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**Revisiting the "Proverbial Tin Cup":  
A Study of Political Resistance of the  
Mi'kmaq of Nova Scotia  
1900-1969**

A Thesis Submitted in Partial Fulfillment of the Requirements for the Degree of Master of Arts  
in Atlantic Canada Studies at Saint Mary's University.

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## **Abstract:**

This thesis explores political resistance of the Mi'kmaq Nation from 1900 until 1969. In an analysis of the interplay between Federal government policy and Mi'kmaq moves to retain a measure of control over political structures, issues such as political identity formation and the adaptability of agency through political resistance are set in the context of period politics and policy development.

Through a series of case studies this study traces how the Mi'kmaq Grand Council functioned at the turn of the twentieth century until the creation of elected Band Councils in 1958. It discusses how the Mi'kmaq incorporated western political culture as a means of adaptation to conditions imposed by the Canadian federal government.

The creation of a provincial organization in 1969, known as the Union of Nova Scotia Indians or UNSI, is the latest in a series of attempts made by Mi'kmaq leadership of this century to form an organization which could counter methods used by the Federal government to achieve assimilation while at the same time acting as a recognized voice of Mi'kmaq people in the province.

This study demonstrates that leading members of the Mi'kmaq Nation were active agents in the maintenance of a political identity which transcended attempts at destruction.

**Revisiting the "Proverbial Tin Cup": A Study of Political Resistance of the Mi'kmaq of Nova Scotia 1900-1969.**

Sarah A. Brennan

April 10, 2000.

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## Introduction

Originally, this thesis was intended to be a study of political dissent by Mi'kmaq leaders. Prompted by the protests of UNSI (Union of Nova Scotia Indians) spokespeople against the proposed 1998 MAI (Multilateral Agreement on Investment), and the development of the Sable Gas Industry off the shores of Nova Scotia, I assumed that these protests to transnational corporate deals which affected the resource base of Nova Scotia were founded upon a logic similar to my own; a logic influenced by the tenets of the western liberal democratic political system which governs this country at a provincial and federal level. I was wrong. I confused dissent, defined as a necessary condition for the successful maintenance of democracy, with resistance, defined as the ability to withstand the intrusion of a foreign world view, or external system of thought. In fact, it is the contention of this thesis that political *resistance* has been a vital, yet often-overlooked aspect of survival for the Mi'kmaq of Nova Scotia throughout the twentieth century. The title of this thesis itself was taken from a 1969 UNSI speech concerning Mi'kmaq political identity and resistance in a contemporary context.

At the present time the Mi'kmaq Nation is attempting to recover from the latest round of state-sponsored attempts at assimilation. The state in this case is the Federal Government of Canada, and assimilation is defined as absorption into the framework of the larger, immigrant-based Canadian society. The establishment of the reserved land system, the creation and maintenance of predominantly Roman Catholic residential and day schools that taught English language and customs over First Nations language and customs, voluntary and involuntary

enfranchisement, all are examples of state policy attempting assimilation. Forced relocation projects such as Centralization, the implementation of reserve-based economic strategies, and the replacement of tribal government with elected band councils are other examples of federal policy which seek to integrate the Mi'kmaq into mainstream society.

The study of First Nations resistance to state policy can be undertaken within the branch of history known as ethnohistory, which incorporates political, social and cultural spaces. Politically, the methodological framework of understanding is known as the Fourth World paradigm. It includes the experience of Aboriginal peoples internationally as they have struggled to maintain a distinct identity in an environment dominated by the legacy of colonial imperialism. The latter half of this century has witnessed a revival of political resistance among First Nations peoples both in Canada and elsewhere in North America. Provincial and regional organisations attempting to incorporate elements of both tribal and elected styles of government have been the most effective to date. In Nova Scotia, the Mi'kmaq are now beginning to assess the damage that has been done to systems of leadership as a result of both the 1951 amendments to the Indian Act, and Centralization, a policy of forced relocation which lasted from 1942 until its official abandonment in 1949. Despite difficult circumstances, the Mi'kmaq have retained political autonomy through governing structures, which in this case include both the Mi'kmawey Mawio'mi, or the Grand Council and, as of 1969, the Union of Nova Scotia Indians (UNSI).

During the first half of the twentieth century the biggest obstacle encountered by Mi'kmaq political leadership was one of recognition. An integral component of the policy of assimilation articulated in the Indian Act and implemented by the federal department of Indian Affairs was the refusal to acknowledge tribal systems of government. In Nova Scotia, this has meant that government accounts of the Grand Council for the nineteenth and twentieth century are sketchy, sporadic and often contradictory. Yet, without the support of the Grand Council local Indian Agents were often stymied in carrying out their duties. During the latter half of this century, Centralization reshaped political institutions, although it did not undermine the agency of political leadership among the Mi'kmaq. This mandate of resistance in Nova Scotia is best articulated in a speech given by Noel Doucette, first president of UNSI in 1969:

We want an identity so that society will appreciate our problems, will recognise our needs, and will assist us in becoming acceptable parts of Canadian society. We must not allow ourselves to hold forever the proverbial tin cup. We too must seek our identity and be willing to contribute to society.<sup>1</sup>

Politically, this has meant creating an identity which could function effectively in the contemporary political arena. The Union of Nova Scotia Indians tied reserve governments together and formulated the premises for resistance in Nova Scotia in an attempt to maintain this contemporary identity. UNSI can be understood to be the most recent in a series of attempts by the Mi'kmaq leadership throughout

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<sup>1</sup>Union of Nova Scotia Indians Information Kit, (Private UNSI Collection: Membertou Band Office, Sydney, Nova Scotia. 1969) p.13

Canadian government to assimilate the Mi'kmaq nation. It sought to prevent the education system, "from becoming a bleaching agent to make Micmacs all white."<sup>2</sup> The primary question posed in this research therefore, is; 'How have the Mi'kmaq survived in the Canadian political context?'

As will be shown, the Grand Council functioned effectively as a political voice in the twentieth century in spite of the fact that Indian Affairs did its best to dismiss this pre-contact institution as a mere symbol, a relic of a bygone era. With the 1951 Indian Act amendments, the Minister of Indian Affairs was given the authority to divide the Mi'kmaq Nation into districts that favoured the institution of a municipal-styled governing body. In 1957, Order-in-Council 6016 was passed and the political face of the Mi'kmaq Nation was refigured into twelve (now thirteen) bands that are still in existence today. Elections were brought to the reserves and the Indian Act Band Councils were created.

The function of these Band Councils were to act as a voice for people living on reserve. Their purpose, it will be shown, was to undermine an independent and united Mi'kmaq political voice. Established with a view to creating a kind of municipal government on reserve, Ottawa used this strategy as an attempt to pave the way towards eliminating the 'Indian Problem' in Nova Scotia, using methods clearly enunciated in the 1969 White Paper. This policy was consonant with the principles of liberal democracy, but it ignored the mandates established by the First Nations themselves in the hope political assimilation would occur. It did not.

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<sup>2</sup> Ibid., p.13



Symbolically, the creation of UNSI marked a turning point in the history of relations between the Mi'kmaq Nation and the federal government of Canada.

There are some five hundred years of experience in Indian-white relations in Nova Scotia. This study is one account of the experiences of colonised peoples in the context of a maturing settler society. Remarkably, literature in the field is relatively limited. One of the reasons for this is that developments in the Atlantic region have been generally ignored in the development of the Canadian historical identity as a whole. There has been a tendency to focus on the western parts of the country, principally Ontario, the Prairies and British Columbia. Another reason is that the development of ethnohistory as a field of study in its own right is also fairly recent, and much of the available literature is centred on the experiences of western First Nations peoples.

This thesis is a chronological case study of examples of Mi'kmaq resistance throughout the twentieth century. Archival material has been used as primary source data. Much of it has been extracted from the "Red Series". These records, located in the National Archives of Canada (NAC) in Ottawa, represent the main source of government correspondence about Indian administration in the eastern provinces of Quebec, Nova Scotia, New Brunswick and Prince Edward Island from 1867. While there is a strong bias in this correspondence towards assimilation, there are also many accounts that describe how the Mi'kmaq reacted to local agents and their attempts to enforce the Indian Act. Much of this material has not been analysed by historians. Material from the latter half of this century has come

from a number of other archival holdings: the Treaty and Aboriginal Rights Research (TARR) Centre of Shubenacadie, the Beaton Institute of the University College of Cape Breton, the Public Archives of Nova Scotia (PANS), the St. Francis Xavier University Extension Department archives (St. FX EDA) in Antigonish, and the personal collections of members of UNSI in Membertou.

The reason for incorporating these holdings is that the Red Series tapers off in the 1940's. After Confederation, responsibility for Indian Affairs was transferred to Ottawa from Nova Scotia. During Centralization, many records were destroyed or lost with the passage of time and the changing of priorities; thus, it must be understood that the Red Series is by no means complete. The St. Francis Xavier Extension Department Archives include Indian Affairs material as well as Extension Department files. For two decades after Centralization, the Extension Department and the Department of Indian Affairs worked closely together with Mi'kmaq communities to create the infrastructure which is in place today. PANS holds the newspapers which Mi'kmaq leaders such as Lawrence Paul began to use in the late 1960's as a voice. The Beaton Institute has a number of scholarly reports, a complete series of the *Micmac News* and the most complete collection of the minutes of UNSI meetings. Finally, the TARR Centre, while currently unavailable to researchers due to the lack of a housing facility, has a number of Indian Affairs files which could not be located in Ottawa, as well as a repository of legal cases which UNSI has undertaken since its inception.

One of the most frustrating experiences of this research project has arisen from the fact that the National Archives of Canada has an intricate and time-consuming bureaucratic process which demands the services of an "Access Officer" or, in layman's terms, a censor. The function of these officers is to prevent personal information from being exposed to the public. In the NAC there is a library of microfilmed reels of documents which are open to the public. As well, there are boxes of correspondence which have not been filmed and are resting in storage facilities. A sizeable proportion of the correspondence of the 1940's to 1960's relating to Mi'kmaq political movements is in these boxes, and in order to get access to this information, a researcher has to be at the NAC, and an Access officer has to sort through the files prior to the researcher receiving the box. For researchers visiting from Nova Scotia, time becomes an expensive commodity.

According to Wayne Warry there are some 12,500 boxes of "classified and non-accessible archival material"<sup>3</sup> in existence pertaining to the First Nations of Canada which still remain in the vaults. How much of it pertains to the Mi'kmaq nation is unknown. Warry also contends that the procedure that emphasises restrictive access to information is part of a deliberate strategy employed by the federal government to frustrate land claims and thereby save money.<sup>4</sup> In any case, it must be understood that a study of this nature is, by its very definition, limited by

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<sup>3</sup>Wayne Warry, Unfinished Dreams: Community Healing and the Reality of Aboriginal Self-Government (Toronto: University of Toronto Press, 1998), p.44

<sup>4</sup>Ibid.

the fragmentary quality of documentation. Despite the limitations however, it must also be understood that much can be learned from these archival collections. When analysed in context, these documents can play a valuable role in supplementing field work and adding texture to the growing body of oral history which has become one of the mainstays of research methodology in Mi'kmaq ethnohistory. They provide another perspective in understanding the larger Canadian identity, as well as that of the Atlantic region. These archival sources can be used as a tool for those studies attempting to examine the long-term effects of a post-colonial legacy from the vantage point of one of the oldest proponents of assimilation since contact.

A number of other difficulties exist that are unique to the study of Indian - White relations in Nova Scotia. Given the nature of the records that have been preserved, it is very difficult to arrive at a clear understanding of how the Grand Council operated during the early part of this century. The most immediate problem stems from profound cultural dissimilarity. While European-based culture has recorded its understanding of the past through the written word, the Mi'kmaq Nation has maintained much of its history through memory, or oral history. Moreover, for many decades language has been a barrier in understanding bi-cultural interactions. Few western historians understood the Mi'kmaq language, and therefore they wrote from the perspective of an observer who was often unable to understand much of what was said and done. It is only recently that bilingual scholars have been recording the Mi'kmaq perspective, with the proviso

that there is difficulty in translating Mi'kmaq concepts into the English language. Each language is based in a world view, and the value systems of each often contradict one another. In short, this has meant that the English language is often unable to bridge many differences in cultural perspectives. This has created an inevitable imbalance in the written record. As well, it must also be taken into account that many of the authors who wrote about the Mi'kmaq did so with a view to achieving assimilation. The Mi'kmaq Nation has left few indigenous sources. Therefore, we know little about the internal dynamics of Mi'kmaq society of this period and contemporary correspondence is either external to the society itself, or in reaction to actions initiated by the external society. In any case, one of the mainstays of current ethnohistorical research has been the recording of oral history in an attempt to create a more fully reciprocal understanding of the past to accommodate the needs of the present.

