Union of Nova Scotia Indians

OFFICE OF THE PUTU'S

Before the Leaves
turn colors, 1980

Mr. Theo C. Van Boven
Secretary
Human Rights Committee
Palais de Nations
1211 Geneva, Switzerland

Me' taleyn:

The Jigap'ten of Santeoi Mawa'iomi of the Mi'kmaq Nationimuow has the honour to address you as well as the sadness to communicate of the substance of our grievances against the Dominion of Canada. The people of our tribal society are victims of violations of fundamental freedoms and human rights by the government of Canada: Canada has and continues to deny our right to self-determination; Canada has and continues to involuntary confiscate our territory despite the terms of our treaties; Canada has and continues to deprive our people of its own means of subsistence; and Canada has and continues to enact and enforce laws and policies destructive of our family life and inimical to the proper education of our children.

We speak plainly, so that there is no misunderstanding. For three centuries, we have honoured and lived by our Treaty of protection and free association with the British Crown. We have remained at peace with British subjects everywhere, and our young men have given their lives, as we had promised, in defense of British lives in foreign wars. As the original government of the Mi'kmaq Nationimuow from time out of mind, and as signatories and keepers of the great chain of union and association with Great Britain, we, the Mawa'iomi, have guided our people in spiritual and secular affairs in freedom and dignity, in our own way, without compulsion or injustice.

Now, there is a great and terrible idea in this land. The government of Canada claims that, by virtue of its charter of self-government from Great Britain, the British North America Act, it has succeeded to the Crown in our Treaty. Furthermore, and in frank violation of the law of nations, the government of

P. O. BOX 961, SYDNEY, N. S.
B1P 6J4

TELEPHONE 539-4107
TELEX 019-35215

Mr. Theo C. Van Boven

Canada claims power and right to ignore our Treaty at pleasure, and to seize our ancient lands, substitute, supervise, or abolish our government, remove our children to schools of its choosing, rather than ours, prevent us from farming and fishing for our subsistence, and scattering our homes and families. They tell us we no longer are a protected State, but a minority group of "In-dē-ənz," subject absolutely to their discretion and control, exercising the rights of property, self-determination, and family life only at their will. They offer our people political peonage and the destiny of dependence upon financial relief.

This, we cannot accept. Under the optional protocol to the International Covenant on Civil and Political Rights, acceded to by Canada on May 19, 1976, we submit this to the Committee on Human Rights.

For the Santeoi Mawa'iomi

Alexander Denny

Alexander Denny, Jigap'ten

Sakej Henderson

Sakej Henderson, Putu's
Union of N. S. Indians

TABLE

nēwt: on standing

1. The Mi'kmaq Nationimouw is and always has been a distinct people, speaking its own language, free in the enjoyment of its own culture and religion, governed by its own officers and laws in its own territory, and recognized, until limited by its free association with Great Britain, as capable of engaging in Treaties with other States, both States native to this continent and States of Europe.[1]

2. In accordance with our ancient laws and the law of nations, we recognize two Eurochristian allies or racamanen: the Church of Rome and the British Crown. In 1621 our jisagamow Membertou, by his baptism and agreement, associated the Mi'kmaq Nationimouw with the Holy See, and ever since we have given the Church of Rome free access to our territory and people, the liberty to build and keep Churches, and the privilege of yearly renewing this association at our great meeting on Chapel Island. Agents of Great Britain sought us out as early as 1719 to treat for peace and political association, but, as we then were surrounded by settlements of France, we did not adhere to Britain's Treaties with our southern racamanen, the Penobscots, Passamaquoddies, and Maliseets.[2] In 1752, as British arms displaced the French from our frontiers, we associated ourselves by Treaty with Great Britain (Enclosure "A"), and by this Treaty have recognized that State, and they us, ever since.

3. The Mi'kmaq Nationimouw claims de jure, by ancient title and dominion, all that territory which it possessed, governed, used and defended at the time it entered into the protection of Great Britain. Sitqamuk, our national territory, includes the lands today known as Nova Scotia, Prince Edward Island, and parts of Newfoundland, New Brunswick, and the Gaspé peninsula of Quebéc (Enclosure "B"), an extent of twenty thousand square miles, more or less. Although our Treaty of protection guaranteed us permanent enjoyment of this territory, save only for settlements of British subjects then existing (to the extent of one thousand square miles or less), we recently have been confined to small parcels of land in total less than fifty square miles. Title and right even to these parcels, denominated "Indian Reserves," is contested now by the government of Canada, yet we never have sold or ceded by deed or by Treaty a

---

1. "State" — Montivideo Convention (1933), 49 U.S. Stat. 3097, Article 1; Hackworth, Digest of International Law (1940), at 47.

2. Labaree (ed.), Royal Instructions to British Colonial Governors (1935), at 469. A similar objective was described in the Charter of 1621 for Nova Scotia given to Sir William Alexander, but the Charter never was implemented.

single acre of our original domain.

4. For evidence and proof of our territorial extent, we submit for your consideration that all physiographic features within these lands have ancient names in our language, which refer to our continuous use and possession of them, and identify the wigamow or settlements of our people that belonged to each of them. We offer to show these facts to you in our own country as you may see fit and convenient.

5. We have existed as an autochthonous people from the beginning of time. When the Mi'kmaq awoke naked in the world and ignorant of everything in its, they asked the creator, Nisqam, how they should live. Nisqam taught us how to cultivate the ground, and to respect the nations of the trees and their dependents; to hunt and fish, and to pray while we hunted and fished; to name the stars, the constellations, and the milky way, which is the path our spirits take to the other world. Most of all, Nisqam taught us to live together as one people, ginuk, in brotherhood with all other humans, animals, and plants.

6. To lead the Mi'kmaq along the good path in their domestic relations, and to advocate their interests in foreign affairs, the creator endows a few of each generation with special knowledge of the woodlands and the ocean, and concerns of the spirit. Long before our memory, these people of wisdom and responsibility joined together in a body, the Santeoi Mawa'iomi, or great league, called the Grand Council by the Jesuitical emissaries of the Holy See who first described us to Eurochristians, and the Mi'kmaq Nationimouw by the diplomats of the British Crown with whom we made our Treaty of protection and association. As early as 1616, Eurochristian observers described the division of the Mi'kmaq State into seven great geographical districts under the direction of one Grand Council, and our affiliation with other peoples and autochthonous States in the relationship of confederation called by us racamanen.[3]

7. From each wigamow or settlement of kinsmen and their dependents, the Santeoi Mawa'iomi recognise one or more gap'ten ("captains") to show the people there the good path, to help them with gifts of knowledge and goods, and to sit with the whole Santeoi Mawa'iomi as the government of all the Mi'kmaq Nationimouw. From among themselves the gap'ten recognise a jigap'ten ("grand captain"

---

3. See especially the writings of Father Pierre Biard, reproduced in of Thwaites (ed.), The Jesuit Relations and Allied Documents (1896-1901); Chrestian LeClerq, New Relations of Gaspesia (Ganong ed. 1910); Mar Lescarbot, Histoire de law Nouvelle France (1609); Nicolas Denys, Description Géographique et historique des costes de l'Amérique septentrionale (1672).

and jisagamow ("grand chief"), one to guide them and one to speak for them, and from others of good spirit they choose advisers and speakers, or put'us. The authority of our government is and always has been spiritual, persuasive, and non-coercive. The cruelties of coercive laws and majoritarian oppression were unknown among us until the recent interventions of Canada. The continuity and authority of our State exists in our culture, in a common bond and vision that transcends temporary interest. This bond arises naturally from the fate of birth into a family, community, territory, and people—munijinik, wingamow, sitqamuk, ginuk.

8. Before the interventions of Canada, our gap'ten saw that each family had sufficient planting grounds for summer, fishing stations for spring and autumn, and hunting range for winter. Once assigned, these properties were inviolable, and disputes were arbitrated by our gap'ten individually or in council. We neither were settled nor migratory, as Eurochristians understand these things. The environment of our birth always has been suited best to seasonal use, so that, compatible with the rhythm of the earth, our families each owned a hunting home, a fishing homes, and a planting home, and travelled among them through the year in the beauty of our land. Today we keep these things as best we can, but our freedom to use our earth according to the annual cycle is much restricted, and the security of our cultivation, fishing and hunting rights much impaired by arbitrary laws and regulations of Canada.

9. We do not distinguish spiritual and secular affairs because we do not need to: we are one people entire. From time immemorial to this day, the Mi'kmaq Nationimouw have assembled each year in midsummer at Potloteg, the place Eurochristians know as Chapel Island, in Nova Scotia, to unite the people, ratify births and deaths, and share in prayer and thanksgiving. So, too, at this time, the Santeoi Mawa'iomi have since before memory annually met to consider policy, and to send the jisagamow and jigap'ten to address the people, and to read the ulnaskog or records of our alliances. Whosoever doubts that we are one people with one government must observe this day and this place. The ground itself is worn into furrows by the passing of our feet, for thousands upon thousands of years.

10. As keepers of the chain of union between Great Britain and the Mi'kmaq Nationimouw, the Santeoi Mawa'iomi have direct and reliable knowledge of the condition of the Mi'kmaq people, the conduct of Canada in violation of Treaty and of international law, and of the destiny the Mi'kmaq people choose. We have witnessed the confiscation of ninety-nine per cent of our territory, and have struggled to save the spirit of our remaining ten thousand people from despair as their health and education decline. When our Treaty was made, we had an abundance to eat and we lived and prospered in

good health. Today we know hunger, malnutrition, disease, alcohol and drug abuse, and suicide, all greatly in excess of what is known among our Eurochristian neighbours (Enclosure "C"). These things alone would be sufficient basis for complaint that Canada had violated our rights, as individuals, to dignity, subsistence, health, education, and life. However, the Santeoi Mawa'iomi also bear witness to a greater breach, Canada's violation of our Treaty of protection and association and its guarantee of our freedom as a community. We speak for all the people: Canada seeks to destroy a State.

tāpu: on covenants

11. When Eurochristians first appeared on our frontiers, we extended our brotherhood gladly. They came to us as refugees from overcrowded and hungry nations; many fled from injustices and intolerance. We fed them and showed them how to live on this continent. We listened to them speak of religion and, accepting Catholicism as consistent with our own faith and beliefs, in 1621 allied ourselves with the Holy See through the Church of France. Unfortunately, feuds among Eurochristian States over imaginary territorial lines forced us to assert our territoriality by force of arms. Although at first both British and French were welcome in our country, British efforts to expel French influence and religion from this hemisphere soon made coexistence impossible.

12. Sectarian Christian disputes and rum brought violence to our beloved forests and the smoke of European cannon mingled with the fog enshrouding Eurochristians' intentions. In their haste to destroy French settlements, British forces crossed and devastated our country and the lands of our Wabanaki racamanen: The Penobscots, Passamaquoddies, and Maliseets. In response, we permitted the King of France to erect fortifications on our soil, and for fifteen years we seized and destroyed British shipping from north of Casco Bay to the Grand Banks. When French settlements on the mainland of Nova Scotia fell into British hands,[1] King George II instructed his military governor to enter if possible into an association with the Mi'kmaq Nationimouw.[2] No extensions of Eurochristian settlements were proposed, nor would we have accepted them. Wherever our own

---

1. By the Treaty of Utrecht (1713).

2. Labaree (ed.), Royal Instructions to British Colonial Governors (1935), at 469.

language was spoken was sitqamuk, and every part of this territory was sacred to us. Every tree, every shore, every mist in the dark woods, every clearing was holy in our memory and experience, recalling our lives and the lives of our ancestors since the world began. These things cannot be sold.

13. On 5 December 1725, representatives of many of our southern racamanen initialed a Treaty with Great Britain at Boston, in which they admitted to have breached their former Treaties of peace with that kingdom.[3] Renewing these prior engagements, they promised to "hold and maintain a firm and Constant Amity and Friendship with all the English, and never [to] confederate or combine with any other nation to their prejudice," to join British forces in the suppression of hostilities with other natives States, and to submit future disputes with British subjects to "due course of Justice... governed by His Majesty's Laws." The Treaty preserved the territorial status quo as it then existed, guaranteeing to Great Britain all of its "former Settlements" in New England and Nova Scotia, and reserving to our racamanen all the rest of their ancestral lands. Our southern allies, together with one of our own districts, the gespogoitg,[4] ratified this Treaty at Casco Bay in what now is called Maine on 11 August 1726, the British signatory, William Dummer, expressing his opinion that "this will be a better & more lasting Peace than ever was made yet, And that it will last to the End of the World."[5]

14. Having made no former Treaties with Great Britain ourselves and wishing to remain non-alligned, the Mi'kmaq Nationimouw would not concede wrongdoing by adhering to the Treaty of 1725, although that instrument purported to check further British expansion. For two decades British emissaries sought the assent of the various Mi'kmaq wigamow individually, but it was not until 1752, at the conclusion of another British war with the Nationimouw, that a Treaty was properly arranged with the Santeoi Mawa'iomi acting by its jisagamow, Jean Baptiste Cope.[6] We agreed to abide generally by the terms of the Treaty of 1725 [Article 1], thereby acknowledging British possession of existing settlements, and receiving Britain's acknowledgment of our title to the balance of our national territory.

