

# THE CONSTRUCTION OF ALGONQUIAN HUNTING TERRITORIES

*Private Property as Moral Lesson,  
Policy Advocacy, and Ethnographic Error*

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The ownership of land has been a major point of conflict in colonial contexts around the world, and a subject of recurrent debate in anthropology. Within Americanist anthropology, the major dispute has been about the kinds of property rights that constitute Algonquian family hunting territories, and about how they came to be. Since Frank G. Speck first provided a professional account of Algonquian family hunting territories as a form of private property in 1915, there have been two opposing views on the central issues in dispute.

The dominant view in recent decades, often closely tied to evolutionary issues going back to Lewis Henry Morgan, is that private property forms were not found in Native American hunting societies before contact with Europeans. Best exemplified by the late Eleanor Burke Leacock (1954), scholars on this side of the debate argue that Algonquian family hunting territories were the result of postcontact changes brought about by the fur trade, or by the trade in combination with other factors, such as ecological changes and consequent shifts in wildlife harvesting patterns or the more recent availability of cash incomes and commoditized food supplies. Although such hunting territories were relevant to the study of the impact of European colonization

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on land ownership, and the commoditization of locally produced marketable goods (Murphy & Steward 1956), they were irrelevant to questions of the social evolution of property ideas and institutions in hunting and gathering societies not influenced by European colonial relations.

The other side of the debate was part of the Boasian critique of evolutionism and was based on Robert Lowie's use of Speck's material in *Primitive Society* (1920), which was Lowie's rejoinder to Morgan's *Ancient Society* (1877). According to this view, Algonquian family hunting territories were forms of private land ownership by individuals or families, which were either characteristic of hunting and gathering peoples in general or were developed by some hunting and gathering societies under specific ecological and demographic conditions before European contact. Developed over the three decades following Lowie's presentation (Speck 1928a, 1939; Cooper 1938, 1939; Speck & Eiseley 1939, 1942; Hallowell 1949), this view has largely been rejected since Eleanor Leacock's ethnohistorical and ethnographic study of Montagnais hunting territories was published in 1954 (Bishop & Morantz 1986; Feit 1986).

Despite the fact that earlier anthropologists on both sides of the debate assumed that Algonquian family hunting territories are an existing, or developing, form of private property, more recent fieldwork has shown that—even after more than three hundred years of fur trading and seventy-five or more years of government administration and cash incomes—the territorial practices and concepts of northern Algonquians are not adequately described as such. Recurrent research has shown (1) that individual rights to hunting territories are part of systems in which “rights” and “duties” are predominantly attached to distinctive social forms in the larger communities, including multifamilial hunting groups, and to distinctive forms of egalitarian leadership (Feit 1991); (2) that the system reflects a concept of spiritual and social reciprocity that conflicts with a concept of private property and is reproduced in ways that derive in significant part from non-European sources (Scott 1988); (3) that despite continuing transformation, reciprocal practices relating to land and resource use are still manifest (Tanner 1979); (4) that these transformations derive from the interactions of a complex array of external and internal processes (Feit 1982; Bishop & Morantz 1986). In short, there are now strong reasons to think that it was erroneous to claim that Algonquian territoriality ever was, or was becoming, a kind of private property system.

The central question then is, why did Speck construct his accounts of Algonquian hunting territories as if they conformed to notions of private property? It has been argued that Speck's ethnographic constructions were ideologically motivated, that he “tried to do by fiat what the Jesuits had tried and failed to do in the seventeenth century: transform the Montagnais from a people who honoured collective rights to lands into individualized property-holding families” (Leacock 1986:143; cf. 1972:19). It is in fact commonly as-

sumed that Speck was driven by a desire to disprove Morgan's thesis and to discredit its use by Friedrich Engels in what was to become the foundation document of Marxist anthropology (Engels 1884; cf. Hickerson 1967: 316–18). But such claims do not constitute a historical account of the development of the ethnography of Algonquian family hunting territories.<sup>1</sup> Such an account must take into consideration the “colonial situation” of land ownership issues in North America at the turn of the century, the development of government policies and ideologies in that period, and the links between the development of Americanist ethnography and wider social science advocacy.

### The Stages of Progress and the Allotment of Indian Lands

Morgan's interest in Iroquoian ethnography, and his early ethnological theories, developed in the context of his involvement in disputes over land ownership on the colonial frontiers of the preceding period (Resek 1960; Trautman 1987; Leacock 1963:lv–lvi). In 1844, when Morgan was twenty-six, he met Ely Parker, son of a chief of the Tonawanda Seneca, who had been selected by his community to be educated in American schools so he might help his people to resist the loss of their lands in upper New York State and their removal west of the Mississippi (Resek 1960:27–30). It was in the context of providing political and legal services, which shaped Senecan responses to his initial ethnographic interests, that Morgan developed the impetus for intensive research on the Tonawanda. The result, in 1851, was the monograph that John Wesley Powell, founder of the Bureau of American Ethnology, later called “the first scientific account of an Indian tribe given in the world” (quoted in Resek 1960:41). Although Morgan was unsuccessful when he sought appointment as United States Indian Commissioner so that he might directly shape policy, as the leading authority on American Indians he periodically made policy recommendations to government officials. In 1876 and 1877, for example, in the context of the continuing “conquest” of the West he wrote publicly, as well as advising President Rutherford B. Hayes by letter, that culture change could not occur quickly and that large lands needed to be set aside for Indians, lands which might later become Indian states. He also defended Indian resistance at Little Big Horn, although acknowledging that evolutionary change was inevitable (43, 145).