One of the hallmarks of First Nations political resistance in Nova Scotia has been the ability to adapt to shifting circumstances. In this thesis, Chapter One discusses the development of ethnohistory and the rise of the paradigms of resistance internationally, and nationally. Chapter Two is divided in three sections. The first section explores the background of the Grand Council, the second gives an overview of the development of Indian Affairs in both Canada and Nova Scotia, and the third section of the chapter examines early interactions between Mi'kmaq leaders and Indian Affairs officials. Chapters Three through Five examine a series of case studies, including question of the Kings Road reserve, the Sylliboy case,

the hearings of the 1946-48 Joint Committee of Senate and House of Commons, the rise of the Band Councils and the influence of the St. Francis Xavier Extension Department in the development of the Union of Nova Scotia Indians. This thesis concludes with a re-examination of current political resistance and a glimpse of the development of other issues, such as treaty and land claims, and hunting and fishing rights, which are the foundations of recent political struggles.

## **Chapter 1**

**Deconstructing Identity:  
an Examination of Contemporary Literature and Perspectives.**

Anyone embarking on a discussion of Indian-white relations in Canada is faced from the outset with a virtually insoluble dilemma. Since every man is the product of the culture into which he is nurtured and educated, of necessity his thinking will follow certain well defined lines. To change the direction of thinking is as difficult as changing the color of skin, and probably more painful.<sup>1</sup>

The above quotation speaks to the kinds of literature available concerning the twentieth century experience of the Mi'kmaq people of Nova Scotia. It also captures the need to understand identity, in this case a separate cultural identity, and to accept it as a legitimate political identity. This chapter discusses the available ethnohistorical literature of Nova Scotia, together with that of western Canada. While there is limited analysis of political resistance within Atlantic Canada, the western experience is rich and varied. The meaning of identity, its formation, and its maintenance, is presented within the context of recent global re-examinations of the term 'Nation' and situated in a contemporary political paradigm: the Fourth World. Given the premise that the Mi'kmaq people have consistently identified with the term 'Nation,' and established a series of treaties during the eighteenth century in that context, while maintaining a unique cultural identity (consisting of a separate language, religion, historical experience and world-view), it appears that most of the contemporary paradigms relating to the North American experience are wanting. They stem from a predominantly

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<sup>1</sup> George F.G. Stanley, "As Long as the Sun Shines and Water Flows: An Historical Comment," in As Long As The Sun Shines And Water Flows: A Reader In Canadian Native Studies Ian A.L. Getty and Antoine Lussier eds., (Vancouver: University of British Columbia Press, 1983) p.1



European cultural base and value system. As will be seen, the Fourth World paradigm encompasses the experience of Aboriginal people internationally and lends itself to an analysis of the politics of Aboriginal resistance.

Within Nova Scotia, the field of education has perhaps received the most attention to date, as the 1980's saw the end of nearly a century of an aggressive program of cultural reorientation sanctioned by the federal government and sponsored predominantly by the Roman Catholic Church. The effects created by residential and federal day schools have been described across the country. In Nova Scotia, Isabelle Knockwood described her personal experience which was shared by a number of children who lived in the Shubenacadie residential school. She contended, "Those who ran the school tried to rob us of our collective identity by punishing us for speaking our language, calling us "savages" and "heathens". They also tried to take away our individual identities."<sup>2</sup> In reaction to this kind of treatment, Aboriginal control of Aboriginal education became an important issue during the 1960's and 1970's Pan-Indian movement and led to the release of the National Indian Brotherhood's 1972 statement on *Indian Control of Indian Education*.<sup>3</sup> Knockwood described the participation of Mi'kmaq people in the formulation of this statement:

Many meetings and many hours and days of discussions led up to the development of that policy. At one of those meetings a man made a very powerful argument for our taking full control of our children's education.

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<sup>2</sup>Isabelle Knockwood, Out Of The Depths: The Experience Of Mi'kmaq Children At The Residential School At Shubenacadie, Nova Scotia (Lockport Nova Scotia: Roseway, 1992) p.154

<sup>3</sup>National Indian Brotherhood, Indian Control Of Indian Education: Policy Paper ( Canada. Department of Indian and Northern Affairs. Ottawa. National Indian Brotherhood. Copyright 1972.)

No one remembers exactly what Edward Poulette said, but everyone who was there remembers what he did. He took off his shirt and showed the scars on his back.<sup>4</sup>

Accommodation strategies and discussions on how the Mi'kmaq world-view differs from the immigrant-based perspective have been incorporated into education literature by authors such as Trudy Sable and Marie Battiste.<sup>5</sup> Doug Smith and Bernie Francis have also created a methodology for teaching the Mi'kmaq language and thereby working to ensure that the linguistic damage perpetuated by federal schools will not be passed to future generations.<sup>6</sup> Other issues, like healing and the revival of Mi'kmaq spirituality and traditionalism have been raised by authors including Noel Knockwood, Murdena Marshall, and others.<sup>7</sup> Studies by Fred Wien, Elice Gonzales and others have created a framework for understanding the economic situation of the Mi'kmaq Nation.<sup>8</sup> There is also a substantial body of historical and anthropological studies that describe relations between Mi'kmaq people and European traders and

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<sup>4</sup>Ibid., p.154

<sup>5</sup>See Marie Anne Battiste, First Nations Education In Canada: The Circle Unfolds (Vancouver: University of British Columbia Press. 1995) and Trudy Sable, "Another Look In The Mirror: Research Into The Foundation For Developing An Alternative Science Curriculum For Mi'kmaq Children" (MA Thesis, Saint Mary's University, 1996).

<sup>6</sup>See Bernard Francis and John Hewitt, The Micmac Grammar Of Father Pacifique (Winnipeg: Algonquian And Iroquoian Linguistics, 1990).

<sup>7</sup>See Noel Knockwood, Spiritual Advisor to the Mi'kmaq Grand Council, Personal Collection of Unpublished papers, and Murdena Marshall, Mi'kmaq Hieroglyphic Prayers: Readings In North America's First Indigenous Script (Halifax: Nimbus Publishing, 1995).

<sup>8</sup>See Fred Wien, Rebuilding The Economic Base Of Indian Communities: The Micmac Of Nova Scotia (Montreal: The Institute for Research on Public Policy. 1986) and Elice Gonzalez, Changing Economic Roles For Micmac Men And Women: An Ethnohistorical Analysis (Ottawa: National Museum of Canada, Mercury Series, Paper No. 72, Canadian Ethnology Service. 1981).

immigrants prior to Confederation. Legally, there are a number of cases involving land claims, hunting and fishing rights as well as court-oriented discussion of the meaning of the eighteenth-century treaties. The justice and medical systems have also received attention.

Yet there is little academic analysis of First Nations resistance to government policy in the Atlantic provinces. Lisa Patterson's 1985 examination of Centralization noted that L.F.S. Upton's *Micmacs and Colonists* discussed Indian-White relations from 1713 to 1867, but, "developments after 1867 have not been documented."<sup>9</sup> Since then, there have been several examinations of pre-contact political structure, such as the article co-authored by Grand Chief Donald Marshall Sr. and Grand Captain Alex Denny, as well as a Master's thesis by Leslie McMillan. The ceremonies of the Mi'kmaq Nation, particularly that of the annual St. Anne's mission have also been explored in a contemporary context by author Janet Chute. For the most part however, descriptions of the Grand Council have been set mainly in a legal context, or have tended to examine the structure of the Council in the context of Mi'kmaq culture. Until now there have been few studies of the direct interaction between the Grand Council and Indian Affairs. The only located source of information concerning the study of political interaction is part of a larger national study of Aboriginal political

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<sup>9</sup>Lisa Lynne Patterson, "Indian Affairs And The Nova Scotia Centralization Policy" (MA Thesis, Dalhousie University, 1985) p.2

organizations by Don Whiteside.<sup>10</sup> This analysis gives Mi'kmaq organization a cursory note and tends to concentrate on the developments of western Aboriginal political organization.

Wayne Daugherty's 1982 exploration of Aboriginal political structures echoes Whiteside in many aspects. He stated, in relation to Mi'kmaq political organization,

The Maritime provinces, apart from the short-lived Grand General Indian Council of Cape Breton of the early 1940's, have always lagged behind the rest of Canada in the development of Indian political associations. This situation was changed in November 1967, when the Union of New Brunswick Indians was formed.<sup>11</sup>

This observation represents the sum of academic analysis of twentieth-century political organization in Nova Scotia. Clearly, it is inadequate. Daugherty omits the brief existence of the 'UN', (the precursor to UNSI) in 1968, and appears to credit the 1969 formation of UNSI as a reaction to the release of the 1969 White Paper, rather than as a result of long-term cumulation of political experience and resistance on behalf of Mi'kmaq leadership.<sup>12</sup> While the development of a provincial political association in Nova Scotia appears relatively tardy, Whiteside and Daugherty have not accounted for reasons why. This thesis proposes that one reason for the later development of provincial political association in Nova

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<sup>10</sup>See Don Whiteside, Efforts To Develop Aboriginal Political Associations In Canada, 1850-1965 Draft 1. Aboriginal Institute of Canada: Ottawa. 1974 DIAND, Claims and Historical Research Center. T3.

<sup>11</sup>Wayne Daugherty, A Guide To Political Native Organizations In Canada (Ottawa: Treaties and Historical Research Branch. Corporate Policy. Indian and Northern Affairs Canada. 1982.) p.20

<sup>12</sup>Ibid.

Scotia was that the traditional government body of the Mi'kmaq, the Mi'mawey Mawio'mi, or the Grand Council, was able to function effectively as the political voice of the Mi'kmaq Nation until the 1940's. It is interesting to observe that the creation of the Grand General Indian Council of Cape Breton during the early 1940's coincided with the implementation of Centralization, the first state-sponsored large-scale interference in the affairs of the Mi'kmaq people. As this thesis will show, once Centralization was initiated, one of the consequences was the near-destruction of the Grand Council in its capacity as a political voice by the time of the official abandonment of this policy in approximately 1949. Once the economic base of the Mi'kmaq was nearly eliminated, so too was the political autonomy of the people. The local Indian Agents, backed by the funding of Indian Affairs, became powerful political figures and played a key role in the effective substitution for the Grand Council with elected, municipal-styled Band Councils which conformed to the requirements of the Indian Act in 1957. Once these additional facts have been taken into consideration, the formation of UNSI, nearly a decade later, suggests that provincial organization in Nova Scotia did not lag behind the rest of Canada, but rather, responded quickly to a different set of conditions that were initiated by the federal government at a later date. The department of Indian Affairs, in all of its various incarnations, has been more active in the western regions of Canada, which, in turn, has allowed for the earlier development of contemporary kinds of political organizations. It is suggested, particularly in regards to the outcome of the Kings Road reserve case, that Indian Affairs did its best to ignore statements made by the Grand

Council and persistently refused to acknowledge the Grand Council as a legitimate political voice because this system of government, which predated European contact, was based in a different set of values and incorporated a different world-view which ran counter to the current Canadian political values and views.

Much of the literature on First Nations resistance in Canada focuses on the western experience, which involves the Numbered Treaties of the nineteenth century, reactions to the 1969 White Paper, and the failed First Ministers conference of the 1980's which sought to include First Nations in the Canadian Constitution<sup>13</sup>. By implication, this focused on First Nations identity in Canada. Following Confederation there were a number of political organizations created by First Nations across the country. The common theme which united these bodies was their opposition to government administration of Indian Affairs. The first organization formed was the Grand General Indian Council of Ontario and Quebec in 1870. It collapsed in 1936, divided by the creation of another group known as the League of Indians. The first two decades of the 1900's also witnessed the formation of a number of groups in British Columbia to initiate the struggle over land claims. In 1906 the Nishga Land Committee petitioned directly to Britain. The Allied Tribes of British Columbia - consisting of the

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<sup>13</sup>See Richard Price, *The Spirit Of The Alberta Indian Treaties* (Montreal: The Institute for Research on Public Policy, Butterworth & Co. 1979), and Sally Weaver, *Making Canadian Indian Policy: The Hidden Agenda 1968-1970* (Toronto: University of Toronto Press. 1981), Pauline Comeau and Aldo Santin, *The First Canadians: A Profile Of Canada's Native People Today* (Toronto: James Lorimer & Co. 1990).