---

3. Atkins (ed.), Nova Scotia Archives 1 (1869), at 572-574. As used in this Treaty, "Nova Scotia" included the area today known as New Brunswick, and did not include Cape Breton Island.

4. Identified in the Treaty of 1725 as "Cape Sable Indians."

5. Nova Scotia Archives 1, at 572-574; Public Archives of Nova Scotia, "New England (America & West Indies)" Volume 1, Nos. 1-8.

6. Nova Scotia Archives 1, at 681; Enclosure "A". About ninety delegates from the Mi'kmaq wigamow attended this conference.

Our right to hunt and fish, and to conduct trade, was guaranteed everywhere, even within British bounds [Article 4]. We consented to litigate our disputes with British subjects in royal courts [Article 8], provided that we always be accorded "the same benefits, Advantages & Priviledges as any others of his Majesty's Subjects." So eager were His Majesty's representatives for association with us, that we were paid reparations and aid [Article 5,6]. Our jisagow promised to bring all our wigamow into this racaman. [Article 3].

15. Treaties of association and protection were common among the autochthonous States of North America. Such Treaties formed the covenant chains of the great Algonkin confederations, such as the Iroquois, and the Wabanaki. Britain's King George III took advantage of this shared understanding of the law of nations to neutralise the Algonkin States that bordered upon British settlements, placing them under permanent protection. Each remained a State, yet in perfect association with the British Crown. In its Treaty of 1752, the Mi'kmaq Nationimouw sold no land, and ceded no sovereignty over its domestic affairs. It became a protected State or dependency, as that term would come to be used and understood more generally a century later in the evolution of the British Empire into a Commonwealth of Nations.

16. We were conscious of the law of nations when we associated ourselves with Great Britain, and we properly relied upon Great Britain's representations and on the practice of nations at that time. In 1761, shortly after the fall of French forces in Canada, Great Britain and the Mi'kmaq Nationimouw ceremonially renewed the Treaty of 1752 at Halifax. Standing by a monument erected for that purpose, Nova Scotia Governor Jonathan Belcher described our relationship with the Crown in these words:

> Protection and allegiance are fastened together by links, if a link is broken the chain will be loose.
>
> You must preserve this chain entire on your part by fidelity and obedience to the great King George the Third, and then you will have the security of his Royal Arm to defend you.
>
> I meet you now as His Majesty's graciously honored Servant in Government and in his Royal name to receive at this Pillar, your public vows of obedience—to build a covenant of Peace with you, as upon the immovable rock of Sincerity and Truth,—to free you from the chains of Bondage,—and to place you in the wide and fruitful Field of English Liberty.

> The Laws will be like a great Hedge about your Rights and properties—if any break this Hedge to hurt and Injure you, the heavy weight of the Laws will fall upon them and furnish their disobedience.[7]

Assuring the Governor that our common religion would assure that the articles of agreement would be "kept inviolably on both Sides," jisagamow Toma Denny replied, "Receive us into your Arms, into them we cast ourselves as into a safe and secure Asylum from whence we are resolved never to withdraw or depart," remaining the Crown's "friend and Ally."[8]

17. British Nova Scotia was controlled entirely by prerogative instruments of the Crown such as Letters Patent, Instructions, and Imperial Proclamations until 1867, and colonial officials had no power or authority beyond the terms of these instruments.[9] The King in Council perfected the covenant chain with us by entrenching our protected status in the constitution of Nova Scotia. Letters Patent issued to Lord Cornwallis in 1749 to form a government for the British settlements directed that no grant of land be made or confirmed to British subjects, except out of territory freely ceded by the native proprietors.[10] As earlier clarified by the Privy Council, this meant that land cessions be accepted only from the properly constituted governments of indigenous States, and not merely from their individual citizens, conformable to the law of nations.[11]

18. The protection of territoriality always was central to our Treaty relationship with Great Britain. In 1761, the King in Council admonished the royal governors of Nova Scotia and other Crown colonies to keep "a just and faithfull Observance of those Treaties and Compacts which have been heretofore solemnly entered into" with indigenous States, and directed that action be taken to prevent

---

7. Nova Scotia Archives 1, 699-700; P.A.N.S. MS Doc. Volume 37, No. 14.

8. Ibid. Our word for this relationship of protection is elegawaje.

9. In re Cape Breton (1846), 13 E.R. 489; Whyte & Lederman, Canadian Constitutional Law (2d ed. 1977), c. 2.

10. Nova Scotia Archives 1, 500.

11. The Governor and Company of Connecticut and Moheagan Indians (1769); Acts of the Privy Council of England, Colonial Series 5 (1912), at 218.

unlawful settlements of British subjects on unceded lands.[12] In 1762, Nova Scotia Governor Belcher implemented the Royal Instruction by proclamation, ordering British subjects to remove themselves from any lands claimed by us, and to avoid molesting us in the exercise of our Treaty right to hunt and fish within the British settlements.[13] In 1763, the King amplified Imperial policy by Royal Proclamation, strictly forbidding British occupation and settlement of lands "reserved under our sovereignty, protection, and dominion," on behalf of "the several Nations or Tribes of Indians with whom we are connected, or who live under our protection."[14] As an autochthonous State associated with Great Britain by Treaty, the Mi'kmaq Nationimouw indisputably was "connected" with, and "protected" by the Crown. Thus after 1763 no subject or officer of Great Britain possessed authority to interfere with the territory we reserved in 1752, not only as a matter of the international law of Treaties, but as a matter of Imperial regulations limiting the constitutional power of the British colonies in North America.

19. A British royal commission in 1749 concluded that "[t]he Indians, though living amongst the king's subjects in these countries, are a separate and distinct people from them, they are treated with as such, they have a polity of their own, they make peace and war with any nations of Indians when they think fit, without control from the English," hence the law to be applied to relations between the Crown and indigenous States in North America was necessarily "a law equal to both parties, which is the law of nature and of nations."[15] The international status of protected States was well defined in the eighteenth century. Writing in 1760, Emerich Vattel explained:

> We ought, therefore, to account as sovereign states those which unite themselves to another more powerful, by an unequal alliance, in which, as Artistotle

---

12. Reproduced in Cumming & Mickenberg, Native Rights in Canada (2d ed. 1972), at 285-286.

13. Native Rights in Canada, op. cit., at 287-288.

14. R.S.C. 1970, Appendix, 127-129. Québec and Florida were excepted from the operation of this Proclamation, but its application to what then was called "Nova Scotia" is unquestionable. R. v. Isaac (1973) S.H. No. 05763, Supreme Court of Nova Scotia. Protection of native territories in Québec was agreed to by Britain in Article 40 of the Articles of Capitulation with France (1760)

15. Governor and Company of Connecticut and Moheagan Indians, op cit.

> says, to the more powerful, is given more honor, and to the weaker, more assistance. The conditions of those unequal alliances may be varied .... Consequently a weak state, which in order to provide for its safety, places itself under the protection of a more powerful one, and engages, in return, to perform several offices equivalent to that protection, without however divesting itself of the right of government and sovereignty—that state, I say, does not, on this account, cease to rank among the sovereigns who acknowledge no other law than that of nations.[16]

According to the American jurist, Henry Wheaton,

> Treaties of equal alliance, freely contracted between independent States, do not impair their sovereignty. Treaties of unequal alliance, guarantee, mediation, and protection, may have the effect of limiting and qualifying sovereignty according to the stipulations of the treaties.[17]

To limit the capacity of a State, a Treaty must do so expressly; no State ceases to exist by implication only.

20. The protected status of North American indigenous States was further elaborated by the United States Supreme Court in the case of Worcester v. Georgia [1832], observing that the Crown's system of protection "involved practically no claim to their lands, no dominion over their persons. It merely bound the nation to the British Crown as a dependent ally, claiming the protection of a powerful friend and neighbor, and receiving the advantage of that protection, without involving a surrender of their national character."[18] Following Vattel and Wheaton, the Supreme Court further concluded that

> a weak power does not surrender its independence —its right to self-government, by associating with a stronger and taking its protection. A weak state in order to provide for its safety, may place itself under the protection of one more powerful without stripping itself of the right

---

16. Droit des Gens sec. 5, 6.

17. Elements of International Law (Dana ed. 1866), sec. 33. Emphasis ours.

18. 6 Pet. (el U.S.) 515, 542-546, 559, 561.



of government and ceasing to be a State.

Similarly, British royal courts in India recognized the continuing validity of the lex loci of native protectorates, except where otherwise provided by treaty,[19] and in 1823 Nova Scotia Judge T.C. Haliburton noted that, while the Mi'kmaq Nationimouw are considered British subjects in respect of their rights in royal courts, "yet they never litigate or in any way are impleaded. They have a code of traditional and customary laws among themselves.[20] Under Crown precedents, a protectorate also often retains sufficient sovereignty to plead immunity from ordinary legal process.[21]

21. In 1867, the British Imperial Parliament granted to Canada a charter of limited self-government, the British North America Act.[22] The former Crown colony of Nova Scotia became a constituent "province" within a national confederation.[23] The general government of Canada was not a State, however, until in 1931 the Statute of Westminster empowered it to conduct foreign relations independently of Great Britain.[24] The B.N.A. Act itself merely authorized Canada to "perfor[m] the Obligations of Canada or of any Province thereof, as part of the British Empire, towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries"[sec. 132]. It is possible that by this Imperial Act Canada succeeded to the Crown's duties under our Treaty of 1752. Such may have been the intent of the Imperial Parliament, for while section 132 of the Act referred only to "Foreign Countries," which ordinarily would exclude

---

19. Freeman v. Fairlie (1828), 1 Moo.P.C. 305.

20. Nova Scotia (1823), at 65.

21. Duff Development Corporation v. Kelantan Government (1924) A.C. 797. Such immunity even is due a mere de facto government in British courts. The Arantzazu Mendi (1939) A.C. 236.

22. 30 & 31 Vic. c. 3.

23. We well understand the principle of this league, as distinct from the nature of our relationship with Great Britain, and call it awitkatultik ("many families living in one house"), not racamanen.

24. 22 Geo.V c. 4. Explicit Imperial authority to enter into separate treaties was delayed until the Letters Patent of 1947, R.S.C. 1970, Appendix II No. 35. Regulation and Control of Radio Communication in Canada (1932) A.C. 304, 312; McConnell, Commentary on the British North America Act (1977), at 373-374.

protected States,[25] section 91(24) assigned to the general government of Canada, rather than the Provinces, responsibility for "Indians, and Lands reserved for the Indians." Assuming that we are "Indians" within the meaning of that provision, the Canadian Parliament may have authority and responsibility to implement our Treaty of 1752. However, delegation of legislative authority over protected native States was contrary to Imperial policy.[26] Moreover, the B.N.A. Act plainly was not a novation of our Treaty since we did not participate or consent,[27] and "many treaty rights and obligations are clearly unassignable; e.g., ... in the case of rights or obligations under treaties of a purely political nature."[28]

22. The issue of succession is not essential to our grievance, however, for either Canada or Great Britain must be obligated under our Treaty, and in either case Canada lacks lawful authority to interfere with our territory or self-government against our will. Great Britain never has denounced its Treaty of 1752 with the Mi'kmaq Nationimouw; on the contrary, Her Majesty Queen Elizabeth II in 1978 declared that all Crown Treaties with indigenous peoples of North America would be respected.[29] Implementing Imperial regulations such as the Royal Instructions of 1761 and Royal Proclamation of 1763 never were repealed. They were inalterably entrenched in the constitutions of North American Crown colonies, for "[n]o colonial legislature could amend its own constitution,"[30] and, unaffected by any express disclaimer or exemption in the British North America Act, carried over indelibly into the constitution of Canada. Indeed

---

25. Cherokee Nation v. Georgia (1831), 5 Pet. (30 U.S.) 1, 16-17. The Santeoi Mawa'iomi was a protected state of Great Britain, not Canada; the Cherokee Nation was a protected state of the United States.

26. Report, Select Committee on Aborigines (British Settlements) (Commons 1837), at 77.

27. Vienna Convention on the Law of Treaties, Articles 34-38.

28. Starke, An Introduction to International Law (8th ed. 1977) at 470.

29. "You may be assured that my Government of Canada recognises the importance of full compliance with the spirit and terms of your Treaties" (5 July 1978), at Calgary. The Hon. Pierre Elliott Trudeau, Prime Minister of Canada, in his address of 28 April 1980 to the "First Nations Constitutional Conference," Ottawa, acknowledged this remark but did not concur in its implications.

