As mentioned previously, the oyster beds signify a moment of interaction between tribes but much like a standing zone where it is understood amongst the tribes that there is no deception or rewriting of the treaty agreements. Despite the tribes’ increasing organization and complex hierarchy building, Nicolar does not pursue the past as a moment that must be brought back now, but recounts the history as a way to reflect, if not, to criticize various facets of the state of affairs. For example, when he tells of inter tribal warfare, and a young warlord’s escape along the Hudson River who later became the Mohawk tribe, Nicolar emphasizes how tribes were not a
happy, peace-filled, one minded body, but rather develop their own set of issues as the population increases.

The coming of the white man is a prophecy introduced in chapters one and two of the text, a prophecy that I argue functions to critique the ways of the white man. Although Kolodny would claim there is no blaming on Nicolar’s part, it is not sufficient to explain the character building he does and that reveals itself during the judges’ justification for taking land from the American Indians. Klose-kur-beh teaches “the white man will feel it as a duty to his children to seek new lands for them, and that he will not rest until he finds the land the Great Spirit gave unto you” (Nicolar 115). The sense of duty, or the wardship reason, is one prominent in the case of the white man’s treatment towards people they see as children. He continues, that man comes in “the form of a swan towards the rising of the sun; this shall be his bird and you shall know it, because it will be white” (Nicolar 115). Of course the white swan becomes the figure the people await until they see ships coming to their land. They do not show surprise either, since they have always known they would not last as the only people inhabiting land. Nicolar then reveals the way the white man is to interact with each other as well: “The first that come shall not want to allow his own kind to share with him; they shall slay one another for the possession of it” (Nicolar 115). Nicolar most likely knew the history concerning the colonists, the French, English, and American, yet he includes the detail about the white man slaying his own kind, as if to point to the violence embedded in man despite any teachings. He also interestingly includes the other two races, white and black, as reconciled in the fight for land, for “the two brothers shall make peace between themselves over your body that has been slain for the land because you have forgotten my teaching” (Nicolar 117). Nicolar again relies on this notion of forgetting one’s culture, or one’s history and not listening to the warnings the Great Spirit has left to the red
man. He also separates his race from the others, as in; Nicolar puts the black and white race into one common race that stands apart from the red man. This contradicts the teachings of brethren the text seems to promote, however the text does maintain separate races for separate purposes in life. In this way Nicolar is able to explore various threads of community rather than rely on one narrative.

In chapter six of the tale, Nicolar blames distrust between communities on the May-Quays, or Mohawk people, when the white man arrives and Nicolar sees only amicability between the two races. He says, “distrust on the part of the red man”...“had been led to it by the action and bad conduct of the May-Quays” (Nicolar 185). By this point the narrative shifts in terms of strictly speaking of land and relationship to man. Instead the old warning of the Great Being, that is, the transfer of power from man to man, has begun so that land appears periphery to human discord. Nicolar himself sees a great trouble in having “a strange people” causing change on one side and “their own people” casing turmoil on the other (Nicolar 185). His recounting of the battle between the Mohawk and the north confederacy (Nicolar 188-189) echoes the Civil War narrative. Moreover, Kolodny tells us he uses Shakespeare as an inspiration during his story, distorting the use of fact, literature, and time periods. Perhaps if Nicolar is able to use literature outside of the Penobscot to envision alternatives to historical recounting and cultural restoration, his narrative unveils ideology, not always of all Penobscot, but Nicolar’s conception of what Penobscot means. For example, the narrative continues describing the end of the Mohawk Wars as aiming to “live in peace with all the people in all times to come” and establishing “a grand council fire” to keep peace (Nicolar 191). The move discloses a necessary delegation common of the American Indians to keep peace among them. This is not to say they didn’t shed blood, however their aims were not to change or possess a people, this is shown
because the leaders of people are held intact. The May-quays were very “faithful to their duty until”...“the visits to the grand council fire was after a while stopped” because they “wanted to be the commander, wanted to be boss” (Nicolar 192). Again, while Nicolar does not adamantly blame the Mohawks for wanting endless power, he ends the narrative with their desire to control more and establish a hierarchy where they are at the top. Finally, Nicolar leaves the reader with a thirst for teachings and answers, and yet ends by stating, “the red man was now ready to be converted and resigned himself to wait for the future fate that may come” (Nicolar 194). Nicolar ends the tale in chapter six with actions for the Penobscot man to convert, to resign, and to wait. Yet the additional conclusion that comes after ends differently, describing the hot spring with healing power, now transferred to the hands of the white man. Nicolar does not maintain a neutral tone, he actually withholds some sentiment as he writes, or else this phrase would not describe an act of transferring power but be similar to chapter six in that it says they will wait for the future that they have been taught constantly.