Chilcotin, Kootenay, Lillooet, Okanagan, Shuswap and Thompson First Nations - also rallied to support the Nishga Land Committee.<sup>14</sup>

During the Depression, the Native Brotherhood of British Columbia consolidated to fight for access to resources, predominantly fishing rights. In 1943, Andrew Paull, then a member of the British Columbia Brotherhood, was instrumental in the formation of another organization known as the Canadian Indian Brotherhood. This group sought to unite all First Nations in Canada. One year later the name was changed to the North American Indian Brotherhood. This body was influential in government negotiations, lasting until 1969.<sup>15</sup>

The year 1919 marked the first formation of contemporary political organization in the prairie provinces, the League of Indians, founded by a Mohawk named F.O. Loft. In 1933, the league split into two branches, one in Alberta and the other in Saskatchewan. In 1942, the League officially folded. The Alberta wing became the Indian Association of Alberta. Four years later the Protective Association for Indians and Their Treaties amalgamated with the Association of Saskatchewan Indians to become the Union of Saskatchewan Indians. In the 1950's these two organizations merged to become the Federation of Saskatchewan Indians. In 1946 the Manitoba Indian Brotherhood was established and continued into the late 1970's. That same year the Union of Ontario (UOI) Indians was also established; initially it was intended to be a

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<sup>14</sup>Wayne Daugherty, A Guide To Political Native Organizations In Canada p.13

<sup>15</sup>Ibid., p.15

branch of the North American Indian Brotherhood; however it soon took on an independent identity. So, too, did the Indians of Quebec Association, which formed in the 1960's. In 1969, the Union of British Columbia Indian Chiefs, The Union of Nova Scotia Indians, and the Association of Iroquois and Allied Indians came into being. At this point there was provincial representation across the country. Regionally, attempts to unite experienced difficulties. In 1968, the National Indian Brotherhood was established but quickly divided on the issue of status versus non-status. Instead, the National Indian Brotherhood represented status Indians and the Canadian Metis Society represented non-status First Nations. The National Indian Brotherhood is now the Assembly of First Nations and functions as a national body, representing 15 affiliated Indian Associations. These organizations have resisted many of the policies of Indian Affairs, concentrating on treaty rights and land claims. After the Depression, protection of fishing and trapping rights became contentious issues, along with concerns over education, health care, pensions, enfranchisement, and federal income tax.<sup>16</sup>

J.S. Frideres has noted that religious affiliation often played a divisive role in the formation of many regional organizations.<sup>17</sup> He argued that one of the reasons for the attention paid to western developments has been because of the aggressiveness of the Iroquois in negotiations. Similarly, because treaties have also played an important role in validating First Nations struggles, and because

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<sup>16</sup>Ibid., p. 16

<sup>17</sup>J.S. Frideres, "Indian Organizations: Attributes Of Pan Indianism" in Canada's Indians: Contemporary Conflicts (Ontario: Prentice-Hall of Canada Ltd.1974) p.111



First Nations living in the eastern regions of the country were often considered non-treaty groups, they were therefore only nominally recognized by western First Nations.<sup>18</sup> Frideres also described how many of the early political organizations appeared to have been crisis-oriented; once the crisis was over, the organization simply withered away.<sup>19</sup>

In any case, there is much that can be drawn from western experiences and applied to Nova Scotia. A national Indian Affairs policy often resulted in a commonality of experience, particularly during the latter half of the twentieth century. For example, in his detailed analysis of the Aboriginal residential school experience, J.R. Miller reflected that, "Ironically, one of the most powerful effects of the residential school has been its role in molding Native students into political leaders as well as defenders of the traditional culture."<sup>20</sup> Many leaders of the 1940's to the 1980's were products of the residential school experience. Andrew Paull, John Tootoosis, George Manuel and Phil Fontaine are a few of these First Nations leaders.

Other western First Nations' literature of resistance tells a story of the struggle of a particular First Nation in a certain region. Much has been written, for example, about Andrew Paull of the Squamish First Nation in British Columbia, Shushwap leader George Manuel, Mohawk leader F.O. Loft in Ontario, and Cree

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<sup>18</sup>Ibid., p.113

<sup>19</sup>Ibid.

<sup>20</sup>J.R. Miller, Shingwauk's Vision: A History Of Native Residential Schools (Toronto: University of Toronto Press. 1996) p.430

leader, John Tootoosis in Saskatchewan. These accounts provide useful analysis of the reactions by Indian Affairs officials. They also provide a space in which to situate the struggles of the Mi'kmaq. The nature of intergovernmental relations, internal First Nations politics and the varied forms of resistance, and reactions to this resistance, are explored in detail.

The literature on the western experience also accommodates large scale shifts in Canadian perspectives that occurred in the aftermath of the First and Second World wars and the ensuing impact these had upon First Nations' political resistance; this has yet to be analyzed in the eastern context. Jean Goodwill and Norma Sluman described the awakening experienced by Native war veterans following the First World War:

Indian soldiers had fought beside other Canadians, endured the same horrible risks. They had made white friends and had been wounded with them. They had also discovered that a person's race or religion seemed unimportant when they had to fight together to stay alive.<sup>21</sup>

On their return to Canada, the same veterans experienced difficulty accepting their segregated and disadvantaged life as second-class citizens. Lawrence Paul of Membertou was a veteran of the Second World War and Korea and served as Chief of the Membertou reserve during the 1950's and 60's. He also expressed his refusal to accept the poor conditions in Cape Breton, and was instrumental in the formation of Mi'kmaq political resistance in the 1960's.

Perhaps the most useful thread which can be identified in western literature is the dynamic of change over time in relation to the kinds of protest

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<sup>21</sup> Jean Goodwill and Norma Sluman, John Tootoosis (Canada: Pemmican Press. 1984) p.115

used by First Nations. E. Palmer Patterson observed that during the early decades of the 1900's, "the method of protest followed the pattern of petitions and meetings with government officials established in the late nineteenth century by individual tribes or bands."<sup>22</sup> As Chapter Two demonstrates, this pattern is consistent among the Mi'kmaq Nation of the same period. Western studies also indicate that political resistance found expression in the use of the courts to settle land claims and other issues, beginning with the 1906 Nishga land claims in British Columbia. This same trend occurred in Nova Scotia with the 1927 Sylliboy case, where Grand Chief Gabriel Sylliboy challenged provincial game laws which restricted the 1752 treaty right to hunt. E. Palmer Patterson used Andrew Paull's career to illustrate the kind of leadership that characterized the style of First Nations representation for the latter half of the 1900's. Paull, "was a precursor of present-day protest in that he was involved in a variety of areas of Indian concern and tried to deal with them in ways which allowed for the retention of Indian culture without attempting to turn back the clock by withdrawing from the dominant society."<sup>23</sup> The approach of Mi'kmaq leader Ben E. Christmas was similar in content and style to that of Andrew Paull.

However, comparisons aside, there is a pressing need to situate this kind of political resistance within a conceptual framework which addresses the link

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<sup>22</sup>Patterson, E. Palmer, "Andrew Paull And The Early History Of British Columbia Indian Organizations" in One Century Later: Western Canadian Reserve Indians Since Treaty 7, Ian A.L. Getty and Donald B Smith, eds. (Vancouver: University of British Columbia Press. 1978.) p.49

<sup>23</sup>Ibid., p.53

between Aboriginal people and contemporary politics, economics, and contemporary culture. The first step in such a process involves uncovering the basic elements of cultural revitalization and identity formation among the First Nations population. In North America, Joane Nagel has observed that "Indian country abounds with instances of political reorganization, linguistic revitalization, membership growth and cultural revival."<sup>24</sup> She argues that this revival has not been the result of economic growth but, rather, the opposite. Attempts to deal with poverty and the destructive consequences of this condition have resulted in the creation of a healing dynamic that reaches across cultural, social and political spaces.

In tandem with this cultural revitalization which Nagel has proposed, there has been a move to deconstruct the political identity of North American First Nations. The stereotype of the Indian which has been constructed and maintained by the Indian Act and the underlying belief systems of the nineteenth century that endorsed the notion of the Nation-State, has been found wanting in the latter half of the twentieth century. In her analysis of Red Power, Nagel observed, "Native America is comprised of hundreds of politically distinct, separately recognized communities, as well as a large intertribal urban population with many unique social and cultural institutions and practices and its own set of political issues and interests."<sup>25</sup> Yet, the habit of treating First Nations

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<sup>24</sup>Joanne Nagel, American Indian Ethnic Revival: Red Power And The Resurgence Of Identity And Culture (New York: Oxford University Press. 1994) p.410

<sup>25</sup>Ibid., p.7

peoples as one entity is a long established tradition within Canada.<sup>26</sup> Nagel argued that this approach is inadequate for many reasons. One of the most prominent is the fact that it is improper to use the term 'ethnic group' when discussing Aboriginal political issues, for it both denies the historical link to sovereignty and nationhood which First Nations have attempted to maintain, and places Aboriginal peoples on par with other immigrant groups. Nagel observed:

Until 1960, it would not have been proper to have discussed the American Indian in the context of American minorities because few Indians saw themselves as a minority within American society. As Indians became more familiar with the world outside the reservation, there is no question that they began to see themselves as another minority group within American society.<sup>27</sup>

While identification with being a minority group has occurred among Aboriginal people, Nagel is mindful of the adaptability of identity to changing circumstances. She contends that, "Indian ethnic boundaries and identities are continually socially constructed and negotiated."<sup>28</sup> While Nagel has argued that First Nations revitalization is characterized by increased identification, cultural renaissance, organization growth, and political activism, she also proposed that this renewal is the direct result of a reaction to educational policies, the enforced use of the English language, and urban relocation. Nagel argued that the 1960's were a

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<sup>26</sup>Ibid., p.8

<sup>27</sup>Ibid., p.9

<sup>28</sup>Ibid.

period of social change, and, "By their own hand, Indian Leaders captured the movement and galvanized native and non-native public attention."<sup>29</sup>

George Manuel, First Nations leader and founder of the Fourth World paradigm argued, "Remaining Indian does not mean wearing a breech-cloth or a buckskin jacket, any more than remaining English means wearing pantaloons, a sword, and a funny hat."<sup>30</sup> For Manuel, maintaining a First Nations identity means that Indigenous peoples,

gain control of the economic and social development of their own communities, within a framework of legal and constitutional guarantees for our land and our institutions. Without those guarantees, our people and our institutions remain in a defensive position, and our only weapon is passive resistance.<sup>31</sup>

Menno Bolt and Anthony Long contextualized Manuel's position, describing how the Department of Indian Affairs, "has functioned as a microcosm of government for reserve Indians by providing a complex of services that other Canadians have received from provincial governments: health care, welfare, education, law enforcement, employment, agriculture, and other services."<sup>32</sup> Manuel stated:

Clearly, we are neither an ethnic group nor a province of Canada. Although there are elements in both models that are useful, neither one will work very well. The imposition of models on those who did not have a hand in the design has been the problem throughout our history.<sup>33</sup>

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<sup>29</sup>Ibid.

<sup>30</sup>George Manuel and Michael Posluns, The Fourth World: An Indian Reality (Ontario:Collier-Macmillan Canada Ltd. 1974) p.220

<sup>31</sup>Ibid.

<sup>32</sup> J. Anthony Long & Menno Boldt,eds., Governments in Conflict? Provinces and Indian Nations in Canada (Toronto: University of Toronto Press. 1988) p.3

<sup>33</sup>Manuel and Posluns, The Fourth World, p.220

There is a very important, though often understated link between identity and history. John Tosh has stated, "history is the collective memory, the storehouse of experience through which people develop a sense of their social identity and future prospects."<sup>34</sup> In a contemporary context, history, with its link to identity formation, plays an important role in fashioning not only the paradigms of contemporary politics but also the political identities of the players involved.

In Canada, history has become a heavily contested terrain. Carl Berger sums up the trends in historiography over this last century:

Professional historians in the early part of the century strove to attain an attitude of detachment and employed archival sources to produce more adequate accounts of the past than nineteenth century writers. In the twenties some younger historians revolted against the constitutional history emphasized by their predecessors and began the exploration of the material realities of the Canadian scene. The forties and fifties witnessed a recoil from the determinism and the anonymity of economic history and a quest for a more humane individualistic past. Since the mid-sixties the heritage of Canadian historical literature has again come under criticism because it did not seem to meet the needs of another generation, who found only partial answers to their questions.<sup>35</sup>

As this passage suggests, the ways of conceptualizing Canadian history has varied throughout the twentieth century. Consequently, the constructs of identity have also varied. In the quest for a common national identity, Berger argues that until recently, historians have been, "unconcerned with the sources of division and disunity insofar as these became subjects for the politics of compromise."<sup>36</sup>

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<sup>34</sup> John Tosh, The Pursuit Of History: Aims, Methods And New Directions In The Study Of Modern History (London: Longman UK Group UK Ltd. 1984) p.1

<sup>35</sup> Carl Berger, The Writing Of Canadian History: Aspects Of English-Canadian Historical Writing: 1900 - 1970 (Toronto: Oxford University Press. 1976) p.262

<sup>36</sup> Ibid., p.263

A re-examination of these paradigms of understanding has had interesting consequences particularly in terms of Aboriginal history.