30. Judge J.E. Read, author of the Statute of Westminster, quoted in (1948) C.B.R. 621, 625; Beck, The Government of Nova Scotia (1857), at 12, 143. On the Proclamation's vitality, R. v. Isaac (N.S. 1975), S.H. No. 05763.

had it so desired, the Crown nevertheless could not have delegated to Canada in 1867 what it did not itself have. Since the Mi'kmaq Nationimouw granted the Crown no authority to dispose of its lands or to determine its right of self-government, the Crown could pass no such authority to Nova Scotia or to Canada. Our status must be today as it was in 1752.

sīst: on duties

23. Great Britain or Canada, or both of them, are obligated to protect and secure for the benefit of the Mi'kmaq Nationimouw all Mi'kmaq national territory not settled by Eurochristians prior to 22 November 1752. They also are obligated to protect the right of the Mi'kmaq Nationimouw to political, economic, and cultural self-determination, and to make and enforce no laws limiting the authority of the Santeoi Mawa'iomi to govern the territorial affairs of the Nationimouw. All laws and acts of Great Britain and Canada tending to deprive the Mi'kmaq Nationimouw of territory or self-determination are void and of no effect as repugnant to (i) the obligation of Treaties in the law of nations, (ii) Imperial legislation regulating and forming the constitution of Canada, (iii) customary international law governing the territorial rights of autochthonous peoples and States, (iv) jus cogens as expressed in covenants, declarations, and other binding instruments of the United Nations, to which Canada is a party, and (v) unilateral declarations and undertakings of Canada to abide by principles of international law and the law of the United Nations.

24. It is an ancient principle of international law that all Treaties are obligatory on the parties: pacta sunt servanda. The Vienna Convention on the Law of Treaties,[1] acceded to by Canada on 14 October 1970[2] and accepted as generally declarative of nations' historical practice,[3] reiterates the "universally recognised" rule that "[e]very treaty in force is binding upon the parties to it and

---

1. U.N. Doc. A?CONF.39/27 (1969).

2. American Journal of International Law 63 (1970), at 875.

3. Kearney & Dalton, "The Treaty on Treaties," Am. J. Int. Law 64 (1970), at 495; Briggs, "Unilateral Denunciation of Treaties," Am. J. Int. Law 68 (1974), at 51.

must be performed by them in good faith."[4] Treaties remain in force unless modified by agreement or suspended by a material breach, impossibility of performance, or a supervening peremptory norm of international law.[5] Neither Canada nor Great Britain have grounds to suspend or terminate our Treaty of 1752, for we have fulfilled every obligation on our part, and both Great Britain and Canada always have had power to fulfill their duties to us. It is no excuse that Canada and its Provinces have, since 1752, enacted municipal laws in derogation of our Treaty rights, for a State never could relieve itself from a Treaty by invoking provisions of its own domestic laws.[6]

25. The constitution of Canada incorporates all prerogative acts and Imperial legislation prior to the British North America Act [1867],[7] and all Imperial Treaties concluded prior to the Statute of Westminster [1931].[8] The Royal Instructions of 1761, Royal Proclamation of 1763, and our Treaty of 1752 therefore are entrenched in the constitution of Canada and cannot be disregarded without Imperial consent. These instruments are express delegations or reservations of legislative authority, in the nature of Treaties by which a State creates or enlarges the sovereignty of another State. Just as the Mi'kmaq Nationimouw delegated limited powers of protection to Great Britain by Treaty in 1752, Great Britain delegated Canada enumerated powers of self-government in 1867 and 1931, subject to pre-existing limitations not expressly revoked. Canada no more can exceed its constitution without the consent of the Imperial Parliament, than the Mi'kmaq Nationimouw can, without sufficient cause in the law of nations, suspend its recognition of British protection. There is an essential distinction, however, between the international status of Canada and of the Mi'kmaw Nationimouw. Canada never was a State until delegated powers by Great Britain. The Mi'kmaq Nationimouw always was a State, and merely has associated itself with a Eurochristian State as a matter of policy.

26. Even if specific Imperial regulations recognizing and protecting our rights of territoriality and self-determination had not been entrenched in the constitution of Canada, both Canada and Great Britain would be governed by the customary international law

---

4. Vienna Convention Preamble, Article 29.
5. Vienna Convention, Articles 39, 42, 53, 60, 61, 63.
6. Vienna Convention, Article 27.
7. Colonial Laws Validity Act (1865), 28 & 29 Vic. c. 63.
8. British North America Act (1867), 30 & 31 Vic. c. 3, sec. 132; Statute of Westminster (1931), 22 Geo. V c. 4.

of autochthonous peoples' rights. In 1532 the international jurist Franciscus de Victoria advised the King of Spain that "the aborigines [of America] were true owners, before the Spaniards came among them, both from the public and private point of view," of their territories, and were not incapacitated by reason of religion, "unsoundness of mind," or the pretence of discovery from enjoying their lands subject only to voluntary sale.[6] Five years later, the Papal Bull Sublimis Deus [1537] proclaimed that "Indians and all other peoples who may be discovered by Christians, are by no means to be deprived of their liberty or the possession of their property, even though they be outside the faith of Jesus Christ."[7] This principle was incorporated in the treatises of Grotius[8] and reiterated as a matter of Imperial British law in 1847:

> The practice of extinguishing Native title is certainly more than two centuries old. It has long been adopted by the Government in our American colonies, and by that of the United States. It is now part of the law of the land. ... Whatever may be the opinion of jurists as to the strength or weakness of Native title, whatsoever may have been the past vague notions of the Natives of this country, whatever may be their present clearer and still growing conception of their own dominion over land, it cannot be too solemnly asserted that it is to be respected, and that it cannot be extinguished (at least in times of peace) otherwise than by the free consent of the Native occupiers.[9]

Even in the United States, where municipal courts evolved the misleading fiction that described Eurochristian States' right to purchase native lands as a kind of "title," the right of native States to sell

---

6. De Indis et de Ivre Belli Relectiones (Nys ed. 1917).

7. Translated in MacNutt, Bartholomew de las Casas (1909), at 429-431.

8. Scott, The Spanish Origin of International Law (1934), at 159-160, 287-288, discussing in particular Grotius' Mare Liberum.

9. Queen v. Symonds (1847), N.Z.P.C.C. 387. For the subsequent application of this rule in New Zealand, R. v. Fitzherbert (1872), 2 N.S.(C.A.) 133, and Wi Parata v. Bishop of Wellington (1878), 3 N.S.Jur. 72.

if and when they chose was firmly established.[10]

27. Independent of the Treaties, legislation, and customary international law of the British Empire, Canada is bound by the jus cogens of United Nations covenants, declarations, and charters to which it is a party. As a Member of the United Nations, Canada undertakes to "fulfill in good faith" each and every one of these instruments, which supersede all other international agreements and the municipal laws of the Members party to them.[11] Chief among these peremptory principles are "respect for the obligation arising from treaties" and for the "equal rights of nations ... large or small."[12]

28. United Nations Members agree to respect the "self-determination of peoples."[13] [A]ll peoples have the right of self-determination [and] to freely determine their political status,"[14] and "[t]he will of the people shall be the basis of the authority of government" in all countries.[15] A people's "inadequacy of political, economic or social preparedness should never serve as a pretext for delaying independence" or the exercise of self-determination.[16] As a "people" as well as a State, the Mi'kmaq Nationimouw has a right to choose its political destiny. Its free association with Great Britain could not empower the government of Canada to impose upon the Mi'kmaq people any form of government without their consent. Yet the Mi'kmaq Nationimouw was not a party to the British North America Act, nor

---

10. Johnson v. M'Intosh (1823), 8 Wheat. (21 U.S.) 543. In the law of nations ancient possession of a territory is as good as documentary title. Legal Status of Greenland (1933) P.C.I.U. Pub. Series A/B No. 53, Series C Nos. 63-67.

11. U.N. Charter, Articles 2(2), 103: Vienna Convention, Articles 27, 53, 64.

12. U.N. Charter Preamble.

13. U.N. Charter, Article 1(2); G.A.Res. 2625(XXV), 24 October 1970, Preamble.

14. International Covenant on Economic, Social and Cultural Rights, Article 1(1), and International Covenant on Civil and Political Rights, Article 1(1), both contained in G.A.Res. 2200(XI), 16 December 1976, and acceded to by Canada on 19 May 1976; Declaration on the Granting of Independence to Colonial Countries and Peoples, G.A.Res. 1514(XV), 14 December 1960, Preamble, Article 2

15. Universal Declaration of Human Rights, Article 21(3), U.N.Doc. A/811, 10 December 1948.

16. Declaration on the Granting of Independence to Colonial Countries and Peoples, Article 3.

did it consent to any other act of Great Britain or of Canada limiting its exercise of territorial self-government.

29. United Nations Members recognise the "sovereign right of every State to dispose of its wealth and its natural resources."[17] This right is "permanent" and "inalienable,"[18] and "in no case may a people be deprived of its own means of subsistence."[19] A State's appropriation of private property, even when domestic and for some constitutional public purposes, must be compensated.[20] The Mi'kmaq Nationimouw has sold no part of its territory and has received no compensation for Canadian encroachments. As will appear more fully in other parts of this communication, the remaining territory occupied by the Nationimouw is inadequate for subsistence and, in fact, more than three-fourths of all Mi'kmaq food, shelter, and income today consist of government and charitable relief. According to the Declaration of the Principles of International Cultural Cooperation of 14 November 1966, 14th General Session of UNESCO, "each culture has a dignity and value which must be respected and preserved [and] every people has the right and duty to develop its culture." We understand this to mean that Great Britain and Canada may not compel us to live as Eurochristians live, but that we may raise our children in our own way, without interference.

30. The Mi'kmaq people are entitled to the enjoyment of "human rights ... without discrimination as to race,"[21] nor distinction "on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing, or under any other limitation of sovereignty."[22] We understand this to mean that the

---

17. G.A.Res. 1515(XV). 15 December 1960; Declaration on the Granting of the Independence to Colonial Countries and Peoples, Preamble.

18. G.A.Res. 1803(XVII), 14 December 1962), Preamble, Article I(1).

19. International Covenant on Economic, Social and Cultural Rights, Article 1(2).

20. G.A.Res. 1803(XVII), 14 December 1962, Article 1(4).

21. U.N. Charter, Article 1(3); Universal Declaration of Human Rights, Article 2; International Covenant on Economic, Social and Cultural Rights, Article 2(2); International Covenant on Civil and Political Rights, Article 2(1); Declaration on the Granting of Independence to Colonial Countries and Peoples, Preamble.

22. G.A.Res. 2106(XX), 21 December 1965, Preamble.

Mi'kmaq people cannot be denied their fundamental human rights on the allegation that they belong to a race of "Indians," nor on the basis that they are a dependency or protectorate of Great Britain, or of Canada. As stated in the International Convention on the Elimination of All Forms of Racial Discrimination, "any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially dangerous, unjust and dangerous and there is no justification for racial discrimination, in theory or in practice, anywhere," and States are obligated to eliminate discrimination of all kinds.[23] Canada has ratified this convention, and many of its principles also are incorporated in the Canadian Bill of Rights [1960].

31. Among the fundamental human rights guaranteed to all peoples regardless of race are "life, liberty, and security of person,"[24] health,[25] and freedom from slavery.[26] Fundamental legal and political rights include the right to be regarded as a "person before the law,"[27] to be "equal before the law,"[28] and to participate in the processes of government.[29] Fundamental economic rights include the right to own property,[30] the right to work,[31] and the right to an adequate standard of living.[32] Among the most important fundamental human rights, in our conception, are cultural rights. Every person

---

23. G.A.Res. 2106(XX), 21 December 1965, Preamble, Article 2(1).

24. Universal Declaration of Human Rights, Article 3; International Covenant on Civil and Political Rights, Article 9(1).

25. International Covenant on Economic, Social and Cultural Rights, Article 12.

26. Universal Declaration of Human Rights, Article 4; International Covenant on Civil and Political Rights, Article 8.

27. Universal Declaration of Human Rights, Article 6; International Covenant on Civil and Political Rights, Article 16.

28. Universal Declaration of Human Rights, Article 7; International Covenant on Civil and Political Rights, Article 26.

29. International Covenant on Civil and Political Rights, Article 25.

30. Universal Declaration of Human Rights, Article 17; "no one shall be arbitrarily deprived of his property," ibid.; G.A.Res. 1803(XVII), 14 December 1962, Article I(4).

31. Universal Declaration of Human Rights, Article 23; International Covenant on Economic, Social and Cultural Rights, Article 6.

32. Universal Declaration of Human Rights, Article 25; International Covenant on Economic, Social and Cultural Rights, Article 11(1).

regardless of race, has a "right to a nationality,"[33] a right to an education,[34] and a right to the free practise of religion,[35] and every people has a right "to enjoy their own culture, to profess and practise their own religion, [and] to use their own language."[36] In the exercise of these national and cultural rights, "the widest possible protection and assistance shall be accorded to the family, which is the natural and fundamental group unit of society."[37] Families are entitled to freedom from "arbitrary interference."[38] and "[p]arents have a prior right to choose the kind of education that shall be given to their children."[39] No State may oppress the family by denying men and women equal rights in marriage.[40] The Mi'kmaq Nationimouw is in, and always has been in full accord with these principles, and has struggled to abide by them notwithstanding the contrary, arbitrary, and discriminatory laws of Canada.

32. Canada has ratified or acceded to the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination. In addition, Canada repeatedly has declared, unilaterally, its intention to support the implementation of these covenants, as well as the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States. Advocating all peoples' "right of self-determination and

---

33. Universal Declaration of Human Rights, Article 15; International Covenant on Civil and Political Rights, Article 24.

34. Universal Declaration of Human Rights, Article 26; International Covenant on Economic, Social and Cultural Rights, Article 12.