I analyze the preface because if the conclusion cycles back to the beginning, then I wonder what the preface promises that the conclusion must answer back to. Nicolar has an abundance of tools to work with, his knowledge of what is coming, what has come, and who is listening makes him an all-knower of sorts. By this I mean he is able to give man “the full account of all the pure traditions” (Nicolar 95), fully aware that by the end he will cycle us back, as Kolodny states, but that it will be not yet the full account, for no proper full account would encompass Penobscot history. Kolodny argues, “it was meant to attract a white readership” but also echoes a previous argument I made about scholars such as Speck, that Nicolar’s text “compete[s] with non-Native researchers for control of what would be passed on of Native culture” (Kolodny 78). It is also necessary for Nicolar to preclude that “other written history
from any source [is not] quoted” (Nicolar 95) because the oral history is being recorded by a red man, rather than a weaving of other voices, namely white man’s voices. I would push back on how the text is presented at first though, because Nicolar himself romanticizes the story he is about to tell, “show[ing] only the simple and natural state of life, habits and ways as they existed among the pure, innocent and simple people whose traditions are here written” (Nicolar 95, emphasis mine), yet again there is no pure traditions as he wishes to tell. Is this then a move to push his audience to read? Nostalgia seems to be the rhetoric Nicolar uses, knowing one would be interested in unlocking the past, untouched, as it existed, while also aware by the end that there is no such case. Kolodny observes, “its stories and customs [were] a blend of multiple traditions, Euroamerican influences, and remnant memories from many different tribal groups” (Kolodny 77). This untouched and natural account rhetoric continues as Nicolar advertises the story as interesting because “none of the studies nor the researches of the white man have ever penetrated” (Nicolar 95) the prophesies. The audience also knows this to be false when prophesies of the coming of the white man are their own chapter in the history. Another technique Nicolar uses, knowing that audiences of other races will be reading, is to include them as interested parties in the Penobscot story. “Nations of all other races” (Nicolar 95) are benefiting from reading the prophesies of his people, for Nicolar banks on the intelligence of the “close observer” (Nicolar 95), forcing us to indeed read closely, to listen at once to Penobscot tradition and the Penobscot undoing that America has enacted upon them. The close observer, will also realize that the writing itself will inscribe the Penobscot man back into life: “to remove the fear, that the life of the red man will pass away unwritten” (Nicolar 95). This writing is also possible due to the education Nicolar receives; yet he pulls classic humility pathos, notable from Fredrick Douglass himself, in order to state the validity of his research and the simplistic nature
of his word: “I was never educated to that degree as to be able to excite the feelings of the people and make them pronounce me as a brilliant and popular writer” (Nicolar 96). Though I read it as pathos, it is true that this is the only book that Nicolar publishes in his lifetime, really making it a life project for his people. Kolodny also notes how this is part of Penobscot convention, that “Penobscot storytellers habitually express “modesty”” (Kolodny 76). Interestingly, Nicolar ends the preface by discussing Klose-kur-beh, the first person and teacher of the children of Earth. “The instructions and power given him by the Great Spirit” show to Nicolar’s audience “that this Klose-kur-beh was at the creation” (Nicolar 96). Nicolar ends the preface here, with religion and creation as the main focus of his transition into the story. This end emphasizes teaching and Klose-kur-beh, yet we know that once Klose-kur-beh leaves the Penobscot to govern themselves their self-governing is accompanied by new races entering the land.