The historian Jennifer S. Brown argued that ethnohistory, defined as the history of one group of peoples, is founded on, "the crossing of boundaries, of time, of space, of discipline and department, and of perspective, whether ethnic, cultural, or gender based."<sup>37</sup> She proposes that there is a need to understand history as a process that is fluid, adaptive and inclusive of differing identities. Conversely, Michael Bliss has argued that this more privatized view has shifted, "away from political and constitutional history and towards an exploration of the experiences of people in relationships flowing from non-national connections as region, ethnicity, class, family and gender."<sup>38</sup> Essentially Bliss argued that our understandings of Canadian history have become, "introverted to the point of ghettoization." He called for the creation of a national history but, "not at the cost of leaving out those Canadians who were excluded from the old history and whose integration into our historical and national consciousness is the finest achievement of our history writing since the 1960's."<sup>39</sup>

Politically, there are two paradigms that have been applied to the First Nations' experience. The first, known as Social Movement Theory, tends to situate First Nations as ethnic groups functioning within the larger sphere of

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<sup>37</sup> Jennifer S. Brown, "Ethnohistorians: Strange Bedfellows, Kindred Spirits" in Ethnohistory 38:2 (Spring 1991) p.116

<sup>38</sup>Michael Bliss, "Privatizing The Mind: The Sundering Of Canadian History, The Sundering Of Canada" in Journal of Canadian Studies 26:4 (Winter 1991-2) p.6

<sup>39</sup> Ibid., p.16



Canadian politics. Frans Schurmann has defined Social Movement Theory for example as, "the collective attempts within civil society to create new identities and thwart the hegemonic attempts of the mainstream ideology to colonize inner life spaces."<sup>40</sup> Similarly, David Long has proposed that, "social movements are loosely structured social processes through which a collectivity of social actors persists in a struggle to gain and maintain control over the construction of their (and possibly others') social and political identities"<sup>41</sup>

The Social Movement Theory is also an attempt to build upon the framework of the established political-economy paradigm, which emphasizes, in the words of William Carrol, "inequalities of class, region, and nation ... identifying itself with the interests of the dominated."<sup>42</sup> While the political-economy paradigm has established, "the basis for situating collective agency in a structural context,"<sup>43</sup> Carrol contends that one of the flaws of this paradigm is that the language of politics is missing, as are the issues and experiences of the participants. While authors like David Long have used Social Movement Theory as a basis upon which to reflect upon the recent grass-roots political protests of western First Nations, it does not stand up in an analysis of political resistance

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<sup>40</sup> Frans. S Schuurman, ed., Beyond The Impasse: New Directions In Development Theory (London: Zed Books. 1993) p.187

<sup>41</sup> David Long, "Culture, Ideology And Militancy: The Movement Of Native Indians In Canada, 1969-91," in Organizing Dissent: Contemporary Social Movements in Theory and Practice William Carrol.ed (Canada: Garamond Press. 1992) p.118

<sup>42</sup> William Carrol.ed, Organizing Dissent: Contemporary Social Movements in Theory and Practice (Canada: Garamond Press. 1992) p.3

<sup>43</sup>Ibid., p.6

within Atlantic Canada, primarily because, as Carrol stated, the language of politics has been omitted. Furthermore, while this particular paradigm focuses on the importance of identity and the struggle to maintain control over identity within civil society, it does not specifically incorporate concepts of nationhood and sovereignty, which, as Nagel has argued, are fundamental to a comprehensive examination of First Nations political resistance.

The second framework, known as the Fourth World paradigm, is more compatible with an examination of Mi'kmaq political resistance in Eastern Canada. Indeed, this paradigm is international in scope. This view situates Aboriginal peoples in the context of Nations attempting to deal with the effects of the colonial legacy, which in this case means a fight to retain language, culture and expropriated land. According to this framework, "Fourth world peoples are not immigrants but the original inhabitants of lands today that form the territory of nation-states."<sup>44</sup> They are minorities in their own lands and government policy has had a strong impact on their lives. These policies have ranged from genocide to forced assimilation, from segregation to cultural pluralism. There is a persistent struggle as these people fight to stay within their own cultural context. Aboriginal political leaders have consistently called for governments to reconcile demands for special rights and status within the existing institutional and ideological foundations of western thinking. As Noel Dyck has noted, "The post

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<sup>44</sup>Ibid., p.1

war drive for international decolonisation triggered a further rethinking of the appropriate place of aboriginals within liberal democracies."<sup>45</sup>

Augie Fleras and Jean Leonard Elliott defined Aboriginal, Indigenous, or First Nations peoples as, "the existing descendants of those who are commonly thought to be the original inhabitants of a territory, who now occupy an encapsulated status as subordinate members of a larger society, but who continue to identify with a cultural lifestyle at odds with that of the dominant sector."<sup>46</sup> Part of this cultural lifestyle expresses itself politically. As Fleras and Elliott have stated, "not all aboriginal peoples conceded the inevitability of colonial domination of their land and culture. Resistance took many forms, both passive and active, from conventional approaches through societally approved channels such as court challenges and petitions to civil disobedience and armed rebellions."<sup>47</sup> By holding to the stance of 'Nation', Indigenous peoples have attempted to maintain a distinct identity. This identity asserts that there is a special relationship with the dominant state, based on a unique set of entitlements that include an inherent right to self-government and an acknowledgment of sovereignty, as well as outstanding claims to land.<sup>48</sup> Another part of this identity relies on First Nations' representatives who, "know how to talk

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<sup>45</sup>Ibid., p.3

<sup>46</sup>Augie Fleras and Jean Leonard Elliott, The Nations Within: Aboriginal-State Relations In Canada, The United States And New Zealand. (Toronto: Oxford University Press. 1992) p.1

<sup>47</sup>Ibid., p.3

<sup>48</sup>Ibid., p.3

to white people."<sup>49</sup> In a twentieth-century context, this has meant redefining political perceptions and positions.

According to Antony Smith, the redefinition of political identity and the subsequent link to political perceptions has been occurring internationally since the Second World War. Smith deconstructs the idea of the Nation-State, which has long been a linchpin in the ideology of colonization, and argues that it is a misnomer. Instead, he begins with the idea that the world is 'plural', or that few of the populations of the world are homogeneous. It has long been an accepted tenet of western democracy that the 'state' is understood to be a structure of government authority based on sovereignty, and 'nation' is a community of identity. Thus, Nation-State is understood as, "the political community that arises when the legal boundaries of the state coincide with the emotional boundaries of the nation."<sup>50</sup> Smith postulates that, "Ethnic pluralism rather than ethnic homogeneity appears still to be the norm, despite the acceptance of the principle of self-determination."<sup>51</sup> Inevitably, there is a clash between legal and emotional boundaries. For Smith, there are two kinds of political separatism, one territorial (based on boundaries as defined by geography), and the other ethnic (based in differences in culture and a shared sense of cultural distinctiveness)<sup>52</sup> and

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<sup>49</sup> Noel Dyck, "Aboriginal Peoples And Nation-States: An Introduction To The Analytical Issues" in Indigenous Peoples And The Nation State: 'Fourth World' In Canada, Australia and Norway, Noel Dyck, ed. (Newfoundland: Institute of Social and Economic Research. 1985) p.4

<sup>50</sup> Antony Smith, The Ethnic Revival ( New York: Cambridge University Press. 1981) p.12

<sup>51</sup> Ibid.

<sup>52</sup> Ibid., p.15

culture, which has its own myths, customs, language and institutions, is inextricably linked to territory.

Perhaps one of the biggest challenges of the twentieth century is to understand not only the consequences of colonialism, but also the resultant internal colonialism and the uneven spread of capitalism. Internal colonialism is defined:

in part from the studies of Andre Gunder Frank and his followers of the unequal relationship between the economies of Latin America and the West. The former are characterized as 'peripheral' and 'structurally underdeveloped' and their stagnant dependent character is attributed to those exploitive needs of the metropolitan western economies, whose dynamic expansion was fed by the extracted resources and exploited labor of the peripheral territories.<sup>53</sup>

Smith proposes that ethnic revival and the ensuing consciousness of cultural difference has been motivated by economic change.<sup>54</sup> As conditions worsen, ethnic revival occurs. Smith's argument can be successfully applied to Canada. Indeed, much of the study of Canadian identity is linked to region and the interplay of economic prosperity. One of the biggest challenges of the Fourth World paradigm is to examine how identity formation occurs in the face of territorial loss.

It has been argued that there is a stereotype of modern First Nations, which, perhaps unintentionally, "projects an image of today's Indian either as the passive victim of uncontrollable circumstances, or as the passive repository of a

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<sup>53</sup>Ibid., p.30

<sup>54</sup> Ibid., p.38

static aboriginal culture."<sup>55</sup> Adrian Tanner made the point that while European colonialism has been the cause of fundamental changes in the political systems of a large number of Aboriginal populations, there has been limited study of this phenomenon. According to Tanner's 1983 study of ethnopolitics in Canada, "whereas several studies of colonialism itself have been made, there is less conclusive work available on relations between an aboriginal group and the nation-state that emerges out of the colonial ashes."<sup>56</sup> Tanner discusses some of the results of decolonisation, notably, the emergence of political competition between cultural groups. Ethnicity is seen, "as one of a number of kinds of political behaviour that develops under particular conditions of a complex state, and that depends upon the existence of cultural differences that can be used as a symbolic resource in political competition."<sup>57</sup> Thus, the concept of a political identity becomes very important as a negotiation tool, because, as Tanner noted, First Nations "use their ethnicity politically to confront the state itself."<sup>58</sup> Yet, First Nations are not considered to be an ethnic group, nor are they socially or politically integrated into the larger society.<sup>59</sup> Tanner argued that this distinct political identity

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<sup>55</sup>Tord Larsen, "Negotiating Identity: The Micmac of Nova Scotia" in The Politics Of Indianness: Case Studies Of Ethnopolitics In Canada , Adrian Tanner, ed. (Newfoundland: Institute of Social and Economic Research.1983) p.37

<sup>56</sup> Adrian Tanner, "Introduction: Canadian Indians And The Politics Of Dependency" in The Politics Of Indianness: Case Studies Of Native Ethnopolitics In Canada , Adrian Tanner, ed. (Newfoundland: Institute of Social and Economic Research. 1983) p.5

<sup>57</sup> Ibid., p.6

<sup>58</sup> Ibid., p.13

<sup>59</sup> Ibid., p.9

has been created and preserved through the establishment of reserves and a government policy of, "exclusion by discriminatory legislation,"<sup>60</sup> as well as a conscious preference expressed by both sides to remain as a separate entity.

The concept of wardship, expressed through the Indian Act, has also had an impact on the formation of a First Nations political identity. Wardship is premised on the assumption that, "Indians would eventually see that it was to their advantage to leave these communities and become assimilated into the larger national society."<sup>61</sup> On the political front, this has meant that First Nations have had to contend with attempts to destroy pre-contact diplomatic culture and structure, as well as with the installation of the style and format of democratic culture practised by the larger Canadian society. Tanner details the modern-day structures as follows:

The one political sub-unit of Indian administration is the band, which may be superficially compared to a municipality. However, the differences are vast. First, the band has little formal relationship to the government of the province in which it is located, as a municipality does. This is despite the fact that it is the provincial government that controls most of the powers over the area outside the boundaries of reserve land, which surrounds and impinges upon it. Secondly, the band's relationship to the federal government is almost exclusively through one of the lesser departments, the Department of Indian and Northern Affairs (DINA), which has a co-ordinating and gatekeeping function with regard to other federal departments.<sup>62</sup>

Doug Brown argues that there is a huge difference between the indigenous Mi'kmaq political belief system and the contemporary hierarchical band system

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<sup>60</sup> Ibid., p.13

<sup>61</sup> Ibid., p.17

<sup>62</sup> Ibid., p.20

established by the Department of Indian Affairs. He contends that there has been a system failure on reserves. "The present political system is not working," he writes, "because it is in conflict with traditional Mi'kmaq worldviews and values which revolve in part, around egalitarianism and kinship networks."<sup>63</sup> While Brown argues that the Mi'kmaq have survived because of extended family structures and not because of political resistance, he appeared to see the Mi'kmaq people as victims of federal government policy, pointing out that, "The Mi'kmaq once had an egalitarian political system which was both functional and in line with their traditional values and beliefs. The Canadian federal government imposed upon the Mi'kmaq a political system which was not only foreign, but completely opposite to Mi'kmaq ideologies."<sup>64</sup> While this may be true, this line of argument tends to deny the agency of Mi'kmaq leadership in attempting to negotiate difficult political terrain. Tanner has noted for example, that since the 1969 White Paper, First Nations across the country have become powerful voices of opposition. New tactics, such as confrontation, protest, demonstrations, lobbying and the use of the news media have become standard practices. As well, some First Nations organisations are perceived to be a threat to law and order. Tanner supported the idea that agency has been one of the most important factors in the emergence of resistance among First Nations. He underscored the importance of adaptability in

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<sup>63</sup> Doug Brown, "From Traditional Mi'kmaq Government to Now: Changing Those Who did not Need to be Changed" in *Paqtatek: Volume 1 Policy And Consciousness In Mi'kmaq Life*. Stephanie Inglis, Joy Mannette and Stacey Sulewski, eds. (Halifax: Garamond Press. 1991) p.52

<sup>64</sup> *Ibid.*, p.55



First Nations political practices, observing that, "A major change in power relations has been the formation and expansion of regional and national native political associations."<sup>65</sup> However, the place for these organisations in the federal and provincial structure of government is still in the process of being defined.