35. Universal Declaration of Human Rights, Article 18; International Covenant on Civil and Political Rights, Article 18.

36. International Covenant on Civil and Political Rights, Article 27; Declaration of the Principles of International Cultural Cooperation, 14th General Session of UNESCO, 4 November 1966.

37. International Covenant on Economic, Social and Cultural Rights, Article 10(1); International Covenant on Civil and Political Rights, Article 23.

38. Universal Declaration of Human Rights, Article 12; International Covenant on Civil and Political Rights, Article 17.

39. Universal Declaration of Human Rights, Article 26(3).

40. Universal Declaration of Human Rights, Article 16; International Covenant on Civil and Political Rights, Article 23.

independence"[41] and universal membership in the United Nations,[42] Canada has supported vigorously the decolonization of South Africa, Namibia, and Rhodesia.[43] Decrying the "complex web of legislation" oppressing the native peoples of those countries, Canada has been critical of South Africa's efforts to respond to native demands for self-determination by erecting satrap "native" governments,[44] while Canada itself engages in a similar programme under the "Indian Act."

> The Canadian attitude to the problem of ending colonialism comprises support for the idea of self-determination and the wish to assist in promoting the evolution from colonial rule to self-government and independence of all dependent peoples who desire that status, at a rate governed only by practical considerations of internal stability.[45]

Canada recommends for very small States and peoples the choice of "free association with an independent State,"[46] which is the basis of our Treaty of 1752 and of the grievances contained in this communication. Canada also has been outspoken in condemnation of other Members' failure to implement international human rights conventions.

> Agreement on standards and principles of human rights is not matched by an equal determination to implement these standards without discrimination.... None of us have perfect records.... Appeals against violations of human rights can be a threat to the legitimacy of some governments

---

41. Ambassador Jacques Gignac, 14 November 1976, Fourth Committee debate on the question of Namibia.

42. Hon. Don Jamieson, Secretary of State, External Affairs, 29 September 1976, address to the General Assembly.

43. Ambassador Jacques Gignac, op. cit.; Canada Department of External Affairs Discussion Paper, "Where Is The United Nations Heading?" (1977).

44. Hon. Robert Stanbury, P.C., M.P., 1 November 1976, addressing the General Assembly in Plenary Session.

45. Canada Department of External Affairs, Canada and the United Nations 1945-1975 (1977), at 94.

46. Ibid. 93, 95.

> and an embarassment to others. No State is immune to criticism in this regard, although some manage to deflect attention while others become the centre of attraction. Canada will speak out to the best of her knowledge without regard for power or favour.[47]

No State, indeed, is immune from criticism.

33. While Canada has acceded to these fundamental rights, it has failed to respect the duties which such rights imply. It is quick to confirm the rights, yet rejects or underestimates the logical and real relationship for these rights to its respective duties to the Nationimouw. To speak of human rights and responsibility means to speak not only of the rights and responsibilities of individuals but also those of communities and states. Canada can only demand complete respect for its fundamental rights only when it conscientiously respects the obligations to discharge correlative duties to the Santeoi Mawa'iomi.

nēw: on violations

34. This we believe: No State can be made a non-State by the municipal laws of another State. No people's right to self-determination and the free choice of its political, social, and economic future can be lost because their capacity, as a State, to have entered into binding Treaties is later denied on the basis of their race. No State can be deemed "conquered" and denied fundamental human rights, when in fact it has remained at peace with all nations for two hundred years. No State or people can be deprived of its territory and subsistence on the theory that its endowments exceed its needs. If we are wrong to believe these things, then your response will be our answer. If we are correct, Canada has violated our rights as a State, as a people, and as individuals by depriving us of our territory, our destiny, and our families under colour of colonial laws (prior to 1867), Provincial legislation, and federal legislation such as the "Indian Act."[1] Great Britain has violated our rights by failing to defend us from the unlawful actions of Canada, as provided by our Treaty of 1752.

---

47. Hon. Don Jamieson, Secretary of State, External Affairs, 29 September 1976, address to the General Assembly.

1. 39 Vic. c. 18, extensively amended and codified in R.S.C. 1970 c. I-6.

35. The first violation of Canada was and continues to be involuntary confiscation of our territory and resources, and involuntary supervision of our use of remaining, unconfiscated territory and resources. As described earlier in this communication, our Treaty of 1752, the terms of renewal in 1761 and confirming treaties, and the King's Instructions and Royal Proclamation of 1761 and 1763, respectively, secured to the Mi'kmaq Nationimouw all of its ancient territory, save that already actually occupied by British subjects (Enclosure "B"). Our reserved lands were divided among several Crown administrative districts, and the history of our heartland, in "Nova Scotia," will be illustrative. Unimpeded by Crown officers, British immigrants from 1752 to 1820 possessed themselves of many of our cultivated fields and woodlands. Crown surveyors after 1820 issued "tickets of location" to a number of our wigamow, in an apparent effort to document, for legal purposes, their boundaries, but no action was taken against the trespassers.[2] Significantly, most of the trespassers also held their settlements merely by "tickets of location,"[3] plain evidence that the colony knew it lacked authority to restrict us or to make grants of land. At such times, "the whole nation seems to enter into one large conspiracy to evade its own laws."[4]

36. Following receipt of a petition from the Santeoi Mawa'iomi addressed to the Queen in 1841, the Colonial Office urged investigation and response to our situation.[5] On 19 March 1842, the Nova Scotia Assembly passed "An Act to provide for the Instruction and Permanent Settlement of the Indians,"[6] appointing a Commissioner of Indian Affairs to select and survey lands as "Indian Reservations." Only these "Reservation" lands, totalling fewer than two hundred square miles, would be protected by prosecution, or exchange of lands with trespassers. Since the Crown never had conveyed its interest in Nova Scotia lands to the colony, the colonial Assembly actually had no constitutional authority to set aside or otherwise

---

2. Lord Falkland to Lord Russell, 15 July 1841, CO 217/178 ff. 74-76, 89-101; Lord Russell to Lord Falkland, 30 January 1841, CO 217/177 ff. 128-129; the petition of Paussamigh Pemeenaweet to the Queen, n.d. but marked "Received 25 January 1841," CO 217/179 ff. 406-408.

3. White (ed.), Lord Selkirk's Diary 1803-4 (1958), at 54-55.

4. Maitland & Montague, A Sketch of English Legal History (1915), at 123.

5. Petition of Paussamigh Pemeenaweet to the Queen, op. cit.; CO 217/177 ff. 128-129, 30 January 1841.

6. S.N.S. 1842, c. 16. Also R.S.N.S. 1851, c. 28 ("Of the Crown Lands") and c. 58 ("Of Indians"); S.N.S. 1851, c. 4 ("An Act relative to the Crown Land Department").

deal with our territory.[7] Nor could Nova Scotia, by setting aside a few small parcels for our use, constitutionally or lawfully deprive us of the remainder of our territory. The Assembly was fully aware of this: the 1842 Act did not purport to restrict us to "Reservations," but merely directed the Commissioner of Indian Affairs to "invite" our wigamow "chiefs" or sa'ya "to cooperate in the permanent settlement and instruction of their people." This we refused. Following Nova Scotia's assurances that the 1842 Act would protect the Mi'kmaq Nationimouw and involved no alienation of our territory, it was approved by the Colonial Office.[8]

37. The 1842 Act failed to prevent trespass on our territory. No Eurochristian judge or jury would convict the trespasser, and Mi'kmaq people were denied the rights to vote or to serve as jurors.[9] On 30 March 1859, the Assembly adopted "An Act concerning Indian Reserves," enlarging the supervisory powers of the Commissioner of Indian Affairs.[10] Although this new law authorized summary removal of trespassers, bypassing recalcitrant Eurochristian juries, it also empowered the Commissioner, in his discretion, simply to sell Reserve land to the trespassers, the proceeds to be held in trust for the Mi'kmaq Nationimouw. "[T]his extraordinary proposal of this Protector of the Indians' Rights, to deprive them of these rights by entering into a compromise with the violators of them," was "unconstitutional," the Santeoi Mawa'iomi wrote Nova Scotia's Governor in 1860.[11] Plainly it violated our Treaty of 1752, the Royal Instructions of 1761, and the Royal Proclamation of 1763, so far as these instruments had become incorporated in Nova Scotia's constitution. The 1859 Act also violated Crown policy, Crown prerogative, and international law as it deprived the Mi'kmaq Nationimouw of the right to sell only at the time of its own choosing, and only by cession to the Crown.

38. Following national confederation under the British North America Act, the newly-formed Canadian Parliament in 1868 adopted "An Act providing ... for the management of Indian and Ordinance Land," by which the administration of constituent colonies' Indian

---

7. Compare the Union Act (1840), 3 Vic. c. 35, uniting Upper and Lower Canada under a single colonial administration with authority over Crown lands.

8. Correspondence of 9 March 1842, CO 217/180 ff. 215-216, CO 217/181 ff. 153-155, and of 12 July 1842, CO 217/180 ff. 294-301.

9. Legislative Assembly of Nova Scotia, Journal (1845), at 170; Journal (1851), at 233; Journal (1854), at 211-212; Journal (1855), at 164-165.

10. S.N.S. 1859, c. 14.

11. P.A.N.S. MS Doc. R.G.5 Series "GP" Misc. "A" 1855-1858, Volume 3, No. 162; Legislative Assembly of Nova Scotia, Journal (1860) at 327.

legislation was transferred to the general government.[12] Compatible with the Royal Proclamation of 1763 this Act, and the "Indian Act" adopted a decade later,[13] provided that title to Indian reserve lands, i.e., "any tract or tracts set aside by treaty or otherwise for the use and benefit of a particular band of Indians," could be acquired only if the "Indians" first ceded to the Crown. Settling with trespassers no longer was lawful, and our territorial rights appeared to have been restored. In 1951, however, the "Indian Act" was amended to limit the definition of "reserves" to lands in which the Crown has vested title, and which have been set aside by the government for Indian use.[14] This has been interpreted to restrict the Mi'kmaq Nationimouw to lands surveyed by Nova Scotia for our use under that colony's 1842 and 1859 legislation. While Nova Scotia's laws, assuming them to have been constitutional at all, purported merely to secure a portion of our territory in hopes of our agreeing to consolidate, the amended "Indian Act" implicitly alienated all Mi'kmaq territory not set aside for our use. An appreciation of this legal sublety was forced upon us by Canada's subsequent efforts to "centralise" our population on a few small "reserves" set aside a century ago by colonial Nova Scotia without our consent.

39. The "Indian Act" authorizes continuing interference with the fifty square miles, more or less, remaining of our national territory. The Act declares our interest in unceded lands to be merely beneficial [sec. 2] and generally empowers the Minister of Indian and Northern Affairs to manage, allocate, develop, and dispose of our unceded lands with or without our consent [sec. 18-31, 53-60, 71, 89-90]. In the exercise of a power so broad that it may, in individual cases, summarily exempt itself from any of its own laws and regulations [sec. 4(2)], the government of Canada may confiscate our lands for roads and bridges [sec. 19, 34], or for any purpose of a neighbouring Province or municipality [sec. 35]; authorize the removal of timber and gravel [sec. 58]; or permit persons other than Mi'kmaq to take temporary possession for any use [sec. 28]. In contrast with the Minister's vast powers of administration and disposal, our own citizens may do little in their own country without Ministerial approval. We cannot sever timber or minerals without approval, subject to criminal penalties [sec. 93], nor lease our lands ourselves, being required instead first to "surrender" our lands to the Minister [sec. 37] to be disposed of in the exercise

---

12. (1868) 31 Vic. c. 42.

13. (1876) 39 Vic. c. 18, sec. 6.

14. R.S.C. 1970 c. I-6, sec. 2: "a tract of land, the legal title to which is vested in Her Majesty, that has been set aside by Her Majesty for the use and benefit of a band."

of his discretion [sec. 53-57] together with any proceeds [sec. 61-67]. All inheritance of property in our territory is controlled by the Minister [sec. 42-50], and he enjoys absolute discretion in managing the property and affairs of our children and non compos mentis [sec. 51-52]. Yet, Canada denies that it has any trust responsibility to the Mi'kmaq. As regards our ancient and unceded lands, then, we are serfs of an absolute bureaucracy; yet a trespasser on our territory is subject only to a fine of fifty dollars, should the Minister choose to prosecute [sec. 30]. No Eurochristians in Canada are subjected to such an insincerely "protective" regime.