The conclusion to Nicolar’s work is very interesting in telling the audience what Nicolar was not able to capture in the tale of the Penobscot. Although Kolodny notices that the seventh chapter of Nicolar’s text exists for the sacred nature of the number seven in the Penobscot community, I found there was more to be said about what Nicolar chooses to say. Kolodny argues the conclusion’s existence “serves as a kind of return to precontact beginnings...to remind his people that Penobscot traditions from the past are dynamic and remain vital, ongoing, and sustaining. They are not to be forgotten” (Kolodny 80). Although Kolodny is right to say the chapter cycles us back to a beginning of sorts I am also confounded by the thoroughness or lack thereof that Nicolar cites of his narrative. By the end of the text Nicolar is on the defense, he believes he is indulging “in the habit of negligence thereby leaving my readers in the dark on the very matters that the people wish, or ought to know” (Nicolar 195). What matters does Nicolar find necessary to discuss that he has not throughout the story? Furthermore, if his mission is not
entirely complete, then what else is “the fullest account possible of the daily life and convenience of these people?” (Nicolar 195). It is important first to dissect how many persons Nicolar is discussing. He mentions the reader, the people, and the red man. For the reader, we might look first to historical times to deduce who the reader might be to Nicolar. There is also the matter of publishing the text, for the publisher and mass dissemination also dictates readership. Finally we have the present reader, for Nicolar might have guessed it would be passed down from his people to others beyond the reservation. The people he speaks of might be the Wabanaki, and Kolodny’s footnote supports the notion that Nicolar is transmitting knowledge before contact with the white man. This knowledge was also largely unavailable due to the suppression of it by white state education. The matters Nicolar is preoccupied with are more teaching, teaching language as well as how the Penobscot adapted to life without the assistance of the Great Being. The section discusses how to start fire, how to keep it from going out, and how to carry it along with you. It stands out as an applied manual for the younger reader. Nicolar teaches skills but also the history of how tools and technology developed. Language such as “when the operator finds” reads like a manual (Nicolar 197), as if part of the mission is to create a guide for his Penobscot community who no longer has access to this kind of knowledge when Nicolar is alive.

Then Nicolar moves to water, and boiling it (Nicolar 197). It is apart from story telling at this point, his sentences focused on delivering important facts, and words, that his people knew. “Salt, was never used” (Nicolar 197) he says, and then moves onto discussing needlework as well as how eating utensils may be constructed. The entire paragraph is broken with vocabulary of the Penobscot, no longer adhering to any plot or generic convention, but only capturing vital aspects of what life was. This is developed in his critique of wampum beads used for monetary transactions, suddenly echoing the court cases interested in settling with money rather than
respect: “It was never intended to be used as money. True, there were many instances where it was exchanged for some other things, yet the principal object was that it only be used as the pledge of honor” (Nicolar 198). Nicolar critiques what wampum has become, Kolodny also noting that wampum factories made the clams extinct (Nicolar 197). The time it took to create the needle and beads are noted, as a slow and therefore valued work. Details of their material culture, commodified, reflect back to grander transactions, those of land imposed by the states and federal government. Nicolar’s distinction with intention and result are particularly effective, to the close observer, because he writes both with the goal of teaching what was and what is now. The flow of the text also pushes back on conventional paragraph structure, that is, one topic per paragraph. Nicolar also brings back names that have been mispronounced, otherwise entirely replaced by the white man. To bring back names into this text is to resist the veil that prevents knowledge of their lands. If we recall Kolodny’s brief Penobscot history, names are of the essence, to give the land proper acknowledgment as well as situate the red man as the recorder, the traveler, the hunter, and the person in the center. Contrary to the education native children were receiving where the nation was presented as a ward and dependent on the federal U.S. nation, names cement the knowledge otherwise veiled by the government during Nicolar’s lifetime.