Morgan's career as a lawyer for railway and mining corporations, which

1. For an informative recent analysis of the structure of Speck's anthropological production, see Deschênes 1979, 1981.

focussed on acquiring public lands for their operations in the Midwest, had given him personal experience of "the transformation of communal into private property," and its consequences, including the destruction of Indian ways of life (Resek 1960:104). His activities and experiences with land transfers and their consequences were linked to the primary role property came to play in his explanations of the transformations in forms of family, economy, and society (140-41), and in the development of his evolutionary schema. In turn, that schema was used by others to support public policy decisions insofar as the allotment of Indian land in severalty was defended in evolutionary terms as a transition from a nomadic communistic hunting life to an individualistic agricultural state (Schurz 1881:14-15).

By the time Morgan published *Ancient Society* (1877), Indians in the United States—their powers weakened by the virtual extermination of the buffalo and the population losses brought on by disease—had effectively ceased armed resistance to the invasion and colonization of their lands. By the 1870s Indians on reserves were put under the total bureaucratic control of Indian Agents, who superseded or bypassed tribal authorities. The transition was marked by the decision in 1871 to end treaty making with Indians, after some 370 treaties. The logic of the decision was in fact reflected in Morgan's thought by the demotion of the component groups of the *League of the Iroquois* from "nations" to "tribes"—the latter, by customary usage, having no fixed relation to the land, but merely "wandering" over the face of the earth (Berkhofer 1979:169-71; cf. Morgan 1851, 1877).

In the 1880s an alliance of government officials and reformers intensified the process of subordination by a program of detribalization aiming at rapid assimilation. The reservation system was to be terminated as it was claimed that it provided a land base on which communal economic and governance practices could be continued; in contrast, the allotment of reservation lands into individual holdings would aid the transformation of "communalistic" Indians into "individualistic" Americans. The General Allotment Act of 1887, known as the Dawes Act, provided for the allotment to each native family of 160 acres of reserve lands, with the Secretary of Interior selecting lands for those who refused or failed to do so themselves. The land was to be held in trust for twenty-five years before being fully transferred, after which the native owner was subject to the laws which governed all citizens, and the lands could be bought, sold, and taxed. In the meantime, reservation lands remaining after allotment were to be purchased by the government, with Indian consent, and could then be sold or otherwise disposed of, with the funds received held in trust and used for the education and civilization of former tribal members. This legislation and policy was in force until the mid-1930s, by which time 80 percent of Indian lands of 1887 had been lost through the sale of "surplus" lands and disposals of allotments (Berkhofer 1979:166-75).

In the later nineteenth century, this policy continued to be buttressed by evolutionary anthropologists, including Powell in the Bureau of American Ethnology, who distributed copies of *Ancient Society* to his staff, so that Bureau ethnologists "went into the field with Morgan's book and with his kinship charts" (Resek 1960:150). Powell's two-decade-long program for identifying and classifying American Indian languages was closely linked to the needs of the newly expanded government Indian bureaucracy (Kehoe 1985:46; Hinsley 1981). Powell directly brought evolutionary ideas into the debates over Indian policy, arguing before Congress that for allotment to be successful it would be necessary for Indians to adopt the form of the civilized family, to accept individual property and lineal inheritance (Dippie 1982:167). Powell's widely read exploration reports on the western country had called public attention to its resource potentials; and he addressed land and resource policies as well as Indian policy, arguing for government action and regulated use of natural resources, a view consistent with his evolutionary models of the final stages of social progress (Hinsley 1981:136).

Despite expectations, by the turn of the century the effectiveness of allotment-driven assimilation policies was being widely questioned, as progress in dispossession of lands was not accompanied by systematic acculturative change. However, the doubts did not result in major reversals of the policies, partly because of the growing influence of westerners in Congress as new states were formed and the continuation of pressures for public access to Indian lands and resources (Hoxie 1984:106-13, 156-62). In the first decade of the twentieth century, progressive conservationism was made a national policy by President Theodore Roosevelt; it was used to promote increased exploitation of the nation's natural resources under government control, on a scale which encouraged allocating rights to public lands for large corporate development of resources (Hays 1959:69-90, 263-66; Hoxie 1984:167-73). The discussions of the Indian policy thus continued in the context of the ongoing rapid dispossession of Indian lands.

In his first annual message to Congress, President Theodore Roosevelt characterized the General Allotment Act as "a mighty pulverizing engine to break up the tribal mass"; Merrill E. Gates, President of both Amherst College and of the Lake Mohonk Conference of the Friends of the Indian, defended allotment, arguing that "there is an immense moral learning that comes from the use of property" (quoted in Berkhofer 1979:175, 173). And the discussion was reflected in scholarly journals as well. Thus in 1907, George Bird Grinnell, a personal friend and adviser to President Roosevelt, and a popular writer on Indian topics whose extended western experience included service as naturalist with General Custer in 1874, published an article on "Tenure of Land among the Indians" in the *American Anthropologist* in which he argued that "there is nothing in an Indian's traditions or experience that enables him

even to imagine the ownership of land by persons" (1907:1). Because the earth was "regarded as sacred" and owned by the tribe as a whole, Grinnell maintained that "in the case of every land cession the Indian has been made to seem to agree to something which the mind of the primitive Indian could by no means grasp" (3, 11). Grinnell felt that the gap between people at this evolutionary level and that of contemporary American society was too great for rapid change, and he was concerned with the rapidity of Congressional dispossession. However, he did not *per se* oppose allotment, because it "may be futile to attempt to stem this tide," and in any case he felt it was the only way to settle peoples who were "wanderers and beggars like the Cree of northern Montana" (10, 11).