Thus, in conclusion, a review of literature concerning the Mi'kmaq experience in the twentieth century crosses a number of social and cultural spaces. While there are accounts that examine the economic, legal and historical perspectives of the Mi'kmaq people, study of twentieth century intergovernmental interactions has been limited. Lisa Patterson's examination of Centralization is unique in its examination of relations between policy change and Mi'kmaq response. In order to provide a comprehensive grasp of the meaning of political resistance locally and nationally, western perspectives provide a basis upon which to situate Mi'kmaq resistance as part of the First Nations experience in Canada. The link between history and identity, as well as the political importance of identity formation must be understood in order to legitimize the Fourth World Paradigm. Conceptually, from a political standpoint, communities of First Nations can still be perceived of as tiny islands, separate from and yet surrounded by Canadian society. If Mi'kmaq people are considered in the context of a Nation situated within the Fourth World, by the definitions provided in this chapter, it is possible to see the interplay of identity formation within the history of policy formation concerning Aboriginal people within the Atlantic provinces. It is also possible to demonstrate how both Native and non-Native

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<sup>65</sup> Adrian Tanner. "Introduction: Canadian Indians and the Politics of Dependency, " p.23

politicians have used concepts of ethnicity as justifications for certain political actions. Further, it is possible to illustrate how Mi'kmaq leaders have used the identification with Nation as a means of resisting Indian Affairs policy. The next chapter analyses the development of Indian Affairs and the Indian Act in Nova Scotia, as well as providing a brief discussion of the political values which governed the Mi'kmaq Nation at Confederation. It concludes with an examination of the initial expressions of protest over land encroachment which formed the basis for Mi'kmaq resistance during the latter half of the nineteenth century.

## **Chapter 2**

### **The Grand Council, Indian Affairs and the Indian Act: Attitudes, Values and Political Resistance**

At the turn of the twentieth century, the Grand Council was the governing body of the Mi'kmaq Nation. It is still in existence today, although scholar Leslie Jane McMillan argues its function during the latter half of this century has been more spiritual than political.<sup>1</sup> Indian Affairs on the other hand, was formally consolidated in Ottawa with Confederation in 1867 as the newly independent federal government of Canada assumed responsibility for, "Indians and lands reserved for Indians" under Section 91 (24) of the BNA (British North America) Act. The mandate of Indian Affairs found its expression in the Indian Act, which was passed in 1876. This piece of legislation can be understood as the definitive statement encapsulating the attitudes of government officials towards Aboriginal peoples in Canada. It set the tone for dialogue between the Mi'kmaq Nation and Indian Affairs officials during the twentieth century. Given the argument that within the Fourth World, Aboriginal peoples are minorities in their own lands and that government policy has had a strong impact on their lives, it is necessary to examine both the development of Indian Affairs in Nova Scotia and characteristics of the Mi'kmaq Grand Council.

This chapter is divided into three parts. The first section looks at Indian Affairs in Nova Scotia, discussing how, prior to Confederation, the policy of

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<sup>1</sup>Leslie Jane McMillan, "Mikmawey Mawio'mi: Changing Roles Of The Mi'kmaq Grand Council From The Early Seventeenth Century To The Present" (MA Thesis, Dalhousie University 1997) p.199

Indian Affairs<sup>2</sup> centered upon maintaining relations that were conducive to friendly Mi'kmaq relations, particularly those which were trade related. Once colonial population numbers exceeded those of the Mi'kmaq, Indian Affairs policy changed. The local Assembly, prior to Confederation, adopted a policy which attempted to change the Mi'kmaq people into farmers. After Confederation, Indian Affairs became a federal administrative unit whose mandates were encapsulated in the Indian Act. The second section of this chapter presents an overview of the Mi'kmaq Nation, arguing that Mi'kmaq people met the criteria for being a Nation. The territory of the Mi'kmaq, a brief examination of their world-view prior to contact, their political affiliations, their structure of government, and a discussion of the political values which the Grand Council held, in contrast to Indian Affairs are presented. Finally, the third section of this Chapter presents examples of nineteenth century dialogue between Mi'kmaq leaders and Indian Affairs using government correspondence as well as petitions of the period.

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<sup>2</sup>The term 'Indian Affairs' is used in this chapter to refer to the decisions made by the Nova Scotia Legislative Assembly concerning Mi'kmaq people prior to Confederation in 1867, although, it is understood that until 1841 there was no separate administrative body which dealt exclusively with First Nations Affairs such as existed following Confederation. In Nova Scotia, matters were brought individually to the attention of the Assembly and debated when the House was in session. According to the Journal of the Nova Scotia Legislative Assembly for 1841, a formal committee which dealt exclusively with Mi'kmaq affairs did not come into formal existence until that year with the passage of an act titled, "An Act for the Instruction and Permanent Settlement of Indians." After 1841 there was a five person committee appointed annually until 1867 which was charged with the responsibility of reporting on Mi'kmaq affairs. (see The Journal And Proceedings Of The Nova Scotia House Of Assembly, 1847 (Halifax: 1847))

### ***Indian Affairs and the Indian Act in Nova Scotia***

For the seventeenth and most of the eighteenth century in colonial Nova Scotia, as in other parts of what later became Canada, the original purpose of the Imperial branch of Indian Affairs was to ensure friendly relations and military alliances between First Nations and the British Crown. The nineteenth century witnessed a revision of this mandate. By the 1830's, Indian Affairs was forced to re-invent itself as the requirements of a rapidly developing settler society no longer required military alliances, nor, for that matter, friendly relations with First Nations peoples. Historian Brian Titley has noted that, symbolically, 1830 marked the official shift in relations as responsibility for Indian Affairs passed from the Colonial Office in London, England, to local colonial control.<sup>3</sup> For the next three decades individual local assemblies maintained responsibility for Indian Affairs, although in some places such as Nova Scotia, control had devolved at an earlier date. As Titley commented, "policy from region to region was characterized by pragmatism and *ad hoc* arrangements."<sup>4</sup> With Confederation in 1867, Indian Affairs passed from colonial jurisdiction to federal jurisdiction and underwent a third change which resulted in the passage of the 1876 Indian Act and the establishment of the federal system which is still in place today.

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<sup>3</sup>Brian Titley, A Narrow Vision: Duncan Campbell Scott And The Administration Of Indian Affairs In Canada (Vancouver: University of British Columbia Press. 1986) p.2

In his analysis of Mi'kmaq relations from 1713 to 1867, L.F.S. Upton made the point that the relationship between the English and the Mi'kmaq was tenuous until 1732. English presence in Nova Scotia was limited to a fort at Annapolis and a fishing station at Canso. The survival of English interests in the area rested with the good will of the Mi'kmaq.<sup>5</sup> Scholars Emerson Baker and John Reid observed that during the seventeenth century in Atlantic Canada, "English and French claims rivaled one another but where the actual grip of either power on the territory was feeble and depended upon aboriginal sufferance."<sup>6</sup> Mi'kmaq relations with the English were sweetened with the establishment of the Covenant Chain, a series of treaties which spanned the 1700's. John Reid stated that at this point, the English-Mi'kmaq relationship was, "non-coercive, based on consent and agreement."<sup>7</sup> Truckhouses, or trading houses, offering favorable terms of trade, were used as political tools to cement a Mi'kmaq alliance. According to Upton, Truckhouses, "were set up with the full knowledge that losses might be incurred, but such losses were less costly than the expense of fighting the Indians or giving them goods for nothing."<sup>8</sup>

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<sup>4</sup>Ibid., p.1

<sup>5</sup>L.F.S. Upton, Micmacs And Colonists: Indian White Relations In The Maritimes 1713 - 1867 (Vancouver: University of British Columbia Press. 1979) p.45

<sup>6</sup> Emerson W. Baker and John G. Reid, *"As Good Or Better English Men Than The Collector Is": Sir William Phips And The Connotations Of Allegiance, Espionage, And Rebellion In Northeastern North America, 1690-1694"* (Unpublished paper presented at Dalhousie University, 1996) p.10

<sup>7</sup>Ibid., p.45

<sup>8</sup>L.F.S Upton, Micmacs And Colonists: Indian White Relations In The Maritimes 1713 - 1867, p.63

In 1749, Halifax was established and six years later, the Acadian Expulsion had begun. By 1763, the French presence in the area had been overcome. Two decades later, the influx of Loyalists tipped the population balance in favor of the English, as, "the arrival of the Loyalists completed Britain's conquest of Acadia."<sup>9</sup> As the population of the settler societies grew during the 1800's, concern with Mi'kmaq relations declined accordingly. In 1775 there had been a non-native population of approximately 20,000 but by the end of the century there were some 75,000 to 80,000 settlers, an increase of over four hundred percent.<sup>10</sup> As Adrian Tanner observed, "Over the long term, one of the factors that most influenced the changes in postcolonial political relations appears, with hindsight, to have been population balance."<sup>11</sup> Upton further described how dispossession of the Mi'kmaq occurred rapidly after this point; "the spread of settlement showed that the Indians were accorded no rights to the land but that they were expected to follow the white man's practice of petitioning for grants."<sup>12</sup>

In 1783, the office of Superintendency of Indian Affairs, established and maintained by the Imperial Government, was officially disbanded after it was

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<sup>9</sup> Ibid., p.81

<sup>10</sup>William Wicken and John G. Reid, "An Overview Of The 18th Century Treaties Signed Between The Mi'kmaq And Wuastukwiuk Peoples And The English Crown " (A Report submitted to Land and Economy Royal Commission on Aboriginal Peoples. October, 1993) p.160

<sup>11</sup>Adrian Tanner, "Introduction: Canadian Indians And The Politics of Dependency" in The Politics Of Indianness: Case Studies Of Ethnopolitics In Canada. Adrian Tanner, ed. (Newfoundland: Institute of Social and Economic Research. 1983) p.5

<sup>12</sup>L.F.S Upton, Micmacs And Colonists: Indian White Relations In The Maritimes 1713 - 1867 p.82



involved in granting eight groups of Mi'kmaq plots of land. The position was revived briefly in 1793, and again in 1804; however, the suffering of the Mi'kmaq, caused by the effects of settlement, was so severe that a 1800 Joint Committee of Assembly and Council was formed to devise solutions. The Committee found that, "The only solution was to make them over into farmers, 'useful members of society'. This could be accomplished by offering aid to those who would settle and withholding it from those who would not."<sup>13</sup> Failure to set aside lands, or adequately survey the land, guaranteed the project would be a failure. In 1820, Lieutenant-Governor Lord Dalhousie proposed, "the establishment of a reserve in each county not to exceed one thousand acres to be held in trust to those disposed to settle."<sup>14</sup> By the 1830's reserves existed in name but the policy of settlement had collapsed.

Upton argues that another component in the failure of Mi'kmaq settlement was the behaviour of the settlers themselves:

They were accustomed to squatting where they pleased on crown lands and making their peace with the authorities sooner, or, preferably later. They saw no reason to treat Indian lands any differently and assumed the government would take an equally indulgent view of their presence on them. <sup>15</sup>

The Assembly generally did. Attempts to evict squatters were halfhearted because funds were not available to enforce convictions. Beginning in 1827, the

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<sup>13</sup>Ibid., p.85

<sup>14</sup>Ibid., p.87

<sup>15</sup>Ibid.

local Assembly granted an annual sum of 100 to 150 pounds a year for Indian relief which was to be spent at the discretion of the Lieutenant Governor. In 1838, Joseph Howe, in the capacity of Indian Commissioner, began to grant hundred-acre lots to Mi'kmaq families interested in farming. By 1840 there were two administrative Indian Affairs positions in existence; the Commissioner of Indian Reserves created to supervise Mi'kmaq settlement and the Indian Commissioner, whose role was to distribute relief where necessary. In 1862 the two positions were amalgamated. According to Upton, the last words of the Assembly concerning the Mi'kmaq prior to Confederation were; "if they do not avail themselves of the advantages thus offered, it is owing to their own nature and habits."<sup>16</sup>

Prior to Confederation, the administration of Indian Affairs had been a haphazard affair with no uniform policy. After Confederation, the structure of administration in Nova Scotia was divided into nineteen part-time administrative units headed by Indian Agents. These agents:

were usually local farmers, physicians, or clergy who only attended Indian Affairs on a part-time basis. The native population by this time was so small that it posed no threat to the dominant society. Thus Ottawa tended to ignore it and concentrated its efforts instead on the Indians of British Columbia and the Prairies who were not just a majority in their respective regions, but were also viewed with a certain apprehension.<sup>17</sup>

In 1867, Indian Affairs was tagged to the federal Department of the Secretary of State, and then again in 1873 it was transferred to the Department of the Interior.