Nicolar also discusses medicinal knowledge, where powerful water is said to have been found and used until after the white man came” (Nicolar 199). “Karskoke” – after the crane, is the place Nicolar then says, “the white man took possession of it” (Nicolar 199). Nicolar also cites the white man who owns it, implicitly inserting the frustration with which he knowingly gave awareness to his children too, that is, the Penobscot, and no doubt the non-native readers. Great spring water, “K’chit-ka-bi”, is what Nicolar ends the entire book with, why medicine? If
the entire text represents a didactic mission for various audiences and a restoration of American Indian culture, then to end with medicine could cycle back to the healing Nicolar is after, healing he believes in, explaining the otherwise abrupt end. His end is not at creation, not at eradication, but healing. He also ends with the knowledge of the white man inserted in narrative, contrary to his preface that promises it is “un-penetrated” prophecy. His conception of land is then towards restoration, healing, but with the knowledge of the white man’s insertion into their history. Yet the work is no less because of this insertion, instead it reveals the resistance even in written history of a nation within a nation, this time underscoring the Penobscot history where the U.S. is within, reversing the images of veil and unveiling, as he also states in the preface. Nicolar effectively unveils the map for the audience, not needing to rely solely on traditional storytelling entirely, but relegating his last chapter to mending the language gaps of Penobscot children while not shying away from the intrusions of the hegemonic narrative of colonialist Americans. It is no surprise then that Kolodny observes, “historians of the colonial and early national periods have largely ignored Nicolar, frustrated by the difficulty of aligning his narrative with any corresponding Euroamerican chronology of battles, significant occurrences, or identifiable priestly arrivals” (Kolodny 75). At the end of it all, some white man has possession of the land the Penobscot hold close to their daily lives; Nicolar might be suggesting resistance that pushes on in spite of the domination of their land.

**WHAT DOES NICOLAR TEACH US**

Nicolar is occupied with a tale not of conquest, but of healing. Kolodny helps us understand what Nicolar is thinking; he “resolutely refuses to implicate the white man, French or English, in the battles he depicts” (Kolodny 76). While Kolodny sees this as storytelling, I would add that it effectively removes the names of the victors, or invaders, in favor of restoring the
place-names they have corrupted. Contrary to Kolodny, I would say Nicolar was interested in
writing a history, but one that reorients what the American education system is putting forth as
the narrative we learn. It rejects the tale of the exotic savage and therefore the tale of the
dependent Indian. His Penobscot storytelling is apt to do just this, for a storyteller could “transfer
elements from one story cycle to another and/or to reorganize elements in a story so as to
emphasize some particular aspect of that story for the present moment and audience. In this way
the same story could have many different versions over time and carry multiple meanings”
(Kolodny 76). Kolodny also extracts what Nicolar might have been preserving of the oral
storytelling tradition. She notes that Nicolar’s writing style “does not always feel either sustained
or coherent” (Kolodny 77). In this way the text mimics, or “emphasiz[es] orality’s frequent stops
and starts, its persistent changes in narrative focus” (Kolodny 78). Not only this, but Nicolar’s
interest in the storytelling for restorative history means he shares “the understanding that these
craft skills had once sustained a people’s ‘daily life’ as opposed to merely providing souvenirs
for tourists” (Kolodny 79). Nicolar removes from the market economy the Penobscot artifact. As
if to take the artifact away from a museum and back to its designated people, the tale revitalizes
itself and confronts the erasure that colonial property conceptions have sealed the Penobscot to.

Peter Anastas surveys the state of Maine where the Penobscot reside while writing his
book, but points to the mills and desolated spaces of the land. He also discusses the movement to
relocate the ancestor remains back to their resting places. He records a native saying if they
shoveled the remains of whites for display it would be sacrilege and they would go to jail. When
a white man does it he “holds a university post where he teaches other white people how to do it”
(Anastas 25). A continuing struggle for any scholar including myself is how to go about having a
conversation where I recognize my own boundaries. Much like Nicolar however, it is also an
interconnected web of boundaries that inform the issues and vast amount of knowledge he infuses in his work. The issue is not land possession, but the lack of harmony between communal identity and the land the government desires to swallow up. Not only this, but based on the cases we have explored, the U.S. government shows a consistent effort to demarcate new boundaries in favor of crossing cultural ones. For Nicolar the waiting period he talks about in his tale seemed to come along with a great frustration to unveil what was consistently argued as never existing, erasure of the Penobscot tradition and its representation especially during court treatment of their home. Nicolar teaches from beginning to end how to imagine our relationship to land as an interconnected dialogue rather than an object without senses and without man.


“Cherokee Nation v. Georgia, 30 U.S. 1 (1831).” Justia Law, supreme.justia.com/cases/federal/us/30/1/.


Eckstorm, Fannie H. Indian Place-Names of the Penobscot Valley and the Maine Coast. Orono: University of Maine, at Orono, 1941. Print.


Mazo, Adam, Ben Pender-Cudlip, N B. Duthu, Kristen Salerno, and Jennifer Kreisberg. 


“Worcester v. Georgia, 31 U.S. 515 (1832).” Justia Law,

supreme.justia.com/cases/federal/us/31/515/.