Less sympathetic views than Grinnell's were advanced by government staff directly involved in Indian administration and in conservationism. Writing in the *Annals of the American Academy of Political and Social Science* in 1909, Francis E. Leupp, the Commissioner of Indian Affairs, argued that government policy was "designed to change the wandering, improvident and semi-civilized hunter to a domestic, industrious and enlightened citizen" by "giving to each Indian a home," which should in the first instance be "agricultural" (1909: 622-23). Such a policy would take "cognizance not only of the interests of the Indians, but also of those of the whites, and gives proper weight to the justifiable selfishness which insists upon such method of administering the lands of the Indian wards as will have due regard for the rights of their trustees" (620).

### Ethnographic Fieldwork and Indian Welfare in Oklahoma and Quebec

By the time Frank Speck began to write on Algonquian hunting territories, he had already had some experience with the consequences of the allotment policy. Born in Brooklyn in 1881 to a family recently moved from a community in the lower Hudson Valley, he suffered from precarious health, which led to his being placed in the care of a family friend at Mohegan, Conn., Mrs. Fidelia A. Fielding, a "conservative Indian widow." In her charge from about the age of seven to fourteen, Speck not only learned Mohegan, but "nonconformity and social rebellion." John Witthoft, a close friend and colleague of Speck, called her "the most important formative influence of his life" (1974:761).

When Speck entered Columbia in 1900 he had already considerable knowledge of several Indian languages that were "not generally known to be still spoken" (Hallowell 1951:69). Before his graduation in 1904, he had co-authored with his professor of comparative philology, J. D. Prince, several articles in

the *American Anthropologist*. Encouraged by Prince to contact Franz Boas, Speck in 1904 began fieldwork under Boas' supervision in the Indian Territory and Oklahoma—where allotment had been going on for fifteen years. He completed his doctoral dissertation on the Yuchi in 1908—by which time he had already begun what proved to be a lifetime connection with the institution from which his degree was formally granted, the University of Pennsylvania (Speck 1909c). In 1907, he began the fieldwork among Algonquians that was to be the major interest of his anthropological career (Hallowell 1951, 1968; Siebert 1982; Wallace 1949, 1951; Witthoft 1974).

From the time he was an undergraduate, Speck had published articles in nonprofessional journals. Among these was the magazine of the Hampton Institute in Virginia, a philanthropic venture serving Indian as well as black youth. Starting in 1907, the *Southern Workman* published pieces by Speck, including several on conditions in Oklahoma and the Indian Territory (1907a, 1907b; see also 1908, 1909a, 1909b, 1912a, 1912b); in 1912, it was the venue of his first general article on Indian policy: "Conservation for the Indians." Speck argued that "those who have interested themselves in the problems of the Indians" had been mostly concerned with "how to induce the Indian to absorb the modern form of civilization" and had not considered "how much of this it is good for him to absorb." Alluding to the recent experience of blacks and Eastern European immigrants, Speck emphasized what he called "the conservative aspect" of the Indian problem, offering some rather general proposals against detribalization and deculturation. On the one hand, he proposed that Indians should be left in their "ideal homes" in the "vast tracts of uninhabited wilderness on this continent." On the other, he suggested that the newly founded Society of American Indians should "realize the importance to themselves" of a policy of conservatism—a proposal that involved him in further exchange with the Society's leading figure, Arthur C. Parker (1912b: 328-30; Parker 1912; Speck 1913a, 1914b).<sup>2</sup>

During this period Speck was also clearly concerned with the welfare of the particular Indian groups among whom he was doing fieldwork. His work among the Montagnais began in July 1908 (Deschênes 1981:218), and in his first account of his Montagnais findings—published in the *Southern Workman*—Speck compared their situation to that of colonial peoples elsewhere: "In some respects their condition is comparable to that of the Indians of the upper Amazon River who spend their lives in a hunt for rubber, and to that of the Negroes in certain parts of Africa who labor under life contracts." While

2. Grandnephew of Morgan's friend Ely Parker, Arthur Parker entitled his response to Speck "Progress for the Indian." Speck's reference to immigrant populations suggests perhaps an influence of Franz Boas, who in the years of Speck's studentship was himself turning to public policy issues (Stocking 1979).

"nominally free men," they were practically the "slaves" of the Hudson's Bay Company: "although he does not realize it [the Montagnais] is always slaving at his killing job in the woods to catch up with his credit" (1909b:148).

Speck also made policy recommendations for the specific situations he encountered. In a newspaper clipping covering his trip in 1912, and in a letter to Edward Sapir, his former classmate and close friend, then chief ethnologist of the anthropological division of the Geological Survey of Canada, Speck reported that there was "great suffering" among the Montagnais of the St. Lawrence River. Attributing it in part to bans on fishing for salmon (because the rights were leased by the government to "multi-millionaire sportsmen"), he appealed to Sapir to help with relief and medical aid. Sapir did forward the matter to the Canadian Department of Indian Affairs, which assured him that relief supplies had been provided. Speck did not expect that much would be done to remedy the situation permanently, because the leasing practice was well established and "a powerful opposition still remains to be fought down" (FGSP box 11; ESC: FGS/ES 7/7/12; D. C. Scott/ES 7/18; ES/FGS 7/12/12).

During Speck's continuing fieldwork among the Montagnais at Lac St. Jean, he made friends with Armand Tessier, the regional Indian Agent. In December 1912, Tessier wrote a long letter to all the large French language newspapers in Quebec opposing the provincial government restrictions on all killing of beaver and the sale of beaver pelts, which deprived the Indians of needed food and cash incomes, and which must have also placed a drain on his welfare funds as an Indian Agent. His letter, which was translated into English in Ottawa for the federal civil servants, spoke in favor of an exemption for Indians to the law banning the killer of beaver.