40. Our Treaty of 1752 reserved forever, in addition to lands, the right of the Mi'kmaq Nationimouw to hunt and fish "as usual" both in ceded and unceded territory. Freshwater and coastal fishing always contributed a large portion of our subsistence and, as lawless encroachments on our farms and destruction of our fields increased, fisheries became increasingly necessary to our survival. Section 88 of the "Indian Act" purports to subject us to Provincial "laws of general application," however, and over the past fifty years the Provinces have sought to bring their wildlife regulations within this provision. Provincial laws, unlike our own, do not regard fish and game lands as private property to be allocated among families in tracts sufficient for subsistence. Instead, provincial laws treat hunting and fishing as forms of recreation only, and have as their goal permitting all persons to participate. In time, free access means no one can subsist on his share. This policy, together with poor land and wildlife management, has deprived us of self-sufficiency and profitable work, and of an adequate diet. A century ago, it was Canada's policy that "the utmost care must be taken ... to see that none of the treaty rights of the Indians" to hunt or fish "are enfringed without their concurrence."[15] Today, Canada's courts are divided over whether Provincial wildlife legislation may supersede our express Treaties.[16] We lack faith or patience in resolution of this issue by Canadian law.

41. In 1887, the Supreme Court of Canada first considered the character of autochthonous States' territorial rights, concluding

---

15. Cited in Hodgins, Dominion and Provincial Legislation, 1867-1895 (1896), Report of the Minister of Justice to the Governor General of Canada.

16. E.g., R. v. Isaac (1975) S.H. No. 05763 (N.S.); R. v. Discon & Baker (1968), 67 D.L.R.(2d) 619 (B.C.); R. v. George (1966) S.C.R. 267 (Ont.); R. v. White & Bob (1965), 50 D.L.R.(2d) 613, aff'd (1966), 52 D.L.R.(2d) 481 (B.C.); R. v. Francis (1969), 10 D.L.R.(3c) 189 (N.B.); R. v. Sylliboy (1929), 1 D.L.R. 307.

> that at the date of confederation the Indians, by the constant usage and practice of the crown were considered to possess a certain proprietary interest in the unsurrendered lands which they occupied as hunting grounds; that this usage either ripened into a rule of the common law as applicable to the American Colonies, or that such a rule had been derived from the law of nations and had in this way been imported into the Colonial law as applied to Indian Nations; that such property of the Indians was usufructory only and could not be alienated except by surrender to the crown as the ultimate owner of the soil; and that these rights of property were not inaptly described by the words "lands reserved for the Indians."[17]

The Supreme Court ignored the effect of express Treaties of protection and alliance,[18] deriving our rights, and therefore rendering them dependent upon the municipal laws of Great Britain and Canada. The Supreme Court nevertheless did recognize the historical significance of Treaties indirectly, observing that the

> peaceful conduct of the Indians is in great degree to be attributed to the recognition of their rights to lands unsurrendered by them, and of the guarantee of their protection in the possession and enjoyment of such lands given by the crown in the proclamation of October, 1763 .... The Indian nations from that time became and have continued to be the firm and faithfull allies of the crown and rendered it important military services in two wars—the war of the Revolution and that of 1812.[19]

42. More recently, the Supreme Court of Canada has divided on the immunity of autochthonous States' territorial rights from confiscation. Calder v. Attorney General of British Columbia [1973] upheld

---

17. St. Catherines Milling & Lumber Co. v. The Queen (1887), 13 S.C.R. 577, aff'd (1888), 14 A.C. 46.

18. St. Catherines involved a "numbered" Indian treaty, i.e, one made by Canada after confederation. The Supreme Court and Privy Council may have overlooked it deliberately to avoid the issue of Canada's authority, under the British North America Act, tc make treaties at all.

19. St. Catherines, op. cit., 13 S.C.R. 577.

a Provincial court's conclusion that, to be protected by law, native lands must have been set aside expressly by law.[20] If set aside by law, however, the Supreme Court concluded, native lands also may be confiscated by law, and "whether it be done by treaty, by the sword, by purchase, by the exercise of complete dominion adverse to the right of occupancy, or otherwise, its justness is not open to inquiry in the courts."[21] Calder thus vindicated, after the fact, Canada's exercise of sweeping powers of supervision and expropriation of unceded territory, and resulted in an offer by the government of Canada to negotiate compensation for native lands lost in the process. The Mi'kmaq Nationimouw advised Canada that it considered itself to retain de jure ownership of all lands reserved by the Treaty of 1752. The government of Canada has responded by disclaiming any liability for occupation and settlement of our territory since 1752, arguing (i) that our rights to any lands outside of the "Indian Reserves" surveyed for us by colonial Nova Scotia have been "superseded by law,"[22] and (ii) that our Treaty of 1752 was not a binding "Empire treaty" but "only" a non-binding declaration of friendship. The government of Canada has not been able to identify any specific laws that "superseded" our Treaty (Enclosure "D"), and we maintain that any such laws, if they had been made, would be unconstitutional and in violation of the law of nations.

43. Canada's position that our Treaty of 1752 is non-binding reflects two antequated Eurochristian theories, both repugnant to international law. The first theory is, that treaties made with uncivilized nations have no binding moral force as against civilized and Christian nations. This theory is inapplicable to the Mi'kmaq Nationimouw in fact, because we were a Christian State in alliance with the Holy See for more than a century before we negotiated our Treaty with Great Britain. Furthermore, this theory is racist and violative of peremptory norms of international law, in that it conditions the rights of peoples, even under solemn international

---

20. (1973) S.C.R. 313, affirming by split (3-3) decision 13 D.L.R. (3d) 64. No native treaty with the Crown was involved in that case.

21. (1973) S.C.R. 329, 334, quoting from United States v. Sante Fe Pacific Ry. Co. (1941), 314 U.S. 339, 347.

22. Since Canada lacks any general power of expropriation, Reference re Waters and Water-Powers (1929) S.C.R. 200, it could have taken our lands only in the exercise of some specific duty enumerated in sec. 91 of the B.N.A. Act, and the necessity of compensation would remain open to judicial inquiry. In effect, the government of Canada asserts power to go beyond its constitution when dealing with "Indian" lands.

agreements, on their race, culture, and religion.[23] If this theory is admitted in the forum of nations, all future resolution of international affairs by treaty and peaceable engagements necessarily will be jeopardized.

44. Canada's position also reflects the theory that the territory of the Mi'kmaq Nationimouw in 1752 was terra nullius, belonged to no State, and therefore was entirely subject to the disposition of Eurochristian "discoverers." The International Court of Justice has twice rejected this theory as unacceptable in the law of nations,[24] and its continued application to us must be regarded as unjust and racist. Terra nullius is, in fact, a post hoc rationalization of unlawful and unconstitutional failures of Great Britain, its North American colonies, and the government of Canada to perform their Treaty obligations to us since, as we have shown elsewhere in this communication, Great Britain's own municipal law until recently strictly respected our status as a protectorate and limited territorial sovereign. The principle of intertemporal law should apply to the interpretation of our Treaty of 1752: our capacity as a State was recognised then, and so must it be recognised now.

45. The second violation of Canada was and continues to be interference with our ancient institutions of self-government. In sec. 10 of the "Act providing ... for the management of Indian and Ordinance Land," Canada's Parliament in 1868 provided that

> the Governor may order that the Chiefs of any tribe, band or body of Indians shall be elected by the male members of each Indian settlement of the full age of twenty one years at such time and place, and in such manner, as the Superintendent General of Indian Affairs may direct, and they shall in such cases be elected for a period of three years.[25]

As subsequently provided by the "Indian Act" [sec. 3, 17, 74-80], the

---

23. Our Treaty of 1752 is analogous in many respects to the Act of Union (1707) between England and Scotland, by which the latter submitted to the sovereign of the former. This instrument, between the Crown and a "white" State, always has been held irrevocable and constitutional in nature. MacCormick v. Lord Advocate (1953) S.C. 396.

24. North Sea Continental Shelf (Judgment) I.C.J. Reports 1969, at 3; Western Sahara (Advisory Opinion) I.C.J. Reports 1975, at 12, 39-40.

25. (1868) 31 Vic. c. 42.

government of Canada recognises the authority only of those "Indian bands" organised in accordance with regulations and approved by the Minister of Indian and Northern Affairs. Canada claims power to create and destroy "bands" at will [sec. 17, 74], to delegate or prohibit "bands'" exercise of governmental authority at pleasure on a case-by-case basis [sec. 4(2), 83], and to veto any action taken by a "band" [sec. 82]. "Bands" must be governed by elected "band councils," permitting a simple majority of citizens to oppress the minority, whereas the traditional constitution of the Mi'kmaq Nationimouw forbids the compulsion of anyone against his conscience. "Bands" are empowered to allot and regulate land use [sec. 20(1), 60], make and enforce ordinances controlling health, traffic, public safety, public works, hunting and fishing [sec. 81] and taxation [sec. 83], if consistent with other federal laws and regulations. Most of these powers also can be exercised without our consent by the Minister on an individual basis [sec. 73], and in all other subjects we are subjected involuntarily to federal and Provincial laws [sec. 88]. The Mi'kmaq Nationimouw never consented to be governed by a Canadian bureaucracy, or by the Provincial Assemblies, or by native institutions not of our own choosing designed and supervised by Canada. Our own traditional institutions are mild, confidential, and theocentric; the imposition upon our communities of coercive, majoritarian agencies and foreign laws bearing no relation to our culture has bred little but conflict, bitterness, and despair.[26]

46. Jealous of the Santeoi Mawa'iomi, Canada was not satisfied simply to create Mi'kmaq "band government" according to provincial boundaries, rather than our districts, to interfere with our government. In 1960, the government of Canada unilaterally divided the Mi'kmaq Nationimouw in our heartland of Nova Scotia into twelve "bands," creating twelve artificial and intrinsically bureaucratic agencies that ever since have been encouraged to compete for power and for the limited public subsidies upon which we have come so much to depend for our subsistence. Accompanying this programme of diuide et impera, the government of Canada "centralised" the Mi'kmaq people on a smaller nunber of "Indian reserves," confiscating most of our remaining lands and farms. Justified to us as a matter of administrative efficiency against our will, "centralisation" had two motives: first accumulated us on two "reserves" and then terminated

---

26. A frank confession of this may be found in Department of Indian and Northern Affairs, Indian Government Under Indian Act Legislation 1868-1951 (1980).

our political status,--both with the object of involuntary assimilation.[27] It was not only an intentional fraud with promises unfulfilled but was also the greatest economic disaster of our history. Over the course of the centuries we refused to recognise the legitimacy of "reserves" and remained, as much as possible, on our own ancestral family and wigamow lands, adapting Eurochristian technology to our own needs and resources. Increasing the intensity of our agriculture and diversifying crops, reducing dependence upon hunting, and utilizing domestic materials for new architecture, tools, machinery and textiles, we remained entirely self-sufficient and enhanced our standard of living wherever our settlements remained undisturbed. During the Depression of the 1930's, which plunged Atlantic Canada into poverty and brought the Provincial governments near bankruptcy, our communities continued to feed and clothe themselves by their own means. "Centralisation" ended this by combining wigamow to a few overcrowded "reserves", and resulted in abject poverty, dependence upon government relief, and conflict between formerly independent families and clans.

47. The third violation of Canada was and continues to be the enactment and enforcement of laws and policies destructive of our family life and inimical to the proper education of our children. The erosion of our Mi'kmaq family life has resulted chiefly from (i) laws limiting citizenship in the Mi'kmaq Nationimouw, and (ii) laws entrusting to the Minister of Indian and Northern Affairs absolute control and discretion in the education of our children. Until the practice was discontinued thirty years ago, the government of Canada involuntarily reclassified individual "Indians" as not-"Indians," automatically depriving them, under provisions of the "Indian Act," of the right to reside in their natal communities. This "enfranchisement" policy, so-called because in many Provinces it was a condition of the right to vote, was applied to Mi'kmaq men enlisted in the Canadian Armed Forces in both World Wars without their consent and in their absence overseas,[28] and to individuals

---

27. Department of Indian Affairs and Northern Development, Statement of the Government of Canada on Indian Policy (1969), popularly known as the "White Paper on Indian Policy." The Order-in-Council P.C. 1960-261 dividing us was adopted without our prior knowledge or opportunity to protest.

28. It is ironic and tragic that these enfranchised Mi'kmaq soldiers were deprived of the right to return to their homes and families while carrying out the responsibility of the Mi'kmaq Nationimouw, under its Treaty with Great Britain, to fight the Crown's foreign enemies.

taking temporary employment outside of their "reserves." "Enfranchisement" today requires the individual's consent [sec. 109-111] or the consent of a simple majority of the members of a "band" [sec. 112-113].

48. Under the terms of the "Indian Act," the Minister of Indian and Northern Affairs generally has power to define for legal purposes who is an "Indian" [sec. 5-17]. The "Indian Act" further provides that an "Indian" woman, by marrying a non-"Indian" man, irrevocably loses her status as an "Indian" and thereby her right to reside in her natal community [sec. 12(1)(b), 14, 16(3), 109(2), 110]. The practical effect of this racist and sexist law is that a Mi'kmaq woman, by marrying a man who is not classified as an "Indian" by the Minister, though he may be a citizen of an indigenous State and in all ways satisfy the cultural and political requirements of Mi'kmaq citizenship, automatically loses all rights of participation in our lands, government, and community. We were powerless to resist this law because a reclassified or "enfranchised" Mi'kmaq may be removed from our territory without his or her consent or ours. We are powerless to protest this law because the Supreme Court of Canada already has ruled that it does not violate the Canadian Bill of Rights.[29] If our national territory was not confiscated, this matter would have been occurred; all lands are allocated to families not individuals.