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<sup>16</sup>Ibid., p.97

<sup>17</sup>Adrian Tanner,"Introduction: Canadian Indians And The Politics Of Dependency," p.9

Structurally, Indian Affairs was elevated from the status of Branch to Department in 1880 which lasted until 1931. Under the Department of the Interior it was reorganized into two sections, inside administration (which concentrated on the internal running of headquarters within Ottawa), and outside administration (which included all employees such as Indian Agents, Regional Inspectors and others, who lived in closer proximity to First Nations in other parts of the country). At the same time, the role of Deputy Superintendent General was given effective decision-making power.<sup>18</sup> One year later, in 1881, Indian Agents were designated Justices of the Peace. Indian Affairs was then appended to the Department of Mines and Resources from 1941 to 1946. From 1951 until 1966 it was made part of the Department of Citizenship and Immigration. For one year it was shuffled to the Department of Northern Affairs and Natural resources where it was then amalgamated into the Department of Indian Affairs and Northern Development, where it remains at present.<sup>19</sup>

In his examination of Indian Affairs policy in Canada, Noel Dyck has argued that there was an economic motive behind the establishment of the Department of Indian Affairs. In the wake of European colonization, First Nations peoples were alienated from lands and resources. The system of 'tutelage' was seen as, "good economic sense to the colonial state, insofar as it provided a

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<sup>18</sup>Brian Titley, A Narrow Vision: Duncan Campbell Scott And The Administration Of Indian Affairs In Canada, p.13

<sup>19</sup>Murdena Marshall, "Mi'kmawawi'skwaq Influence In Aboriginal Government: Complimentary Organizational Or Electoral Equality?" (A Report for the Social Sciences and Humanities Research Council of Canada. 1996) p.13

relatively effective and inexpensive means of mediating the transfer of Indian lands to Euro-Canadian settlers."<sup>20</sup> Canada was designed to be a settler society with First Nations people comprising a tiny, and for the most part economically inconsequential, segment of the overall population. Dyck also postulated that with Confederation the formation of a Canadian identity became paramount as, "Canadian leaders were not so much concerned to disadvantage Indians as to build a civil society within Canada which reflected their own interests and values."<sup>21</sup>

As Brian Titley has stated, when the newly minted federal government was formulating its Indian policy, it drew heavily from the policy in place in Upper and Lower Canada.<sup>22</sup> When complete, the Act, "was designed to protect the Indian until they acquired the trappings of white civilization. At this point they were supposed to abandon their reserves and their special status and disappear into the general population."<sup>23</sup> This was known as the wardship principle and, as Adrian Tanner argues, the Act, "was for the protection of the colonized from the colonizers."<sup>24</sup> Its effect was to give First Nations a distinctive and more restrictive legal status and a more centralized administrative system than the rest of the

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<sup>20</sup>Noel Dyck, What Is The Indian 'Problem': Tutelage And Resistance In Canadian Indian Administration (St. John's: The Institute of social and Economic Research, Memorial University of Newfoundland, 1991) p.29

<sup>21</sup>Ibid., p.51

<sup>22</sup> Brian Titley, A Narrow Vision: Duncan Campbell Scott And The Administration Of Indian Affairs In Canada , p.1

<sup>23</sup>Ibid., p.13

<sup>24</sup>Adrian Tanner, "Introduction: Canadian Indians And The Politics Of Dependency" , p.3

population. Once Indian Administration was passed over to civil administrators there was less concern for political representation of First Nations; rather the main concern was to change them.<sup>25</sup> Indeed, as Noel Dyck has observed, for most of the twentieth century, resistance to the policy of assimilation has been interpreted by Canadians, "as [a] further sign of their [First Nations'] confusion and inability to know what is best for them."<sup>26</sup> John Leslie and Ron Macguire add that the Indian Act also reflected the interest of an expanding frontier society:

[The] Emphasis on enfranchisement as a kind of reward for Indian acceptance of civic responsibility as serious citizens typified the 19th century belief in progress. "White" society regarded development of local government as a mark of progress and encouraged Indians to adopt the democratic electoral process.<sup>27</sup>

When the Indian Act was passed in 1876, it, "coincided with the extension of federal government jurisdiction, first to the Maritimes and then to the West."<sup>28</sup> The purpose of the Act was to provide a legislative framework so that Indian policy could be implemented evenly. It also ensured that administrators had a considerable amount of power.

One of the mandates of Indian Affairs was to quell opposition to assimilation. Much opposition had come from tribal governments. Therefore, the elimination of these voices was a political necessity if assimilation was to occur.

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<sup>25</sup> Ibid., p.16

<sup>26</sup> Ibid., p.27

<sup>27</sup> John Leslie and Ron Macguire, The Historical Development Of The Indian Act 2nd.ed. (Canada: Treaties and Historical Research Center, Research Branch, Corporate Policy: Department of Indian and Northern Affairs, 1979) p.51

<sup>28</sup> Ibid.

This intent was made policy in the Indian Act, notably through the inclusion of Clauses 61 to 63. Implementation of these clauses replaced Aboriginal structures of government with a generic Western-style structure. Derived from the Enfranchisement Act of 1869, which had been part of the Canadas' legislation, these clauses provided for local government through the election of one Chief for every thirty members, or one Chief and two councillors for every two hundred people.<sup>29</sup> Elected for either a two- or three-year term by male band members over the age of 21, Chiefs and Councillors were, under the terms of the Indian Act, allotted the tasks of road and bridge maintenance, construction and repair of schools and other public buildings on reserve lands, as well as control over the granting of lots of land. They were also charged with suppressing intemperance. In 1880, the elected Band Councils were granted permission to control noxious weeds and given the ability to fine.<sup>30</sup> The Act also stated that, although the term of office was an elected one for a certain period of time, the Governor-in-Council could depose the Chief or band council members for dishonesty, intemperance, immorality, or incompetence. The basic framework of the Act remained intact until 1951.<sup>31</sup> Interestingly, the power of the Governor-in-Council was granted because, "The majority of Indian people were ill-prepared or

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<sup>29</sup>John Leslie and Ron Macguire, The Historical Development Of The Indian Act , p.65

<sup>30</sup>Ibid., p.78

<sup>31</sup>Ibid., p.79

hesitant to adopt any form of local government which threatened to destroy their local tribal system."<sup>32</sup>

From 1900 until 1912, Canada's total population increased by almost 35 percent although most immigrants travelled westward. Subsequent amendments to the Indian Act were designed to accommodate these shifts. In 1927, Indian legislation was again consolidated; however, attention quickly focused on the effects of the world economic depression which continued until the Second World War. In the 1920's, two amendments were passed which stirred opposition. One amendment was Bill 14, passed March in 1920, which allowed for involuntary enfranchisement, and the other was the passage of the Migratory Birds Act. This Act was designed to restrict hunting seasons and attempted to institute provincial legislation. As Titley states, "the fact that the restrictions violated promises made in the treaties was a source of considerable dissent among the Indians."<sup>33</sup> In 1927, organized resistance to these changes was hampered by an amendment which forbade the raising of funds for lawyers by Indians for claims against the government which were not expressly approved by the Department of Indian Affairs.

In the 1930's, "Indian Affairs policy wavered between immediate Indian integration with Canadian society and encouragement of self-sufficiency and

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<sup>32</sup>Ibid., p. 90

<sup>33</sup>Brian Titley, A Narrow Vision: Duncan Campbell Scott And The Administration Of Indian Affairs In Canada , p.52

gradual enfranchisement."<sup>34</sup> Accordingly, by 1938 it was recognized that the amendments were still not sufficient and revisions of the Indian Act began, "The revision process was impeded by the Second World War, but it resumed in 1946 with renewed public and government interest in social matters."<sup>35</sup> In 1951, the Indian Act was amended again, and, as discussed in Chapter Four, had a direct impact upon Mi'kmaq systems of government.

### ***The Mi'kmaq Nation***

Originally, Mi'kmaq territory comprised over 50,000 square miles. It consisted of what is now the Magdalen Islands, Cape Breton, Nova Scotia, Prince Edward Island, the eastern coast of New Brunswick and the Gaspé Peninsula.<sup>36</sup> Southern Newfoundland has also been included as Mi'kmaq territory; however, there has been some contention as to when this occurred.<sup>37</sup> Structurally, the Mi'kmaq Nation maintained a complex political system which

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<sup>34</sup>Leslie and Macguire, The Historical Development Of The Indian Act , p.122

<sup>35</sup>Ibid., p.122

<sup>36</sup> William Wicken and John Reid, "An Overview Of The Eighteenth Century Treaties Signed Between The Mi'kmaq And Wuastukwiuk Peoples And The British Crown, 1725-1928" (A Report Submitted to the Land and Economy Royal Commission on Aboriginal Peoples October, 1993) p.2

<sup>37</sup>Ralph T. Pastore, The Newfoundland Micmacs (Newfoundland: [St. John's] Newfoundland Historical Society, Pamphlet No. 5. 1978) p.10 Pastore contends that the current oral tradition, which state that the Mi'kmaq had been coming to the island since the 15th century is probably erroneous. The earliest record of Mi'kmaq travel to Newfoundland is 1602. While it is certain that they knew of Newfoundland, Pastore argues that pre-Columbian Aboriginal populations tended to be in balance with food supplies. Given the fact that it was difficult to travel in a canoe, Pastore contends that little other than a scarcity of food would have compelled the Mi'kmaq to make such a hazardous voyage, as well, there is no archaeological evidence to support the criteria that the Mi'kmaq resided in Newfoundland before the 16th century. At this point they had sturdy shallops which were capable of making such a voyage.



was old before the arrival of the Europeans. It spanned the entire land base, maintained by a political culture which involved a web of interpersonal connections renewed on a periodic basis with gifts and alliances.

In their description of the political structure of the Mi'kmaq Nation, Grand Chief Donald Marshall, Grand Captain Alex Denny, and Putus Simon Marshall recounted how oral tradition describes a six-hundred-year-old organization formed as a result of Haudenosaunee (the western Iroquois Confederacy) intrusions into Mi'kmaq territory which led to the creation of the seven districts.<sup>38</sup> In 1875, scholar Silas Rand recorded the names of these districts and their meanings. He noted that each district had its own chief, but the Chief of Cape Breton was looked upon as the head of the whole. "To his right stretch away three districts with their chiefs. viz. Pictou, Memramcook, and Restigouche; and the same number to the left, viz: Eskegawaage, (from Canso to Halifax), Shubenakadie, and Annapolis, which reaches Yarmouth."<sup>39</sup> These districts were formed for the purposes of defense, and were organized into clans (wikamow) which were led by a chief, or sakamaw, a sa'ya (spiritual leader) and keptin (war leader). Together they formed a national council known as the Sante Mawomi, the Grand Council, or Holy Gathering. This gathering was also known as "Awitikatititik" or, "many families in one house."<sup>40</sup> Symbolically this organization

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<sup>38</sup>Grand Chief Donald Marshall. Sr., Grand Captain Alexander Denny, Putus Simon Marshall of the Executive of the Grand Council of the Mi'kmaq Nation, "The Covenant Chain" in Drumbeat : Anger And Renewal In Indian Country. Boyce Richardson, ed. (Toronto: Summerhill Press. 1989) p.75

<sup>39</sup>Silas Rand, A First Reading Book In The Micmac Language: Comprising The Micmac Numerals, And The Names Of The Different Kinds Of Beasts, Birds, Fishes, Trees &c. Of The Maritime Provinces Of Canada. Also Some Of The Indian Names Of Places, And Many Familiar Words And Phrases, Translated Literally Into English. (Halifax: Nova Scotia Printing Company. 1875) p.81

<sup>40</sup>Grand Chief Donald Marshall. Sr., Grand Captain Alexander Denny, Putus Simon Marshall of the Executive of the Grand Council of the Mi'kmaq Nation, "The Covenant Chain, " p.76

was represented as a ring of seven hills representing the seven districts, with seven crosses representing the seven chiefs surrounding the sun and moon which together represented Niskam, or the Creator.

Within each district each sakamaw, traditionally the eldest son of a powerful family who acted with a group of elders, resolved disputes and decided where families would hunt. Within the community, decisions were made on the basis of consensus. According to Mi'kmaq scholar Marie Battiste, there were special qualities which were looked for in a leader:

These people who possessed the Big Hearts and followed the correct path were given the ability to communicate with the shadow soul of the forest and of the stream. They provided for others by hunting and fishing or by teaching others some of their gifts. They became the leaders of the families and clan, and later, of the Council and of the Nation.<sup>41</sup>

Generosity, superior warring ability, and, sometimes, the possession of supernatural powers (bouin) made these chiefs formidable and a chief's power often depended upon his capacity to provide.<sup>42</sup> Leadership also often transcended local matters and took on a significance that was both spiritual and political in scope:

To lead the Mi'kmaq along the good path in their domestic relations and to advocate their interests in foreign affairs, the Creator is said to have endowed a few of each generation with special knowledge of the woodlands and the ocean, and with the concerns of the spirit. Long before memory, these people of wisdom and responsibility joined together in one body, the Mawiomi or 'sacred gathering'.<sup>43</sup>

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<sup>41</sup>Marie Battiste, "A History Of The Grand Council To 1800" (Unpublished paper presented at U.C.C.B. 1992) p.1

<sup>42</sup> Leslie Jane McMillan, "Mikmawey Mawio'mi: Changing Roles Of The Mi'kmaq Grand Council From The Early Seventeenth Century To The Present.", p.39

<sup>43</sup>Murdena Marshall, "Mi'kmawawi'skwaq Influence In Aboriginal Government: Complimentary Organizational Or Electoral Equality?", p.16

This body was known as the "Sante Mawiomi wijit Mikmaq" by the Mi'kmaq, the "Grand Council" by the Jesuit emissaries of the Holy See, and the "Mickmack Nation" by the officers of the British Crown.<sup>44</sup> An important point to consider as scholar Murdena Marshall has noted is that, "the authority of the Mi'kmaq government is and always has been spiritual, persuasive, and noncoercive."<sup>45</sup> Their mode of government, as author Doug Brown has indicated, was egalitarian, a "system which was both functional and in line with their traditional values and beliefs."<sup>46</sup>