The Indian is reputed to be careless and improvident. I contend on the contrary that so far as concerns fur-hunting he is endowed with a fineness of perception and a prudence that a white man has not. . . . Accompanied by his family, the Indian carries on his operations over a tract of land along a river or in the neighbourhood of a lake, and that is what he calls his "hunting ground." That is his patrimony. It has been bequeathed him by his father, who himself got it from his ancestors. From father to son these hunters have at the same place followed the fur animals, killed the beaver each year, and each year they have found it again and there always are some. There is nothing astonishing in that to anyone who knows how the Indian acts. . . . Instinctively the hunter understands that Providence by a wise law that man has no right to amend or change has placed the beaver there for his subsistence; but he understands also that he must not abuse it. It is for that reason that, guided by his instinct, and with the object of conservation, the Indian, obedient to a natural law that is worth more to him than all written laws, "never kills all the members of a beaver family." He knows enough always to spare a sufficient number for the continuation of the family, for the propagation of the race. He takes care of the beavers that live in his tract of land as the farmer takes care of his flock. He can tell at any

time the number that he can dispose of each year without ruining his hunting ground. (DIAC: vol. 6750, file 420-10, 1/13/13; cf. Tessier 1912)

In addition to publishing this tract, Tessier organized and circulated a petition among Lac St. Jean whites asking the Quebec government to comply with an exemption, and he expected three thousand signatures, including those of the leading political figures and clergy in the region (DIAC: Tessier 1/6/13). Tessier's program was successful; in 1914 he reported to his superiors in Ottawa that Quebec had granted permission to sell two thousand beaver pelts, worth ten thousand dollars (DIAC: Dufault/Tessier, 6/9/14; Tessier/D. C. Scott, 7/10/14).

How much Speck contributed to the resolution of this problem is unclear. It is likely that Tessier first raised the issue of restrictions on Indian hunting and trapping, for it was new in this region, although it had been a long-standing problem in parts of Quebec (DIAC: Tessier 1/6/13; J. D. McLean/Meredith et al. 11/6/11). Speck, on the other hand, had encountered some hunting territory material in his fieldwork among northeastern Algonquians over the previous four years, and he appears to have mapped Penobscot family hunting territories as early as 1910 (1931:573, 1940:203). Both Speck and Tessier had access to the published sources, in exploration reports from northern Quebec, on hunting territories among the peoples north and west of Lac St. Jean. Speck himself cited A. P. Low, the geological explorer of the Labrador peninsula, who had observed that "each family is supposed to own a portion of territory, with the exclusive rights to it" (Speck 1918a:90; Low 1896:50; see also O'Sullivan 1895:106; but cf. David 1907:207, who denied that the system was still in use at Lac St. Jean). Tessier and Speck were thus entering into an existing dialogue on hunting territories, not creating one.

But if neither of them "discovered" the family hunting territory, they did develop this evidence in a new way, in the context of Indian policy and conservation debates, initially in Canada and later in the United States. And the positions they developed were extraordinarily similar. Speck had a copy of Tessier's published letter in his files (FGSP: box 3, file 2296, 1912), and he briefly quoted Tessier's views comparing Indian and white hunters in an article he wrote in 1913 (Speck 1913b:25). In that same article Speck presented his findings on hunting territories for the first time, using much of the same material and often the same language that Tessier had used:

The Indians are commonly accused of being improvident as regards the killing of game because they depend upon it for their living. This, I maintain, is grossly incorrect, the Indians being, on the contrary, the best protectors of the game. . . . Accompanied by his family, the Montagnais operates through a certain territory, known as his "hunting ground," the boundaries determined by a certain river, the drainage of some lake or the alignment of some ridge. This is his fam-

ily inheritance, handed down from his ancestors. Here in the same district his father hunted before him and here also his children will gain their living. Despite the continued killing in the tract each year the supply is always replenished by the animals allowed to breed there. There is nothing astonishing in this to the mind of the Indian because the killing is definitely regulated so that the increase only is consumed, enough stock being left each season to insure a supply the succeeding year. In this manner the game is "farmed" so to speak, and the continued killing through centuries does not affect the stock fundamentally. . . . Instinctively, the hunter understands how Providence, by a wise law, which no man or government or game commission can improve on, has placed the beaver there for his subsistence. He understands, moreover, that he cannot abuse this providence. Thus it is that the Indian, obeying a natural law of conservation, which is worth more than any written law to him, "never destroys all the members of a beaver family." He knows enough to spare a sufficient number for the continuation of the family and the propagation of the colony. He takes care of the beaver and other animals as well that live in his territory, the same as a farmer does his breeders. He can, indeed, tell at any time the number of animals which he can dispose of each year in his district without damaging his supply. (1913b:21-22)

Although the hunting territory system was described in Tessier's letter of 1912 and Speck's article of 1913, neither then made a claim about the legal status of hunting territories as property, nor offered any specific assertion about Indian rights. This may have reflected the fact that land rights were not an issue at the time at Lac St. Jean, because there had been no treaties made in this area. Neither was there any parallel in Canadian Indian policy to the United States allotment program; the pattern was rather one of sporadic assimilationist attempts offset by government efforts "to keep the Indians contented and satisfied with their lot as *Indians*" (Sniffen 1911:165-66). In this context, both Tessier and Speck argued in terms of the social consequences of the ban on killing beaver, and the lack of need for such a ban because Indians themselves were conservationists.