49. In response to a pending grievance under the Optional Protocol; International Covenant on Civil and Political Rights,[30] the government of Canada argues that the "enfranchisement" of our women is reasonable and expedient. The government alleges that the laws of descent and citizenship in "Indian" communities always was patrilineal. The Mi'kmaq Nationimouw never has recognised any such limitation in descent or citizenship, and considers Canada's theory of a universal "Indian" custom in this regard plainly racist and specious. The real purpose of limitations on citizenship in autochthonous States was explained more candidly by Canada's Deputy Superintendent-General of Indian Affairs in 1920: "Our goal is to continue until there is not a single Indian in Canada that has not been absorbed into the body politic and there is no Indian question, and no Indian Department, [and] that is the whole object of" the "Indian Act."[31]

---

29. Attorney General of Canada v. Lavell (1973), 38 D.L.R.(3d) 481.

30. Matter of Sandra Lovelace, United Nations Division of Human Rights Ref. No. G/SO 215/51 CANA (8) R.6/24.

31. Public Archives of Canada R610 6810/470-203/7.

50. Most precious of all things to us are our children: they will discover our destiny, and the secrets Nisgam has entrusted to us to share with all peoples. Beginning in the early decades of this century and continuing for nearly forty years, the government of Canada removed our children against our will to "residential schools" managed by public or private organisations. At the Shubenacadie residential school, Mi'kmaq children were imprisoned like convicts, beaten for speaking in our language, and often forbidden to communicate with their families.[32] An entire generation of our people were embittered, and all of our families were separated by this programme. Over the past twenty years, the government of Canada gradually has transferred responsibility for the education of our children to public Provincial schools, over which we enjoy no greater control.[33] The Mi'kmaq language no longer is proscribed, but neither is it spoken in instruction. Public curricula are entirely irrelevant to our circumstances, resources, and aspirations as a people, and teach disrespect and shame for our history and traditions. The consequences are plain. No significantly greater proportion of our children complete school today than did formerly during the residential school era [Enclosure "E"], and, as shown by a 1978 survey conducted by the Union of Nova Scotia Indians, there is no correlation among our adults between years of school completed and either employment or income.

51. Through all these tragedies, Canada's thoughts and actions were in violation of our treaties, imperial law, the law of nations, and, now, the declarations and covenants of human rights. In the past, it could have been a problem of clarity and apprehension of our legal rights. Since the accession to the declarations and covenants by the United Kingdom and Canada, these excuses have been impounded by hesitations, objections, reservations, and even vehement racism and sexism when faced with these violations against the Nationimouw's rights. There has been no truly constructive or effective contribution to human liberation since accession; no change in policy, no acknowledge of error, no request for forgiveness—only more oppression in Canada. The United Kingdom has remained aloof in the controversy and failed to take corrective measures. The threat of force of arms continues to be the basic elements of Canadian policy rather than human rights.

---

32. A series of articles in the Micmac News appearing in the summer of 1978 collected first-person accounts of Mi'kmaq people who were placed in the Shubenacadie school.

33. The Government of Canada continues to operate some schools on "reserves," but they conform to Provincial curricula. Generally, "Indian Act" sec.114-123.

nān: on jurisdiction

52. The Mi'kmaq Nationimouw was a State in 1752 when it treated with Great Britain, and remains a State today. Recognition once given is irrevocable,[1] and it is of no significance that a State is small,[2] consists of two or more isolated territories,[3] or lacks a fixed boundary.[4] Nor is it fatal to State character that a nation has associated itself with another for its protection, "for although a State may have accepted important restrictions on its liberty of action, in other respects it may enjoy the widest possible freedom," as determined by its Treaties.[5] Disregarding these principles of international law and the express terms of our Treaties with Great Britain, the government of Canada insists upon classifying Mi'kmaq people as a racial, cultural, ethnic and linguistic minority subject entirely to its control, even in violation of its constitution. Our legal rights take precedence over geography and political structures of Canada.

53. If the Mi'kmaq Nationimouw cannot be a State, a people, a territorial sovereign and proprietor, merely because Eurochristians classify us as a domestic race of "Indians," we are victims of the grossest possible form of racism disguised as law. All other indigenous States subjected historically to Eurochristian interference and pretensions of Empire have been accorded the right of political self-determination, and nearly all have been liberated from involuntary control. In North America and especially in Canada--"Indians" remain an exception, all the more racist because they were, for the most part, like the Mi'kmaq Nationimouw, ancient governments never conquered and always in Treaty relations with Eurochristian States as equals and allies. We are "Indians" today only in the imagination of Eurochristians. We know no such conceptor word. The Nationimouw is a tribal society, in the Mi'kmaq language there is only elnu, "human beings," and we believe all are entitled to the same rights and

---

1. The Gagara (1919) P. 95, expressive of British Commonwealth policy; Starke, An Introduction to International Law (8th ed. 1977), at 157, 160.
2. Coret, "L'Indépendence de l'Isle Nauru," Annuaire Français de Droit International (1968), at 178; Annual Report 1966-1967, Secretary General of the United Nations, at 20.
3. E.g., Pakistan. Lesotho and San Marino are entirely surrounded by another State.
4. E.g., Israel, at the time of its original recognition in 1948.
5. Starke, op. cit., 111.

freedom. Can the United Nations permit English-speaking States to avoid responsibility for violation of every basic instrument of modern international law, every principle of jus cogens, simply because Canada has propagated an individualistic taxonomy in which all members of North American autochthonous States are deemed legally sub-human?

54. The Santeoi Mawa'iomi has not been dilatory in bringing its grievances. We have objected to every violation of our Treaty, but the government of Canada has been deaf. We have never been afforded standing to protest our treatment in judicial proceedings or before Parliament, because Canada denies we are a State and a Government. Individual Mi'kmaq people were not extended full rights of Canadian citizenship until 1956, and so have only in this past generation enjoyed general access to domestic avenues of redress. Our "band governments," while they remain creatures of the Minister of Indian and Northern Affairs, lack the independence or resources to challenge Canada. Extreme poverty, dependence upon government relief and fear of government reprisals, lack of education, and dispersal of families all have contributed to our inability, until this time, to assert our national rights in an international forum. We appeal now to the great and living law that binds us all: not the prescriptive law of princes or republics, nor the law (if such it be) of bureaucratic policy, but that code of elementary human justice that liberates the spirit and advances the essential dignity of peoples.

55. We have exhausted all reasonable means of domestic relief, and have learned that municipal law often is little more than frozen prejudice. Recently, the Supreme Court of Canada ruled that the Nishga people could not institute proceedings against the Crown in right of British Columbia for repossession of ancestral lands without the government's consent.[6] Instead of opening its courts to natives' grievances, the government of Canada requires "negotiation" with the Office of Native Claims, a federal administrative agency empowered merely to review written submissions and make recommendations to the Minister. This ineffectual and biased bureaucracy ignores our submissions, dissipates our resources in pointless meetings, and, after ten years of "negotiations" ending in a blunt rejection of all of our claims (Enclosure "D"), declines to free us legally from the process by calling its action "final." The Supreme Court of Canada has held the "Indian Act" virtually immune from attack under the

---

6. Calder v. Attorney General of British Columbia (1973) S.C.R. 313, affirming 13 D.L.R.(3d) 64.

Canadian Bill of Rights,[7] and Canada's new Human Rights Act [1978] expressly exempts our condition from review. The same government that places these jurisdictional obstacles in our path has ridiculed our grievances on state-controlled television and radio, and last year prevented representatives of indigenous States from meeting with Her Majesty Queen Elizabeth II in London by urging Her Majesty's government to consider their visit improper. It was the government of Canada that imprisoned native leaders for appealing to the League of Nations half a century ago; we hold out little hope for a full and impartial consideration in a domestic forum today. Must we wait until Canada no longer can invent fruitless and discriminatory "remedies" to occupy us here, before the application of Queen's justice?

56. Time is of the essence in this communication. A closed conclave of Canadian federal Ministers and Provincial Premiers is negotiating the terms of a new national constitution. The Prime Minister has stated in public that he will seek authority from the Imperial Parliament to "patriate" Canada's constitution, i.e., place the revision wholly in Canadian hands, some time this month. The autochthonous States of Canada have demanded representation at the negotiating table, unsuccessfully. Judging from statements made by the Prime Minister last year,[8] we believe that patriation and revision will remove Canada completely from the Imperial laws, such as the Royal Proclamation of 1763, that secure the Treaty rights of the Mi'kmaq Nationimouw. We believe that the intended effect of patriation and revision, in the matter of "Indians," will be to render it constitutionally required that we be integrated socially, politically, and legally with the existing Provinces, thereby losing all of our Treaty rights and our right of national self-determination.

57. Time also is of the essence because our socio-economic circumstances continue to deteriorate. Each year that we await settlement of our rights, more of our ancestral lands are occupied, mined, paved, and poisoned; more of our children discontinue their educations in disillusionment and pain; more of our kinsmen are expelled from their native country; more of our language, arts and laws are lost and destroyed; more of our communities collapse in overcrowding, economic dependence, and despair. We of the

---

7. Attorney General of Canada v. Lavell (1973), 38 D.L.R.(3d) 481.

8. Hon. Pierre Elliott Trudeau, address of 28 April 1980 to the "First Nations Constitutional Converence," Ottawa.

Santeoi Mawa'iomi seek nothing for ourselves, but for our children and grandchildren, for seven generations to come, we must lose no more of their heritage.

asagōm: on remedies

58. We speak first of the terrible things that can not be remedied by law or political man. Seven generations have come and gone since Canada first sought to demean the Mi'kmaq people. Three generations have suffered the "residential" schools, and two generations have bore the pain of removal from their homes and lands under "centralisation." No law, no reparations can reverse the broken promises, the loss of self-esteem, or dispel the great darkness of self-doubt left by these years in our people. No mere fiat has the power to restore the spirit and aspiration of a people, once they have been crushed by oppression, rejection and cruelty. No declaration, however grand, can light again the spark of genius that once established a people's unique and irreplaceable artistic and intellectual contribution to human achievement. The Santeoi Mawa'iomi acknowledges that for past harm to human personality by Canada which limits our present existence there exist no external remedy; but demands the assurance of a free and self-determined future in which to strive to rebuild its society consistent with the best ideals of our heritage and modern technology. To solve these problems, the Santeoi Mawa'iomi accepts its duty.

59. For its first remedy, the Santeoi Mawa'iomi of the Mi'kmaq Nationimouw asks the forum of nations to obtain answers, for our children, to the questions Canada refuses to hear from poor "Indians": Why do you ignore our traditional government and our Treaties? Why do you attempt to destroy our ancient institutions and replace them with ones of your foreign design? Why have you permitted your citizens to possess our unceded territory with impunity? Why have you deprived us and our posterity of subsistence, educational opportunity, and security? Why have you toiled to remake our children in your image without our consent? Why have the inalienable and essential rights of all peoples been denied to us? Why do you seek to destroy our dreams? Help our children to understand that history was not of our making, nor was it the fault of our values, but that it was in defiance of the common ideals of mankind, and in so doing help us to restore our self-respect.

60. For its second remedy, the Santeoi Mawa'iomi of the Mi'kmaq Nationimouw asks the forum of nations to declare our character as a

protected State under Treaty continues unaffected by the unlawful acts of Canada, and so restore to us the power and right of national self-determination. Canada and the Mi'kmaq Nationimouw are equal in law. Canada has its treaty of protection with Great Britain, the British North America Act, and we have ours. We may regret being condemned by history to live as neighbours, but this need not deprive each of us from fulfilling its own destiny. Canada need not fear the Mi'kmaq Nationimouw. We have given more than a hundred of our sons to each war in which Canada has called us to its aid and, for a small people, this is no mean price to pay for tolerance and freedom. We ask the forum of nations to declare, simply, that "the Mi'kmaq Nationimouw is under no power of Canada save in the arena of foreign affairs, as may be consistent with its protected status, but the Mi'kmaq Nationimouw always will be free to associate further with Canada on the basis of equality, self-determination, and mutual consent."

61. For its third remedy, the Santeoi Mawa'iomi of the Mi'kmaq Nationimouw asks the forum of nations to declare our right to the possession of all the territory we reserved in our Treaty of 1752. Canada in the British North America Act, and the Mi'kmaq Nationimouw in its Treaty, both recognise the dominion of the British Crown. Dominion of Canadian territory resides in "the Crown in right/of Canada" or the Crown in right of a Province. Compatible with our Treaty, the territory of the Mi'kmaq Nationimouw should have been held, since 1752, by "the Crown in right of the Mi'kmaq Nationimouw." We will abide by our Treaty and respect the integrity of Canada's federal and provincial Crown territory if Canada gives assurances that it will respect the integrity of our "Mi'kmaq Crown" lands. We ask the forum of nations to declare that "except where settled by British subjects prior to 1752, the ancient territory of the Mi'kmaq Nationimouw is properly vested in the British Crown in right of the Nationimouw, and cannot be taken or occupied by Canada or any other State without the consent of the Santeoi Mawa'iomi.