Later, the Mi'kmaq were also tied to an external alliance system known as the Wabanaki Confederacy, which included the neighboring peoples of the Maliseet, the Penobscot, the Passamaquoddy, and other Abenaki people.<sup>47</sup> As Ralph Pastore observed, "By contemporary European standards, the Micmacs were very lightly governed. The smallest political unit was the summer village which reached its decisions through consensus of all of the heads of its families. Such a decision would empower a local or band chief to lead his people along the path chosen."<sup>48</sup> Interestingly, Pastore contended that the political structure of the Mi'kmaq should not be taken too seriously because, "It does not seem to

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<sup>44</sup>Ibid., p.16

<sup>45</sup>Ibid., p.17

<sup>46</sup>Doug Brown, "From Traditional Mi'kmaq Government To Now: Changing Those Who Did Not Need To Be Changed" in Paqtatek: Volume 1 Policy And Consciousness In Mi'kmaq Life. , eds. Stephanie Inglis, Joy Mannette and Stacey Sulewski, (Halifax: Garamond Press. 1991) p.52

<sup>47</sup>Grand Chief Donald Marshall. Sr., Grand Captain Alexander Denny, Putus Simon Marshall of the Executive of the Grand Council of the Mi'kmaq Nation, *The Covenant Chain* .p.76

<sup>48</sup>Ralph T. Pastore, The Newfoundland Micmacs p.3

have functioned all of the time, nor always in such a definite form."<sup>49</sup> Indeed, other historians have gone so far as to argue that the Grand Council may not have come into existence until the eighteenth century.<sup>50</sup> Yet this view is suspect because it contradicts contemporary Mi'kmaq scholars, and appears to be based on an acceptance of a more European definition of political structure and power. Murdena Marshall has argued for example that, "In Eurocentric thought, power is the capacity to command, to subordinate the wills of others to one's own will. The exercise of power, which men almost always held, was called authority."<sup>51</sup> She states categorically however that, "No similar Eurocentric notion of "power" exists in Mi'kmaq thought."<sup>52</sup> Prior to the introduction of Christianity, Pastore discusses how the Mi'kmaq believed that the Creator had brought the universe into being and had given all things a soul.<sup>53</sup> Often, the spirit world met the mortal world and,

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<sup>49</sup>Ibid., p.3

<sup>50</sup>Stephen E. Patterson, "Indian-White Relations In Nova Scotia, 1749-61: A Study In Political Interaction" in *Acadiensis* , vol.XXIII., No. 1 (Autumn 1993) p.27. Stephen Patterson argues that the Grand Council did not come into being until the collapse of French power in Canada, or perhaps as a result of this collapse. In contrast, William Wicken (see William Wicken and John Reid, "An Overview of the Eighteenth Century Treaties Signed Between The Mi'kmaq And Wuastukwiuk Peoples And The British Crown, 1725-1928" (A report submitted to the Land and Economy Royal Commission on Aboriginal Peoples October, 1993. p.35) ) posits that this view is suspect because it is based on the assumption that because the Grand Council was first mentioned in 18th century documentation it did not exist prior to this date.

<sup>51</sup>Murdena Marshall, *Mi'kmawawi'skwaq Influence In Aboriginal Government: Complimentary Organizational Or Electoral Equality?* (A Report for the Social Sciences and Humanities Research Council of Canada. 1996) p.8

<sup>52</sup>Ibid.

<sup>53</sup>Ralph T. Pastore, *The Newfoundland Micmacs* , p.6

the Mi'kmaq had shamans, both male and female who mediated between the supernatural and the mundane with considerable power.<sup>54</sup>

In order to comprehend the nature of the Grand Council it is necessary to understand how the Mi'kmaq lived prior to settlement on reserves. As historian Robert M. Leavitt observed, "For the Micmac people, government, politics, economy and spirituality are all united,"<sup>55</sup> and this unity corresponded to the mind, heart, body, spirit - a notion fundamental to the Micmac way of life. In keeping with this ideology, in English, the word Mi'kmaq translates to "my kin relations."<sup>56</sup> Mi'kmaq culture was oriented on the basis of sharing belongings rather than accumulating them.<sup>57</sup> Hence, the ability to provide and to share were the initial components of Mi'kmaq survival and can be understood to be the foundations of Mi'kmaq political culture. These values were also the main criteria of selection for members of the Grand Council.

In a discussion of Mi'kmaq conceptions of power over the past two centuries, Jennifer Reid proposed that there are two virtually irreconcilable conceptions of what constitutes power present in the relationship between the Mi'kmaq nation and the government of Canada. Accordingly,

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<sup>54</sup>Ibid.

<sup>55</sup>Robert M. Leavitt, Maliseet & Micmac: First Nations Of The Maritimes, ( New Brunswick: New Ireland Press. 1995) p.272

<sup>56</sup>Fred Wien, Rebuilding The Economic Base Of Indian Communities: The Micmac In Nova Scotia. (Quebec: The Institute for Research and Public Policy, 1986) p.28

<sup>57</sup>Ibid., p.8

throughout these two centuries, whites have derived the power to ascribe meaning to our world from acts of violence, thereby affording such acts what might be regarded as sacred significance. Challenged by this conception of power, the Mi'kmaq have generally refused to legitimize it, consistently experiencing the sacred within arenas that contain the potential for frustrating violent modalities of power.<sup>58</sup>

Thus, the definition of power for one side lies in the ability to perpetuate coercion; for the other, power is considered to lie in ways of circumventing it. The implications of this argument have important ramifications in terms of identity formation. As Reid considered, "If it is power that provides the means by which we make our own meanings, then it is from our relationship with what is sacred that we derive power."<sup>59</sup> For the Mi'kmaq people, language, and verbal communication have been considered sacred.<sup>60</sup> In the 19th century, for example, verbal exchange constituted a primary mode by which authority within the Mi'kmaq community was legitimated.<sup>61</sup> Reid argued too that discourse was the main means during this period by which the Mi'kmaq attempted to counter colonial assault and to assert a separate identity. In this way, the eighteenth-century treaty relationship takes on special meaning during the nineteenth and twentieth centuries: "The belief that the Covenant chain established inalienable hunting and fishing rights has remained resolute throughout this century."<sup>62</sup>

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<sup>58</sup>Jennifer Reid, "Language And Violence: Mi'kmaq And White Conceptions Of Power During The Past Two Centuries" (unpublished paper. University of Maine) p.18

<sup>59</sup>Ibid., p.2

<sup>60</sup>Ibid., p.3

<sup>61</sup>Ibid., p. 5

<sup>62</sup>Ibid.

The styles of social and political culture expressed by the Mi'kmaq through their living patterns were, in part, the result of a subsistence economy which centered on the rise and fall of the seasons. The Mi'kmaq originally met in summer villages to hunt, fish and gather. During the winter months, these camps broke as hunters moved inland to pursue game.<sup>63</sup> Social, and by implication, political culture became cyclical in nature with an emphasis on gatherings held during the summer months. Therefore, annual events, like the St. Anne's mission held in Chapel Island held in the summer became important to the continuation of the Grand Council and the maintenance of Mi'kmaq culture. Indeed, as Janet Chute argues, the annual mission of St. Anne had as much to do with Mi'kmaq conceptions of power as it did Catholicism. "Throughout the last 200 years," she notes, "St. Anne's has provided a forum in which Micmac leadership could discuss and promote exclusively Micmac goals and aspirations."<sup>64</sup> It was a time when chief and councillors were selected, when internal disputes were settled and revenues distributed. It was also a time for marriages and baptisms. Until the 1930's the Grand Chief recited the treaties made with the British government and presided over the public acclamation of new captains at this gathering. As late as the 1920's, Chute argues,

the chief hosting a St. Anne's celebration was expected to perform a ritual dance within an earthen ring just outside his dwelling. During the mid-19th

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<sup>63</sup>L.F.S. Upton, Micmacs And Colonists: Indian-White Relations In The Maritimes 1713-1867, p.7

<sup>64</sup>Janet Elizabeth Chute, "Ceremony, Social Revitalization And Change: Micmac Leadership And The Annual Festival Of St. Anne," in Papers Of The Forty Third Algonquin Conference. (Summer 1993.) p.45

century the Micmac held that this dance, known as *neskouwadijik*, when performed on St. Anne's Day rendered a chief invulnerable to musket balls.<sup>65</sup>

It was in the context of Catholicism blended with Native religion that the Grand Council functioned.<sup>66</sup> Like Jennifer Reid, Janet Chute has also demonstrated the value of oral presentation in Mi'kmaq political culture as it became a central component of St. Anne's. It was here that chiefs could publicly declare their accountability regarding the interests of the community. As Chute observes, "When charged with improper activities, chiefs had an unusual option, for they could openly declare their integrity and adherence to group goals before the St. Anne's assembly."<sup>67</sup> When a chief's integrity was questioned he was expected to avoid all monetary aid, including humanitarian funding.<sup>68</sup> These annual meetings renewed the relationship between Chief and community annually, and made it difficult for missionaries and government officials to intervene in internal Mi'kmaq political affairs.<sup>69</sup>

The relationship between a chief and his community was such that, "The upper echelons of the Micmac political system only came into operation whenever local chiefs failed to retain community cohesion for their policies, or presumed to exercise authority above that ascribed to their rank in the Micmac

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<sup>65</sup>*Ibid.*, p.50

<sup>66</sup>*Ibid.*, p.56

<sup>67</sup>*Ibid.*

<sup>68</sup>*Ibid.*, p.57

<sup>69</sup>*Ibid.*



political hierarchy.”<sup>70</sup> At the close of St. Anne’s mission in 1928, for example, a private council meeting was held and, “Undoubtedly, the position taken by Grand Chief Gabriel Sylliboy in 1928 regarding native Treaty rights, following the Grand Chief’s apprehension for breaking provincial hunting laws stemmed from attitudes and opinions forged over the years in St. Anne’s Day councils.”<sup>71</sup> As Chute concludes however, by the 1950’s the mission had changed in nature. Business affairs were conducted by band councils while treaty and aboriginal rights were assumed by native regional political organizations. Importantly, though, the Grand Council has continued to function as an agent of spiritual and community cohesion.

There is a link between economic conditions and Mi’kmaq politics which emerges during the nineteenth and twentieth centuries. As the economic conditions of the Mi’kmaq changed so too did the political culture. Fred Wien has identified two economic systems during this period; the first being an early settlement economy which lasted from 1784 to 1867 and the second being the industrial economy which lasted from Confederation until Centralization which was initiated in 1942. Each of these phases demanded a suitable response from Mi’kmaq leadership. According to Wien, the Mi’kmaq were regarded by settlers, “with fear and annoyance, as a hindrance to settlement in the early decades of the [nineteenth] century, and subsequently as a group forever requiring relief

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<sup>70</sup>Ibid.

<sup>71</sup>Ibid., p.58

payments from the public purse.”<sup>72</sup> Land was the main issue of contention as the arrival of large numbers of Loyalists interfered with the Mi'kmaq pattern of subsistence living. European settlements pushed the Mi'kmaq to marginal coastal and interior locations, dams and mills interfered with Mi'kmaq fishing and hunting was negatively affected as animal habitats and food sources were destroyed. Settlers competed directly for the dwindling resources. The Mi'kmaq were perceived as being unable to contribute to this economy.<sup>73</sup> They were marginalized because they were not inclined to give up a nomadic lifestyle.<sup>74</sup>

In the face of resultant hardship the Mi'kmaq attempted to prevent encroachment on their resources through negotiation, which, as previously discussed, was fundamental to Mi'kmaq political culture. L.F.S. Upton ascribed a strength to Mi'kmaq political culture which became apparent in the face of these difficulties as, “the Indians began to develop a leadership that could learn the new ways and bring its own influence to bear on the government.”<sup>75</sup> Upton illustrated the new kind of leadership embodied in the person of Andrew Muise who successfully opposed a bill that would have ended the porpoise hunt in Annapolis. This hunt was a necessary part of the Mi'kmaq economy of the time. Muise subsequently became a chief and a respected member of the Mi'kmaq

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<sup>72</sup>Fred Wien, Rebuilding The Economic Base Of Indian Communities: The Micmac In Nova Scotia p.14

<sup>73</sup>Ibid.

<sup>74</sup>Ibid.. p.16

<sup>75</sup>L.F.S. Upton, Micmacs And Colonists: Indian-White Relations In The Maritimes 1713-1867, p. 88

political community. As Upton explained, the rise and collapse of the Maritime economy affected the lives of Mi'kmaq people far more than the actions of the Department of Indian Affairs.<sup>76</sup> Thus, it must be understood that there was an underlying economic rationale behind much of the Mi'kmaq resistance in the twentieth century. Interestingly, Upton contends that one of the biggest strengths of Mi'kmaq political culture lay in the very fact that there had been such extensive contact with Europeans, "The very gradualness of white penetration into their homeland had allowed them to come to terms with change, to accept what they could use, to reject what they could not."<sup>77</sup> Thus, contemporary Mi'kmaq political culture was founded on kinship ties independent of immigrant society and an integral part of leadership in the Mi'kmaq understanding concentrated on looking after the well-being of members of the community.