### "You Can Write This Down for Me"

After returning to Lac St. Jean in the spring of 1913, Speck reported that he was having a map of the hunting territories made on birch bark (ESC: FGS/ES 4/9/13); that summer he conducted a survey in the Ottawa valley with continuing support from Sapir and the Geological Survey of Canada, and with a specific mandate to study hunting territoriality (Speck 1915b:2). He gathered data from several bands, one of which was not only experiencing the effects of white intrusions but vocally protesting and resisting the colonization of their lands. The Temagami Indians had less accessible hinter-



Frank Speck with Chief Aleck Paul (partly cut out by photographer) and an Ojibwa woman, probably Paul's wife, at Temagami, Ontario, in 1913. (Courtesy of the National Museums of Canada, Ottawa, neg. no. CMC 23944.)

land to which to retreat than did the Montagnais of Lac St. John, and they were in a province where treaties had been and were continuing to be signed and implemented. Among them Speck found what he called his "best opportunity for investigating the social and economic organization" of the family hunting territories (Speck 1915c:297).

It was here that Speck recorded the speech of Aleck Paul, second Chief of the Temagami Band of Ojibways, and an English speaker, which he later published in several places, (Potts & Morrison 1988). The speech makes it clear that the linkage between hunting territoriality and Indian land rights was actively argued by Indian leaders, and that Speck was more agent than author in the discourse on Indian rights and claims. Part of Chief Paul's speech was quoted by Speck in the *American Anthropologist*:

In the early times the Indians owned this land, where they lived, bounded by the lakes, rivers, and hills, or determined by a certain number of days' journey in this direction or that. Those tracts formed the hunting grounds owned and used by the different families. Wherever they went the Indians took care of the game animals, especially the beaver, just as the Government takes care of the land today. . . . We Indian families used to hunt in a certain section for beaver. We would only kill the small beaver and leave the old ones to keep breeding. Then when they got too old, they too would be killed, just as a farmer kills his pigs, preserving the stock for his supply of young. The beaver was the Indians' pork; the moose, his beef; the partridge, his chicken; and there was the caribou or red deer, that was his sheep. All these formed the stock on his family hunting ground, which would be parceled out among the sons when the owner died. He said to his sons, "You take this part; take care of this tract; see that it always produces enough." That was what my grandfather told us. . . . We were to own this land so no other Indians could hunt on it. Other Indians could go there and travel through it, but could not go there to kill the beaver. Each family had its own district where it belonged, and owned the game. That was each one's stock for food and clothes. If another Indian hunted on our territory, we, the owners, could shoot him. This division of the land started in the beginning of time, and always remained unchanged. I remember about twenty years ago some Nipissing Indians came north to hunt on my father's land. He told them not to hunt beaver. "This is our land," he told them; "you can fish but must not touch the fur, as that is all we have to live on." Sometimes an owner would give permission for strangers to hunt for a certain time in a certain tract. This was often done for friends or when neighbors had a poor season. Later the favor might be returned. (1915c:294-95)

Several phrases in this text echo parts of Tessier's and Speck's writings, and Speck referred to it as a "translation" (1915c:294), which suggests that he had a role in its final English form. Chief Paul, however, clearly went beyond what Tessier and Speck had previously written.

In other articles Speck quoted Chief Paul at greater length, with specific reference to the political issue of the recognition of land rights:



Chief Aleck Paul of the Temagami band, in his chiefly regalia, 1913. (Courtesy of the National Museums of Canada, Ottawa, neg. no. CMC 23985.)

You can write this down for me: . . . What we Indians want is for the Government to stop the white people killing our game, as they do it only for sport and not for support. We Indians do not need to be watched about protecting the game, we must protect the game or starve. We can take care of the game just as well as the Game Wardens and better, because we are going to live here all the time. . . . When the treaty was made, about sixty years ago, the Government said: "You Indians own the game. . . . These Indians need to have their rights in the land and the game recognized and protected as much as the new settlers." (1913b:24; cf. 1914a:37)

The treaty mentioned by Chief Paul was the Robinson-Huron Treaty of 1850, the first of the major land rights concession treaties in Canada. The Temagami, who had been seeking inclusion in the treaty for nearly thirty years,

were again petitioning the government for land at the time of Speck's visit. When the Government of Ontario in 1911 banned shooting and fishing within the Forest Reserve it had established around Lake Temagami, Chief Aleck Paul wrote a letter of protest; and just over a week before Speck arrived, a meeting was held with federal government representatives (without provincial representatives present) to try to select the site of a possible reserve (Potts & Morrison 1988:15-16). The event has recently been recounted by Chief Gary Potts of the Teme-Augama First Nation:

Speck arrived under the auspices of the Canadian government, his research financed by the Geological Survey. Since the land claim had started, the only officials our people had ever met were local Indian Agents and provincial fire rangers. Suddenly, here was a government man who was interested in our past and present life, our land tenure system, our political organization, our myths and stories. This couldn't be a coincidence. The people must have assumed Speck had been sent to gather information to help settle our claim. They welcomed him and openly told him just about anything he wanted to know. (Potts & Morrison 1988:16)

Chief Paul's speech, and the Temagami political position it expressed, incorporated nearly all the elements that have been taken by anthropologists as characterizing the classical model of the Algonquian family hunting territory system. The Temagami were certainly arguing for traditional, indeed aboriginal, territorial rights. The focus on legal rights required that the territory system be aboriginal in origin. The Temagami clearly saw territoriality as having both a family or kin-group basis and a "tribal" component; they were arguing for personalized family property rights, but not to the exclusion of "tribal" rights. Chief Paul was making a collective claim to rights; the Temagami sought recognition under the treaty as a group with collective rights, and they wanted a block of land put aside for a reserve for the community. As none of this was done in 1914, much of their subsequent legal claims up to the present day have reasserted these rights.<sup>3</sup>

Speck's ethnographic account was thus organized around a prior social policy position that already was being asserted by Indians themselves, as well as by non-Native activists, including Speck. The broad outline of that ethnography is drawn from and paralleled by the Indians' own policy arguments. But the ethnography was also structured by Speck's own involvement in the process, for he took the arguments of the Temagami and set them in the very

3. The Temagami claims are still being fought in the courts and in political arenas, and the data recorded by Speck are still cited. It is ironic that in a major legal ruling Mr. Justice Steele found that Speck's memoir was "not tainted with the partisanship shown by many witnesses at this trial" (1984).

different context of United States colonization policies, and thereby reshaped the ethnography of the Algonquian family hunting territories.