62. For its fourth remedy, the Santeoi Mawa'iomi of the Mi'kmaq Nationimouw asks the forum of nations to direct Canada to execute fully their responsibilities of protection and defense in accordance with our Treaty of 1752, and to assist us in restoring our country to self-sufficiency and a reasonable standard of health and education. If Canada will give assurances in this regard, we ask, in the alternative, that responsibility for the Mi'kmaq Nationimouw be transferred to the United Nations Trusteeship Council, where we hope to obtain more aid and consideration, and bear less intervention than hitherto has been our misfortune.

63. Consistent with our requested remedies, if the forum of nations can acknowledge our fundamental rights in law as a starting

point for justice to the Nationimouw, the Santeoi Mawa'iomi acknowledges the indivisible interrelationship between facutlas and obligatio, existence of rights and its consequent responsibility. We are not merely aware of our rights; we are equally aware of the duties and our obligations to discharge those duties. Canada has claimed our historical rights, yet altogether forgot or neglected to carry out their respective duties. The Santeoi Mawa'iomi will not build with one hand and destroy with the other: it accepts the duty to promote human rights as stated in declarations and covenants of the United Nations.

64. Na nigē gespiatogsieg ag wīgatiegen gagayag. (Now our voices die away and our communication ends.)

CERTIFICATION

We have spoken plainly so that we will not be misunderstood. The Santeoi Mawa'iomi of the Mi'kmaq Nationimouw honour you with this communication, because we had despaired that Eurochristians knew nothing of the rightful dignity of peoples so long a principle of our culture and traditions. We now appreciate that this was a fault of our vision, that we looked no further than Canada. It saddens our hearts that Canada has not achieved the stage in its political and moral growth at which the great virtues of political liberty and human rights are universally acknowledged.

Foreswearing any bureaucracy of our own as incompatible with our constitution, the Santeoi Mawa'iomi have appointed the Union of Nova Scotia Indians, acting through its Put'us, to serve as our general agent in the foregoing communication, as we may from time to time direct, and to enlist the assistance of persons of good judgment as advocates and counsel.

DATED the 30th day of September, 1980, at Eskasoni in the District of Onamagi.

FOR THE SANTEOI MAWA'IOMI:

Alexander Denny

Alexander Denny, Jigap'ten

Sakej Henderson

Sakej Henderson, Put'us, UNSI

ENCLOSURE "A" APPLICABLE TREATIES

ENCLOSURE IN LETTER OF GOVERNOR HOPSON

TO THE

RIGHT HONOURABLE THE EARL OF HOLDERNESSE 6TH OF DEC. 1752

ARTICLES OF PEACE AND FRIENDSHIP RENEWED

between

His Excellency Peregrine Thomas Hopson Esquire Captain General and Governor in Chief in and over His Majesty's Province of Nova Scotia or Acadie Vice Admiral of the same & Colonal of One of His Majesty's Regiments of Foot, and His Majesty's Council on behalf of His Majesty.

and

Major Jean Baptiste Cope, chief Sacham of the Tribe of Mick Mack Indians, Inhabiting the Eastern Coast of the said Province, and Andrew Hadley Martin, Gabriel Martin and Francis Jeremiah members & Delegates of the said Tribe, for themselves and their said Tribe their heirs and the heirs of their heirs forever. Begun made and Concluded in the manner form & Tenor following, viz.

1. It is agreed that the Articles of Submission & Agreements made at Boston in New England by the Delegates of the Penobscot Norridgwolk & St. John's Indians in the Year 1725 Ratifyed and Confirmed by all the Nova Scotia Tribes at Annapolis Royal in the Month of June 1726 and lately Renewed with Governor Cornwallis at Halifax and Ratifyed at St. John's River, now read over Explained & Interpreted shall be and are hereby from this time forward renewed, reiterated and forever Confirmed by

them and their Tribe, and the said Indians for themselves and their Tribe, and their Heirs aforesaid do make and renew the same Solemn Submissions and promises for the strict Observance of all the Articles therein Contained as at any time heretofore hath been done.

2. That all Transactions during the late War shall both sides be buried in Oblivion with the Hatchet, And that the said Indians shall have all favour, Friendship & Protection shewn them from this His Majesty's Government.

3. That the said Tribe shall use their utmost Endeavours to bring in the other Indians to Renew and Ratify this Peace, and shall discover and make known any attempts or designs of any other Indians or any Enemy whatever against his Majesty's Subjects within this Province so soon as they shall know thereof and shall also hinder and Obstruct the same to the utmost of their power, and on the other hand if any of the Indians refusing to ratify this Peace shall make War upon the Tribe who have now Confirmed the same; they shall upon Application have such aid and Assistance from the Government for their defence as the Case may require.

4. It is agreed that the said Tribe of Indians shall not be hindered from, but have free liberty of hunting and Fishing as usual and that if they shall think a Truck house needful at the River Chibenaccadie, or any other place of their resort they shall have the same built and proper Merchandize, lodged therein to be exchanged for what the Indians shall have to dispose of and that in the mean time the Indians shall have free liberty to bring to Sale to Halifax or any other Settlement within this Province, Skins, feathers, fowl, fish or any other thing they shall have to sell, where they shall have liberty to dispose thereof to the best Advantage.

5. That a Quantity of bread, flour, and such other Provisions, as can be procured, necessary for the Familys and proportionable to the Numbers of the said Indians, shall be given them half Yearly for the time to come; and the same regard shall be bad to the other Tribes that shall hereafter Agree to Renew and Ratify the Peace upon the Terms and Conditions now Stipulated.

6. That to Cherish a good harmony and mutual Correspondence between the said Indians and this Government His Excellency Peregrine Thomas Hopson Esq. Capt. General & Governor in Chief in & over His Majesty's Province of Nova Scotia or Accadie Vice Admiral of the same & Colonel of One of His Majesty's Regiments of Foot hereby promises on the part of His Majesty that the said Indians shall Continue in Friendship, Receive Presents of Blankets, Tobacco, some Powder & Shott, and the said Indians promise once every year, upon the first of October, to come by themselves or their Delegates and Receive the said Presents and Renew their Friendship and Submissions.

7. That the Indians shall use their best Endeavors to save the Lives & Goods of any People Shipwrecked on this Coast where they resort and shall Conduct the People saved to Halifax with their Goods, and a Reward adequate to the Salvage shall be given them.

8. That all Disputes whatsoever that may happen to arise between the Indians now at Peace and others His Majesty's Subjects in this Province shall be tryed in His Majesty's Courts of Civil Judicature, where the Indians shall have the same benefits, Advantages & Priviledges as any others of His Majesty's Subjects.

In Faith & Testimony whereof the Great Seal of the Province is hereunto appended, and the Partys to these Presents have

hereunto interchangeably Set their Hands in the Council Chamber at Halifax this 22nd day of Nov. 1752 in the 26th Year of His Majesty's Reign.

P. T. Hopson		His
Chas. Lawrence	Jean Baptiste	X Cope
Benj. Green		Mark
Jno. Salusbury	Andrew Hadley	X
Willm. Steele	Francois	X
Jno. Collier	Gabriel	X

MICMAC TREATY, 1760

"I, Michael Augustine for myself and the tribe of Richebuctou Indians of which I am Chief do acknowledge the jurisdiction and dominion of His Majesty King George, Second over the territories of Nova Scotia or Acadia and we do make submission to His Majesty in the most perfect amy and solemn manner."

"And I do promise for myself and my tribe, that I nor they shall not molest any of His Majesty's subjects in their settlements as already made, or that may be hereafter made or in carrying on their commerce or in anything whatever within this the said Province of His said Majesty or elsewhere."

"And for the more effective security of the due performance of this Treaty, and for every part thereof I do promise and engage that a certain number of persons of my tribe, which shall not be less in number than two, shall, on or before the 24th day of June next reside as hostages at Fort Cumberland, or at such other place in the Province of Nova Scotia or Acadia, as shall be appointed for that purpose by His Majesty's Governor of the said Province which hostages shall be exchanged for a like number of my tribe when requested."

"And all of the foregoing Articles and every one of them, made with His Excellency Chas. Lawrence Esq., His Majesty's Governor of the said Province, I do promise for myself and on behalf of my tribe that we will most

strictly keep and observe in the most solemn manner."

"In witness whereof I have hereunto put my mark and seal at Halifax in Nova Scotia this tenth day of March, One Thousand Seven Hundred and Sixty in the Thirty Third year of His Majesty's reign.

His
Michael X Augustine
mark

"I do accept and agree to all the Articles of the foregoing treaty, In Faith and Testimony whereof I have signed these presents and caused my seal to be herunto affixed, this Tenth day of March in the Thirty Third year of His Majesty's reign and in the year of Our Lord 1760."

Signed Charles Lawrence

Halifax
Nova Scotia

25th June 1761.

The following Treaties of Peace and Friendship were this day concluded and signed by the Honorable Jonathan Belcher Esqr. president of - His Majesty's Council and Commander-in-Chief of of this Province on behalf of His Majesty; and the Chiefs of the Tribes of the Mickmack Indians called Mirimechi, Iediack, Pogmouch and Cape Breton Tribes, on behalf of themselves and their people.

Treaty of Peace and Friendship concluded by the Honorable Jonathan Belcher Esqr. President of His Majesty's Council and Commander-in-Chief in and over His Majesty's Province of Nova Scotia or Acadia be with Claude Stonash Chief of the Iedaick Tribe of Indians at Halifax in the Province of Nova Scotia or Acadia.

I, Claude Stonash for myself and the Tribe of Iedaick Indians of which I am Chief, do acknowledge the jurisdiction and dominion of His Majesty King George the Third, over the Territories of Nova Scotia or Acadia, and we do make submission to His Majesty in the most perfect, ample, and solemn manner.

And I do promise for myself and my Tribe that I nor they shall not molest any of His Majesty's Subjects or their dependants in their Settlements already made, or in carrying on their Commerce, or in any thing whatever within this the Province of his said Majesty, or elsewhere.

And if any Insult, Robbery or Outrage shall happen to be committed by any of my Tribe, satisfaction and restitution shall be made to the person or persons injured.

That neither I nor my Tribe shall in any manner entice any of his said Majesty's Troops or Soldiers to desert, nor in any manner assist in conveying them away, but on the contrary will do our utmost endeavours to bring them back to the Company, Regiment, Fort or Garrison to which they shall belong.

That if any quarrel or misunderstanding shall happen betwict myself and the English, or between them and any of my tribe, neither I nor they shall take any private satisfaction or Revenge, but we will apply for redress according to the Laws established in his said Majesty's Dominions.

That all English Prisoners made by myself or my Tribe, shall be set at Liberty and that we will use our utmost endeavours to prevail on the other Tribes to do the same if any prisoners shall happen to be in their Hands.

And I do further promise for myself and my Tribe, that we will not either directly nor indirectly assist any of the Enemies of His Most Sacred Majesty King George the third, his heirs or successors, nor hold any manner of Commerce, Traffic, nor intercourse with them, but on the contrary will as much as may be in

our power discover and make known to His Majesty's governor any ill designs which may be formed or contrived against His Majesty's Subjects. And I do further engage, that we will not Traffic, Barter or Exchange any commodities in any manner but with such persons, or the managers of such Truckhouses as shall be appointed or established by His Majesty's governor at Fort Cumberland or elsewhere in Nova Scotia or Acadia.

And for the more effectual security of the due performance of this Treaty and every part thereof, I do promise and engage that a certain number of Persons of my Tribe which shall not be less in number than Two persons shall on or before the thirtieth day of September reside as Hostages at Fort Cumberland or at such other place or places in this Province of Nova Scotia or Acadia as shall be appointed for that purpose by His Majesty's Governor of said Province, which Hostages shall be exchanged for a like number of my Tribe when requested.

And all these foregoing Articles and every one of them made with the Honorable Jonathan Belcher Esquire President of His Majesty's Council and Commander in Chief of His Majesty's Province of Nova Scotia or Acadia, I do promise for myself and in behalf of my Tribe that we will most strictly keep and observe in the most solemn manner. In witness whereof I have hereunto put my mark at Halifax in Nova Scotia this

Twenty-fifth day of June One Thousand Seven Hundred and Sixty one, and in the First year of His Majesty's Reign.

his
Claude X Stonash
Mark

I do accept of, and agree to, all the articles of the foregoing Treaty. In faith and testimony whereof I have signed these presents, and have caused my seal to be hereunto affixed this Twenty fifth day of June in the first year of His Majesty's Reign, and in the year of our Lord One Thousand Seven Hundred and Sixty one..

J. Belcher

By order of the Commander in Chief.

Rich^{d} Bulkeley Sec.^{ry}

John Collier Rich^{d} Bulkeley Jos. Gerrish Alexander Grant	Signed in the Presence of Us the embers of His Majesty's Council

N. B. Treaties of the above Tenor and Contents was signed by

the Chief of each Tribe separately.

The ceremony observed upon this occasion was conducted in the following manner. The Honorable W^r President Belcher assisted by His Majesty's Council, Major General Bastide, the Right Honorable the Lord Colvill and and Colonel Forster commanding Officer of His Majesty's Forces, and the other Officers and principal Inhabitants of Halifax, proceeded to the Governor's farm where where proper tents were erected, and the Chiefs of the Indians being called upon, His Honor spoke to them as follows, the same being interpreted by W^m Maillard.

"Brothers,

"I receive you with the hand of Friendship and "protection, in the name of the great and mightly "monarch King George the Third, Supreme Lord and "Proprietor of North America."

"I assure myself that you submit yourselves to "his allegiance with Hearts of Duty and gratitude, "as to your merciful Conqueror, and with faith "never to be shaken and deceived again by delusions "and Boastings of our Enemies, over the power of "the mighty Fleets and Armies of the August King "of Great Britain."

"You see that this triumphant and sacred King, "can chastise the insolence of the Invader of the "Right of his Crown and subjects, and can drive "back all his Arrows, and trample the power of his "Enemies under the footstool of his sublims and "lofty Throne."

"As this mighty King can chastise and Punish, "so he has power to protect you and all his sub-"jects, against the rage and cruelties of the "oppresser."

"Protection and allegiance are fastened together "by links, if a link is broken the chain will be

"loose."

"You must preserve this chain entire on your "part by fidelity and obedience to the great King "George the Third, and then you will have the "security of his Royal Arm to defend you."

Then the Chiefs were conducted to a Pillar where the Treaties with each Tribe were to be signed, and there the Commander in Chief went on with His Speech.

"I meet you now as His Majesty's graciously "honored Servant in Government and in his Royal "name to receive at this Pillar, your public "vows of obedience - to build a covenant of Peace "with you, as upon the immovable rock of Sincerity "and Truth, - to free you from the chains of "Bondage, - and to place you in the wide and fruit-"ful Field of English Liberty."

"In this Field you will reap support for your-"selves and your Children, all brotherly affection "and kindness as fellow subjects and the Fruits of "your Industry, free from the baneful weeds of "Fraud and Subtility."

"Your Traffic will be weighed and settled in the "scale of honesty, and secured by Severe punish-"ment against any attempts to change the just "ballance of that scale."

"Your Religion will not be rooted out of this "Field, - your patriarch will still feed & nourish "you in this Soil as his spiritual children."

" The Laws will be like a great Hedge about "your Rights and properties - if any break this "Hedge to hurt and injure you, the heavy weight "of the Laws will fall upon them and furnish their "disobedience."

"In behalf of us, now your fellow subjects, I "must demand, that you build a Wall to secure our "Rights from being trodden down by the Feet of

..7

"your people. - That no provocation tempt the
"hand of Justice against you, and that the great
"levity of His Majesty in receiving you under the
"cover of His Royal Wings in this desertion of you
"by your leader to the field of Battle, against
"the Rights of His Crown, when he stipulated for
"himself and his people without any regard to
"you, may not be abused by new Injuries."

"You see the Christian Spirit of the King's
"Government, not only in burying the memory of
"broken Faith, by some of your People, but in stretch-
"ing out the hand of Lova and assistance to you."

"Lenity desposed may not be found any more by our
"submissions, and like Razors set in oil will cut
"with the Keener Edge."

At this period, the presents were delivered to each of the Chiefs, and then the Commander in Chief proceeded.

"In token of our sincerity with you, I give you
"these pledges of brotherly affection and Love -
"That you may clothe yourselves with Truth towards
"us, as you do with these Garments, - That you may
"exercise the instruments of War to defend us your
"brethern against the insults of any injurious
"oppresson; - that your cause of War and Peace may
"be the same as ours; - under our mighty Chief and
"King, under the same Laws and for the same Rights
"and liberties."

The Indians were then carried to the place prepared for burying the Hatchet where he concluded his Speech.

"While you blunt the Edge of these Arms, and
"bury them in Symbol, that they shall never be used
"against us your fellow Subjects, you will resolve
"and promise to take them up, sharpen and point
"them against our Common Enemies."

"In this Faith I again greet you with this hand
"of Friendship, as a sign of putting you in full

"possession of English protection and Liberty,
"and now proceed to conclude this memorial by
"these solemn instruments to be preserved and
"transmitted by you with charges to your Children's
"Children, never to break the Seals or Terms of
"this Covenant."

The Commander in Chief having finished his Speech, proceeded with the Chiefs to the Pillar, where the Treaties were subscribed and Sealed, and upon their being delivered and the Hatchet buried the Chief of Cape Breton Indians in name of the rest addressing himself as to His Brittanic Majesty spoke as follows; which was likewise interpreted by M.r Maillard.

"My Lord and Father!

"We came here to assure you, in the name of all
"those of whom we are Chiefs, that the propositions
"which you have been pleased to cause to be seat to
"us in writing have been very acceptable to me and
"our bretheren, and that our intentions were to
"yield ourselves up to you without requiring any
"Terms on our part."

"Our not doubting your sincerity has chiefly been
"owing to your charitable, merciful, and bountiful
"behaviour to the poor French wandering up and down
"the Sea Costs and Woods without any of the necess-
"aries of life; - certain it is that they, as well
"as we, must have wretchedly perished unless relieved
"by your humanity; for we were reduced to extremities
"more intolerable than Death itself."

"You are now Master here, such has been the will of
"God; He has given you the dominion of those vast
"Countries, always drowning your enterprises with
"success - You were, before these acquisitions, a
"very great people; but we now acknowledge you to be
"much more powerful; tho less great, in the exten-
"siveness of your possessions, than in the uprightness
" of your Heart, whereof you have given us undoubted
" and repeated proofs, since the reduction of Canada. -
"you may be confident that the moderation and lenity

"wherewith we have been treated, has deeply im-
"printed in our Hearts a becoming sense of gratitude. -
"Those good and noble sentiments of yours, towards
"us in our distressed and piteous circumstances have
"emboldened us to come out of the Woods, our natural
"Shelter, from whence we had previously resolved not
"to stir, till the Establishment of peach between
"both Crowns, whatever hardships we might have suffered.

"Your generous manner, your good heart, your pro-
"pensity to clemency, make us hope that no mention
"will ever be made of any Hostilities that have been
"committed by us against you and yours. - the succours
"so seasonably given us in our greatest wants and
"necessities have been so often the subject of our
"thoughts that they have inspired us with the highest
"sentiments of gratitude and affection."

"We felt ourselves in consequence, forcibly drawn
"to Halifax, to acquaint the representative of the
"King, not only with the resolutions we have taken in
"his favor, arising from his kindness to us, but also
"to let him understand, that the many proofs he has
"given us of the goodness of his Heart at a time and
"in a conjuncture in which we could not hope for such
"favorable treatment have so entirely captivated us
"that we have no longer a will of our own: His will
"is ours."

"You now, Sir, see us actually in your presence;
"dispose of us as you please. - We account it our
"greatest misfortune that we should so long have neg-
"lected to embrace the opportunity of knowing you so
"well as we now do. - you may depend we do not flatter.
"we speak to you at this time according to the
"dictates of our hearts. - Since you are so good as to
"forget what is past, we are happy in its being buried
"in oblivion." Receive us into your Arms, into them
"we cast ourselves as into a safe and secure Asylum
"from whence we are resolved never to withdraw or
"depart."

"I swear for myself, Brethern and People, by the
"Almighty God who sees all things, hears all things,
"and who has in his power all things, visible and in-
"visible, that I sincerely comply with all and each of
"the articles that you have proposed to be kept invioa-
"bly on both Sides."

"As long as the Sun and Moon shall endure; as long "as the earth on which I dwell shall exist in the "same state you this day see it, so long will I be "your friend and Ally, submitting myself to the Laws "of your Government; faithful and obedient to the "Crown, whether things in these Countries be restored "to their former state or not; I again swear by the "Supreme Commander of Heaven and Earth, by the sover- "eign disposer of all things that have life on Earth "or in Heaven, that I will for ever continue in the "same disposition of mind I at present am in."

"There is one thing that binds me more strongly and "firmly to you than I can possibly express, and that "is your indulging me in the free exercise of the "religion in which I have been instructed from my "Cradle."

"You confess and believe, as well as I, in Jesus "Christ the eternal word of Almighty God. I own I "long doubted whether you was of this Faith. - I "declare moreover that I did not believe you was "baptized; I therefore am overwhelmed with great "Sorrow and repentance that I have too long given a "deaf ear to my spiritual director touching that "matter, for often has he told me to forbear imbruing "my hands in the blood of a people who were Christians "as well as myself but at present I know you much "better than I did formerly; I therefore renounce all "the ill opinions that have been insinuated to me and "my brethern in times past, against the subjects of "Great Britain."

"To conclude, in the presence of him to whom the most "hidden thoughts of Men's Hearts are laid open; in "your presence Governor, (for I conceive that I see in "your person him who you represent, and from whom you "derive your authority as the Moon borrows her light "from the rays of the Sun;) and before all this noble "Train who are round about you I bury this Hatchet as "a dead-body that is only fit to become rotten, look- "ing upon it as unlawful and impossible for me to make "use hereafter of this instrument of my Hostilities "against you."

"Let him be happy and blessed for ever, the August "person for the sake of whom I make to day this

"funeral! Great God, let him be happy and blessed
"during his whole reign over his subjects. May he
"never have occasion to scruple calling us his child-
"ren, and may we always deserve at his hands the
"treatment of a Father."

"And Sir, we pray you most humbly, as you are en-
"trusted by George the Third our King, that you will
"be pleased to inform His Majesty, as soon as possible,
"of what you have this day seen and heard from our
"people, whose sentiments have now been declared unto
"the King by my mouth."

The ceremony concluded with Dancing and Singing, after their manner upon joyful occasions, and drinking His Majesty's Health under three vollies of Small Arms..

GULF OF ST. LAWRENCE TREATY, 1779

Be it known to all men that we, John Julien, Chief; Antoine Arceneau Captain; Francis Julien and Thomas Demagonisbe Councillors of Mirimichy and also representatives of and authorized by the Indians of Pagimousche and Restigouche Augustine Michel Chief. Louis Augustine Cobaise, Francis Joseph Arimph, Captains Antoine and Gamaliel Gabelier Councillors of Richibucto and Thomas Tames Son and representative of the Chief of Tedyae do for ourselves and on behalf of the several tribes of Mickmack Indians before mentioned and all others residing between Cape Tormentine and the Bay De Chaleurs in the, Gulf of St. Lawrence inclusive. Solemly Promise and Engage to and with Michael Franklin, Esq., the Kings Superintendent of Indian Affairs in Nova Scotia.

That we will behave Quietly and Peaceably toward all His Majesty King George's good subjects treating them upon every occasion in an honest friendly and brotherly manner.

That we will at the hazard of our Lives defend and Protect to the utmost of our power the Traders and Inhabitants and their Merchandise and Effects who are or may be settled on the Rivers, Bays and Sea Coasts within the forementioned District against all the Enemys of His Majesty King George whether French, Rebels or Indians.

That we will not hold any correspondence or intercourse with John Allen or any other Revel or Enemy to King George, let his Nation or Country be what it will.

And we do also be these presents for ourselves and in behalf of our several constituents hereby Renew, Ratify and Confirm all former Treatys, entered into by us, or those heretofore with the late Governors Lawrence and others His Majesty King George's Governors who have succeeded him the command of this Province.

In consideration of the true performance of the foregoing Articles on the part of the Indians, the Said Michel Franklin as the King's Superintendent of Indian Affairs doth hereby Promise in behalf of the Government.

That the said Indians and their constituents shall remain in the Districts before mentioned, Quiet and Free from any molestation of any of His Majestys Troops or other good subjects in their Hunting and Fishing.

That immediate measures shall be taken to cause Traders to supply them with ammunition, clothing and other necessary stores in exchange for their furs and other commoditys.

In witness where of the above mentioned have Inter changeabley set our Hants and Seals at Windsor in Nova Scotia this Twenty second day of September 1779.

TREATY MADE WITH MICMACS ON MIRAMICHI, 1794

By Governor William Milan and Micmac King John Julian on June 17th, 1794.

The following copy of the Treaty made with the Micmac Indians of the Miramichi and the representative of King George III was translated from the original treaty written in Micmac.

The Treaty made with the Micmac Indians and the representative of King George III of England on June 17, 1794.

Thus was agreed between the two Kings - The English King George III and the Indian King John Julian in the presence of the Governor, William Milan of New Brunswick, and Francis Julian (Governor) the brother of said John Julian, on board His Majesty's ship, that henceforth to have no quarrel between them.

And the English King said to the Indian King "Henceforth you will teach your children to maintain peace and I give you this paper upon which are written many promises which will never be effaced."

Then the Indian King, John Julian with his brother Francis Julian begged His Majesty to grant them a portion of land for their own use and for the future generations.

His Majesty granted their request. A distance of six miles was granted from Little South West on both sides and six miles at North West on both sides of the rivers. Then His Majesty promised King John Julian and his brother Francis Julian "Henceforth I will provide for you and for the future generation so long as the sun rises and river flows."

(sgd) KING JOHN JULIAN
KING GEORGE III per
GOVERNOR WM. MILAN

ENCLOSURE "B"

MI'KMAQ NATIONIMOUW IN 1752

"INDIAN RESERVES" ASSIGNED TO MI'KMAQ "BANDS" 1980