### From Policy Advocacy to Ethnological Theory

Convinced that he had a mandate "to make public to the white people encroachments upon Indian rights to the land" (1914a:36), Speck published his Temagami findings almost immediately upon his return to the United States. In the September 1913 issue of the *Red Man* he quoted Chief Aleck Paul at length, and Armand Tessier more briefly, arguing that his data revealed "one among a number of fallacies current among historical writers which do injustice to the Indians by putting them on a lower cultural scale than they deserve" (1913b:21). The contrast with Speck's 1909 portrayal of the Montagnais is striking: the impoverished dependents of the Hudson's Bay Company had become active owners and managers of land and resources, requiring only to be left to continue their own practices.

While Speck at this point made no assertions of his own concerning property rights or land claims, these connections were clearly on his mind. On November 13, 1913, the magazine section of the Philadelphia *Public Ledger* published an article on his findings under the headline "Penn Professor's Discovery Confounds Indian 'History'—Doctor Speck Establishes that the American Redskin Hunts on His Own Family Ground, is a Protector of Game, and is no Mere Rover Through the Forests":

[Speck] is known to the red men as their friend and protector. Many times he has interceded for them at Quebec and Ottawa, and the Indians know this and appreciate it, and it was therefore to him that they have given the proof of their ownership of the forests, not as tribes merely, but as individuals, thus upsetting all established data.

By this account, the "discovery" of individual hunting territories was "Dr. Speck's"; the Temagami had simply convinced him of its "truth" and provided "ample proofs to establish his claim" (Lovell 1913).

Two months later, in an article in the *Southern Workman*, Speck directly addressed "The Basis of Indian Ownership of Land and Game." Taking as his target the most prominent public proponent of Indian nomadism, he opened with a quotation from Theodore Roosevelt's *Winning of the West* (1889):

To recognize Indian ownership of the limitless prairies and forests of this continent (that is, to consider the dozen squalid savages who hunted at long intervals over a territory of a thousand square miles, as owning it outright) necessarily implies a similar recognition of the claims of every white hunter, squatter, horse thief, or wandering cattleman. In fact, the mere statement of the case



is enough to show the absurdity of asserting that the land really belonged to the Indians. The different tribes have always been utterly unable to define their own boundaries.

Speck began by simply asserting that "Mr. Roosevelt is quite in error as regards most, if not all, of the hunting tribes of the northern part of this continent." Noting that this "attack upon the fundamental claims to their domains is a matter of considerable importance to the Indians, both in the United States and Canada," Speck argued that while "perhaps excusable through ignorance," the dissemination of "misconceptions resulting disadvantageously to a weaker race" was nevertheless "an injustice" (1914a:35). After quoting Chief Aleck Paul, Speck went on to claim "these conditions formed the primary social insitution" of the Indians: "the whole territory claimed by each tribe was subdivided into tracts, owned from time immemorial by the same families and handed down from generation to generation" (37-38).

Speck's argument was further refined in lectures and papers that variously summarized the work he had completed to date. His public talk in the Houston Club at the University in January 1915 formed the basis for these:

I should like at least to show that the Indian tribes of eastern and northern North America did have quite definite claims to their habitat. Moreover, as we shall see, these claims existed even within the family groups composing the tribal communities. . . . It would seem, then, that such features characterize actual ownership of territory.

Again confronting Roosevelt, Speck offered a list of places from which he had data among the Algonquian (including Newfoundland, Labrador, Nova Scotia, Maine, Quebec, and Ontario), a brief general description of the territorial system, two paragraphs from Chief Paul's speech in a footnote, and more detailed data from Timiskaming, Temagami, Penobscot, and MicMac (1915a; cf. 1915d).

Although Speck was to remain active in the policy arena despite the limited impact of his initiatives,<sup>4</sup> by 1915 the primary locus of his hunting territory argument had shifted to the arena of professional discourse. From later

4. In 1926, the *General Magazine and Historical Chronicle* at the University of Pennsylvania carried three articles on the theme of "Assimilating the Red Man" (Vaux 1926; Welsh 1926; Work 1926). George Vaux, from the Indian Bureau, denied that Indian claims to ownership of areas was "land-tenure of the kind we Anglo-Saxons have developed." In a response entitled "Annihilating the Indian," Speck suggested that such plans were discussed in the absence or "exclusion of possible native points of view." Quoting most of the published version of his 1915 talk at the University of Pennsylvania, he noted that he had "emphasized the application of this information, hoping that it would reach the attention of those in authority in Indian affairs, for whom it was intended as an aid in their handling of the situation—an expectation not realized in the case of Mr. Vaux, who illustrates the indifference in [sic] the part of the administrators toward ethnological facts" (1926:262, 267-69).

evidence, it seems likely that Speck was stimulated by Robert Lowie's recent attack on Morgan's social evolution scheme, on the grounds that matrilineal descent groups did not precede patrilineal descent, and that unilineal descent was not universal among North American Indians and was absent in the least complex societies (Speck 1918a:82, citing Lowie 1914). But it is important to emphasize that it was not Morgan but Roosevelt (and those he stood for) against whom Speck had originally been speaking. His anti-evolutionism was not simply a Boasian inheritance; it was embedded in his policy concerns. The evolutionists he was arguing against were powerful mainstream spokesmen, active in Republican and Democratic party politics, in the government bureaucracy, and in advising the government. Although Speck's subsequent development of the argument reformulated his anti-evolutionism, it was never entirely separated from policy issues.

The transition from writing about hunting territories for a broad but informed audience to writing about them primarily for other anthropologists took place in an article in the *American Anthropologist* in 1915. Its title—"The Family Hunting Band as the Basis of Algonkian Social Organization"—indicated that for a professional audience the emphasis was to be not primarily on the claims to land rights but on the family group as the fundamental social unit in hunting societies, in evident contrast to social evolutionary models. But after an opening sentence vaguely suggesting its general ethnological relevance, Speck followed his University of Pennsylvania talk with only minor editorial modifications. Deleting the references to Roosevelt, but retaining his arguments for Indian conservation and Indian land ownership, he thus introduced into the anthropological literature an argument that had germinated in the realm of policy issues.

But the transition into the professional literature was not an easy one, first because it highlighted the problem of the generality and reliability of his data. Speck's policy experience and inclination led him to emphasize that the authority of his materials flowed in part from having some material from several communities, and in part from his being able to present a "Native voice" on the issues, as Chief Paul's mandate had indeed authorized. But the extent of the Native voice he could claim to represent remained problematic in his texts, and for Speck himself. In his *American Anthropologist* paper, Speck quoted a short edited translation from Tèssier's letter, with a footnote referring to it as "a statement prepared by the Montagnais of Lake St. John" (1915c:294; emphasis mine). The fact that the text is written in the third person, and Speck refers to its having been "prepared," make it unlikely that it was written by Montagnais. Speck himself acknowledges the ambiguity of the provenance of the Montagnais text when he goes on to note that the following Ojibway text, from Chief Paul, "is interesting because it gives us a first-hand translation of the *actual statements* of an Indian authority himself" (1915c:294; em-

phasis mine). Thus Speck, somewhat self-consciously, stretches the authority of the "Native voice," probably both to acknowledge Indian participation in the process of describing hunting territories, as well as to legitimate his more generalized scholarly assertions. Speck converted a Temagami voice, or Temagami and Montagnais voices, into a general Algonquian voice, for which he had considerably less authority and evidence.

Speck's *American Anthropologist* paper (1915c), and the longer monograph on the Ottawa valley bands published by the Geological Survey of Canada (1915b), were initially met with a certain caution and criticism. Some of his closest colleagues were concerned whether other researchers would confirm Speck's findings. In the summer of 1915 Edward Sapir had at least two researchers probing for evidence of Algonquian family hunting territories (RHLP: ES/R. H. Lowie 9/27/16). Both confirmed their existence, and these confirmations were reported to Speck, who mentioned the data in a later publication (1918a:88–89; see also Davidson 1928).

Others, however, expressed early doubts in print. Criticizing Speck's data as superficial, William Mechling argued that the development of family hunting groups as a result of contact with Europeans would be consistent with "Morgan's statement" (1916a, 1916b). Even a fellow Boasian, Alexander Goldenweiser, who found Speck's arguments convincing and his conclusions "epoch-making," nevertheless felt that the monographs were "in part vague, almost fragmentary" (1916:278; FGSP: AG/FGS 3/20/16; cf. P. Goddard/FGS 3/13/16). It was in replying to these criticisms that Speck for the first time explicitly mentioned Morgan and McLennan, addressing their assumption that "the matrilineally organized tribes represented the primitive, at least the earlier, condition from which others had emerged" (1918a:82; cf. 1917, 1918b, 1920). Against this, he claimed to show that "the looser stage"—the family grouping with patrilineal tendencies—was a "relatively older, more primitive phase of culture" (1918a:100)—thus finally spelling out clearly the argument he had introduced into the professional literature in 1915.

The most widely known case for the relevance of the northeastern Algonquian for evolutionary social theories was developed not by Speck but by Robert Lowie: "thanks to Professor Speck's capital investigation," the assumption "that when peoples support themselves by the chase there is of necessity communal ownership of hunting-grounds" should be abandoned because "it must now be regarded as an established fact that in parts of North America . . . the hunting-grounds themselves were the property of individual families" (1920:211; Murphy 1972). Two years later Speck noted Lowie's argument with approval, going on, however, to claim that the social organizational implications of his studies were "of still more importance" to the evaluation of theories of social evolution (1922:83–85). Twenty years further on, Speck himself joined in asserting that his findings "must inevitably be troubling to those

who, like Morgan, and many present-day Russians" would claim that hunters represent "a stage prior to the development of the institution of individualized property" (Speck & Eiseley 1942:238). Thus, although his initial formulations did not have their origins in theoretical or ideological issues, by 1942 Speck himself was prepared to make the argument in these terms.

### The Colonial Situation of an Ethnographic Error

Although eventually incorporated into an anti-Morganian ethnological argument, it was Speck's policy arguments that shaped the most criticized features of his research into Algonquian family hunting territories. The ethnographic data are decidedly sketchy, general, and characterized more by ideal norms than by specific instances and their variations. This may arise in part from the culture trait assumptions common during the period, but culture trait studies were often extraordinarily detailed. Part of the cause is no doubt Speck's fieldwork practice (cf. Deschênes 1979:39–46). Although reportedly a good fieldworker, his trips were often a cross between museum specimen collecting trips and fieldwork. Eventually he made sixteen trips to Lac St. Jean and a total of twenty-seven to the Montagnais between 1908 and 1935, but in 1915 he had spent only about fifty-five days at Lac St. Jean (Deschênes 1981:218). In the Ottawa valley his stay at Temagami lasted two weeks, and he never returned (Potts & Morrison 1988:19; cf. Speck 1915e).

The constraints and possibilities inherent in the political situation of Indians and anthropologists on the active frontier of colonization shaped what happened during those brief field trips. Where the process of land colonization and acquisition by whites was far advanced, the ethnographic record tended to be weak, and distorted by the fact that most of these groups were reporting on a system of practice that was in various degrees disrupted or abandoned (e.g., Penobscot). Four of the groups Speck reported on in 1915 appear to have been carrying on family hunting territory practices at the time of his research, but only one was not experiencing immediate threats. Thus there was limited material to draw on from contemporary practice among many of the groups Speck studied. It is significant that Speck's central, legitimizing, and defining cases developed not from these more long-settled and disrupted areas, nor from the more northerly and isolated peoples in northern Quebec, where conflicts were more sporadic and not yet fundamentally threatening, and therefore relatively unarticulated. The two key cases, Lac St. Jean and Temagami, were from areas in which colonization was several decades old and was intensifying, and in which there was an active political response or resistance to at least some aspects of the process.

Where colonization of lands had not proceeded to near completion, and

where there was active political response to the colonization of Indian lands, this context led politically active interviewees and interviewers to present a rather formalized and ideal model of family hunting territory practices, rather than an ethnographically rich account of everyday examples and of everyday problems and variations. Such simplification was expedient in public presentations, and it made the political case less vulnerable to criticism in the political arena, although it did the reverse in academic settings. Political activism made short, intensive fieldwork highly productive (Potts & Morrison 1988), but it also shaped the kind of data which was collected.

The policy context affected not only the data collection but also the specific content and organization of the ethnographies. The specific ethnographic features emphasized in Speck's generalized accounts of family hunting territoriality were those essential to identify them as legally recognizable forms of private property. The linkage was made explicit when Speck reviewed his data in the light of authoritative conceptions of "property" and "private property." In a paper delivered in 1926, Speck quoted L. T. Hobhouse (1922) to the effect that for things temporarily controlled or possessed to become property there were three requirements: (1) possession must be recognized by others, that is, it must be a right; (2) with regard to things of a permanent nature, the right must be respected in the absence of the possessor; and (3) control must be exclusive, not universal. Speck added that Hobhouse also distinguished property as private, joint, or common depending on who exercises the rights (1928a:324). In the course of a review of the evidence from various parts of the world, Speck incorporated (with only minor changes) two long passages from his 1915 *American Anthropologist* articles that he felt defined Algonquian hunting territoriality in a form consistent with Hobhouse's requirements for establishing the presence of private property. Social recognition was established by the fact that territories generally had known and recognized boundaries, as indicated by Speck's ability to get informants to agree on maps of the territories. Permanence of the right to use land was indicated by the established procedure of inheritance, and also by the conservation of resources over generations, as well as by his claim that the family units that constituted the social order were themselves united by land rights as well as by their kinship ties. The exclusiveness of the rights was established by the prohibition against trespass for purposes of killing beaver and by the procedures for granting permissions for access. The ownership by individuals or families was established by documenting the family hunting groups who had rights to each territory and by inheritance practices. In contrast to his other more "classically" organized ethnographic survey reports (e.g., 1909c, 1935, 1940), Speck's ethnographies of hunting territories generally consist of reporting these traits repeatedly, for diverse Montagnais and Algonquian groups (1922, 1923, 1927, 1928b, 1931, 1939).

That the initial ethnology of Algonquian family hunting territories was

so closely tied to processes of ongoing colonization of Indian lands and societies is ironic. The social policy focus of Speck's ethnography was so thoroughly lost from view in the debates of the succeeding years, and in their histories, that even the anthropologists who later insisted that the development of family hunting territories could only be comprehended within a history of colonization, colonialism, and economic change still tended to see the anthropological debates as a frozen ideological dispute outside of a dynamic, historical, sociopolitical context. This was possible because the critics' defense of evolutionism associated it with Morgan, but not with Roosevelt, Grinnell, or others outside anthropology but key to government policy making. The political and economic context of Speck's policy critiques faded from sight, as did the web of linkages between advocacy and ethnology.

Speck himself argued for Indian rights in numerous political contexts throughout the rest of his career. Not least of these political activities was his work, beginning in the 1920s, for and with the Cayuga Iroquois of the Six Nations in Canada (1941). Lewis Henry Morgan had worked with another nation of the Iroquois Confederacy nearly a century before. Both Speck and Morgan were disturbed by the processes of colonization of Indian lands going on around them. They differed, however, in their visions of what might be possible for Indians in the future. Speck held out a more "romantic" future, one more authentically linked to what was distinctive in the Indians' past; Morgan argued for time and space to moderate the "progressive" changes he saw as inevitable. While recognizing the differences between both men's models, explanations, and visions, it is important to note the similarity of the processes by which they each constructed ethnographies and developed ethnological theories in the context of their social praxis and political advocacy for Indians.

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In writing this paper I have drawn on research materials collected from the following manuscript sources, cited as abbreviated below:

DIAC Department of Indian Affairs Records, Public Archives of Canada, Ottawa (RG-10).

- ESC Edward Sapir Correspondence, Canadian Ethnology Service, National Museums of Canada, Ottawa.
- FGSP Frank G. Speck Papers, American Philosophical Society Library, Philadelphia.
- RHLP Robert H. Lowie Correspondence and Papers, Bancroft Library, University of California, Berkeley.

# Colonial Situations

## ESSAYS ON THE CONTEXTUALIZATION OF ETHNOGRAPHIC KNOWLEDGE

Edited by

George W. Stocking, Jr.

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