According to Leslie J. McMillan's 1997 thesis on the Mi'kmaq Grand Council, the late 1800's may have witnessed a break-down in the Grand Council structure. In the mid-nineteenth century there were reports of two rival Grand Chiefs. In 1856 Jacques-Pierre Peminuit Paul was recognized as Grand Chief at St. Mary's Cathedral on the mainland, while in 1860 there was a petition to the Queen sent by an unnamed Grand Chief in Cape Breton. McMillan surmises that this individual may have been a descendant of Grand Chief Toma Denny, who died in Cape Breton sometime in the latter half of the eighteenth century. In

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<sup>76</sup>Ibid., p.173

<sup>77</sup>Ibid., p.171

1881, John Denny Jr. inherited the chieftainship from his father who was also John Denny, and was the great grandson of the Grand Chief Tomah Dennis[Denys]. Janet Chute perceives this conflict between Paul and Denny as factional infighting rather than a break-down in structure. In any case, Chute suggests that these conflicts would have invariably smoothed over during the next St. Anne's celebrations,<sup>78</sup> John Denny was the last of the hereditary Chiefs. Gabriel Sylliboy was the next to assume the title of Grand Chief in 1918.

McMillan's thesis also discusses how the Grand Council restructured itself to accommodate the needs of the Mi'kmaq people. With the establishment of reserves, local and district chiefs were replaced with reserve captains: "At the beginning of the century, each district selected one captain to represent the district in the Grand Council. As time passed, captains were selected from reserves. There was no explicit set of rules for the selection process."<sup>79</sup> By the turn of the twentieth century the Grand Council consisted of a Grand Chief, Grand Captain, Putus and captains from each reserve from Nova Scotia, New Brunswick, eastern Quebec, Newfoundland and Prince Edward Island. Politically, McMillan contends that the Grand Council appears to have lost power by the middle of the eighteenth century, as a result of an increasing dependence upon European governmental and religious support.<sup>80</sup> However, as suggested in the

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<sup>78</sup>Leslie Jane McMillan, "Mikmawey Mawio'mi: Changing Roles Of The Mi'kmaq Grand Council From The Early Seventeenth Century To The Present", p .57

<sup>79</sup>Ibid., p.91

<sup>80</sup>Ibid., p.90

following chapters, there is evidence available which supports the argument that despite attempts made by Indian Affairs to dismiss the Grand Council as a political relic, it remained active in lending its support to continued Mi'kmaq resistance well into the twentieth century.

### ***Early Interactions between the Grand Council and Indian Affairs***

L.F.S. Upton has made the argument that the written petitions of the late nineteenth century are suspect as historical documents because of the language barrier. These documents may not convey the sentiments of the Mi'kmaq people he argues, but rather, reflect the sentiment of the English authors who wrote them. According to Upton there are two classes of petitions. One category consists of those petitions written by whites on behalf of Mi'kmaq people dealing with specific grievances, and the other consists of those petitions which have totems of chiefs and captains inscribed on them, presenting more general observations about the conditions of Mi'kmaq life. Upton argued that, "None of these sources are particularly reliable, for the Indian of necessity appeared through the white's medium and he was completely in the hands of those who wrote the petitions in English for him."<sup>61</sup> While this may have been true in a number of instances, there appears to be evidence that Mi'kmaq leaders had an understanding of English and were able to use the written word as a medium of

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<sup>61</sup>L.F.S. Upton, Micmacs And Colonists: Indian-White Relations In The Maritimes 1713-1867, p.133

communication, particularly during the latter half of the nineteenth century. Some Mi'kmaq leaders were able to write directly, and, if they could not, were able to find others who would write according to Mi'kmaq wishes. Not all Mi'kmaq were in the hands of those who wrote for them, nor were they in the hands of those who were employed as Indian agents. Also, Upton's classification process can be questioned when Chute's observations regarding the process of intervention of the Grand Council are introduced. Upper echelons of the Micmac political system only came into operation whenever local chiefs failed to retain community cohesion for their policies. Thus, the first category of petitions may contain examples of local Chiefs attempting to speak for local issues, while the second category may, in fact, be extensions of the political process, where district chiefs, together with the Grand Chief met and passed resolutions which backed local grievances.

Correspondence over the issue of land encroachment during the latter half of the nineteenth century, for example, is one area where a pattern of political process can be identified. In Halifax county during the late 1880's, the Lieutenant Governor of Nova Scotia wrote to the Deputy Minister of the Interior in Ottawa informing him that the Head Chief of the Mi'kmaq of Nova Scotia, John Noel, with a number of other Mi'kmaq, had called on him with a letter from the Reverend Charles Underwood, parish priest of Dartmouth, whom he understood to be the agent for that district. The letter stated that Joe Cope had been selected Vice-Chief of the District. The Lieutenant Governor wrote, "I beg to state that following the precedents of my predecessors I have recognized the

appointment."<sup>82</sup> According to department records, Reverend Underwood was not the local agent and Reverend A.P. Desmond was. Subsequent correspondence revealed that Desmond had been bypassed by the Mi'kmaq because of his attempts to meddle in the local elections for Chief. As a result of the Lieutenant-Governor's letter, Desmond received a short order from Ottawa stating, "I have to further inform you that any change in the Chieftainship in your agency should be at once reported by you to the Dept. with full particulars as to the causes of the same."<sup>83</sup> In his reply, Desmond described a leadership campaign between Joseph Cope and Andrew Paul, a Mi'kmaq from Cape Breton. He wondered whether, "the Indian Chief could be elected by the Indians in that locality or if it were necessary to have the Chief to be elected by the Indians of their whole country." He disapproved of Cope, describing him as "rather rough", and ultimately stating that, "I don't think there is any necessity at all for a vice chief." Desmond argued:

I think they don't really know what they are doing half the time - They never permit the interference of a clergyman in the aptmt of chief and [ ] is properly elected Chief in this district. John Noel was never elected Head Chief of the Indians (MicMac) of Nova Scotia. He was appointed chief over Indians of Hants Co. and was deposed in a few months and is nothing now. There is no Head Chief of the Indians of Nova Scotia at present.<sup>84</sup>

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<sup>82</sup>National Archives of Canada (NAC), Indian Affairs, RG 10, volume 2233, file 40,093, Lieutenant Governor to Deputy Minister of Interior, Ottawa, January 7, 1888.

<sup>83</sup>NAC, Indian Affairs, RG 10, volume 2233, file 45, 093, Secretary of Department of Indian Affairs to A.P. Desmond, January 14, 1888.

<sup>84</sup>NAC, Indian Affairs, RG 10, volume 2233, file 45, 093, A.P. Desmond to Secretary of Department of Indian Affairs, January 18, 1888.

Desmond contended that the Lieutenant Governor had been deceived by false representations. What is interesting about these statements is that there appears to have been a tradition of formally acknowledging new Mi'kmaq representatives at the House of Assembly. The rejection of attempts made by Desmond to interfere in this process may imply that Mi'kmaq leaders refused to acknowledge Indian agents in the election process possibly because they did not have the same political status as the Lieutenant-Governor. As well, the rejection of Desmond and the substitution of another priest adds to the argument that the Mi'kmaq would, when finding resistance, simply go elsewhere in order to maintain their political culture.

When necessary, however, Mi'kmaq leaders would argue their case directly. For example, the same Joseph Cope who had been recognized as Chief by the Lieutenant-Governor in the presence of the Grand Chief, wrote letters which protested Desmond's actions. On behalf of the Mi'kmaq living in Halifax county, Chief Joseph Cope wrote to Ottawa, stating that they would not accept the interference of the priest, who in this case was also the agent:

As a priest we love him and would do anything to please him but as an Indian Agent he is rather careless, perhaps too much other work to do. Never have time, only about once a year to pay a short visit to our reserve in fact there is but poor satisfaction for Indians where Agency falls into the hands of a Priest.<sup>85</sup>

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<sup>85</sup>NAC, Indian Affairs, RG 10, volume 2074, file 10, 838 pt.1, Cole Harbour Indian Reserve, March 7, 1888



In response to Desmond's personal dismissal, Cope informed the priest in the capacity of local district chief of Halifax county, "We beg to tell you that we will at any given time contest our case before County Magistrate at Halifax and no other. And contend for our own interests or Rights and against you and your favored Cape Indian Andrew Paul that you are supporting." Desmond was reminded, "for we will never begin to depend upon you to decide or settle our affairs. For we all know and can furnish evidence that you are in favor of those Indians more than the Halifax Co. Indians."<sup>86</sup> At this time Cope was actively lobbying for information concerning the possession of Mi'kmaq property, which could have been reason for the agent to feel threatened.<sup>87</sup> It appeared that Desmond did not take this protest lightly, for Cope complained that Desmond, now functioning in the capacity of Magistrate, was threatening, "what he calls proceedings and telling us we could not elect Chiefs without the approval of the Indian Dept. but we beg to tell him that we did not know."<sup>88</sup> Cope also complained that Desmond had too much power; "he is rather one sided for us to depend on him as magistrate."<sup>89</sup>

The official stance of Indian Affairs regarding elections can be found in a letter dated April 26, 1888. It states, "in the event of an election of Chieftainship

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<sup>86</sup>NAC, Indian Affairs, RG 10, volume 2233, file 45, 093 pt.1 Halifax County Indians to A.P. Desmond, April 15 1888.

<sup>87</sup>NAC, Indian Affairs, RG 10, volume 2074, file 10, 838 pt.1, Chief Joseph Cope to Secretary of Department of Indian Affairs, March 7, 1888.

<sup>88</sup>NAC, Indian Affairs, RG 10, volume 2233, file 45, 093 pt.1. Chief Joseph Cope to Secretary of Department of Indian Affairs, April 10, 1888.

being necessary it should be conducted in accompanience with the rules which have been always observed among the Indians of the county in electing their chief."<sup>90</sup> Thus, while Desmond was attempting to enforce conditions stipulated in the Indian Act, he was not supported by Indian Affairs headquarters in Ottawa. The Department clearly stated that it would abide by the long standing traditions of election within the Mi'kmaq tribal structure. It appeared that at the turn of the twentieth century the Mi'kmaq were in possession of a tribal structure of government which functioned effectively in making the sentiments of the Mi'kmaq people known to government officials, and Mi'kmaq leaders were able, when provoked as Cope was, to voice their opposition to attempts at interference.

Some of the petitions which Upton classed as part of the second category - those which contain the totems of the Chiefs - are important because they contain a thread of political resistance indicative of the kind of political culture of the Mi'kmaq and also deal with issues which are directly relevant to the survival of the people. Not only were local leaders assertive in their views, but they were backed by petitions sent from Chapel Island, the seat of the Grand Council. In Cape Breton, for example, the lands at Malagawatch, Whycogomagh and Middle River were in jeopardy of being lost to encroachment in the mid-nineteenth century. Mi'kmaq chiefs protested directly in writing to political representatives. When these petitions are studied together with Indian Affairs correspondence,

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<sup>89</sup>Ibid.

<sup>90</sup>NAC, Indian Affairs, RG 10, volume 2233, file 45, 093 pt.1 Secretary of Department of Indian Affairs, April 26, 1888.

they take on a significance that may be lost if studied in isolation as there appears to be a particular order to these petitions. Initially, local individuals wrote on behalf of the local Mi'kmaq people. Then, the Chief wrote a petition to the local assembly. This petition usually contained the signature of a priest who functioned in the capacity of author or witness. Finally, a third petition was sent which either originated in Chapel Island, or was signed by a number of Chiefs, which in effect constituted a similar gathering by Mi'kmaq leaders, and one or more priests.

One of the first mentions of Whycogomagh can be found in a petition sent to Sir John Gaspard LeMarchant, the Lieutenant Governor of Nova Scotia, possibly written, and definitely witnessed by the parish priest, L.M McDougall on January 28, 1854 by Chief Peter Googoo, on behalf of himself and seventeen other males. The petition lists the names of the trespassers, concluding that,

If the above are not removed encroachments will continue to be made and we shall soon be without lands. We cannot keep people off. Possession is taken of our property without asking us. We have to state that the Commissioner for Indian Affairs has not done anything to protect us.

The petition requested the removal of the problem, noting that a solution would be to have a commissioner in residence so that order could be maintained. Far from taking a submissive stance as to the selection of Commissioner, the Mi'kmaq stated that they, "will recommend one so soon as you will signify your willingness to appoint one."<sup>91</sup> As the correspondence continued, it appeared

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<sup>91</sup>NAC, Indian Affairs, RG 10, volume 460, Chief Peter Googoo to Sir John Gaspard LeMarchant, Lieutenant Governor, Nova Scotia, January 28, 1854.

from the mention of a letter dated July 11, 1850, that the Mi'kmaq had previously attempted to deal with the encroachments at the local legal level. Stephen Googoo of Whycocomagh went to Sydney and obtained an eviction notice from a lawyer, protesting the encroachments on the land by two Scots. The lawyer, a Mr. James McKeagney, was noted to be a resident of Sydney and a member of the local House of Assembly.<sup>92</sup> Thus, he was not only a legal representative, but also a political figure. This may indicate that the Mi'kmaq were aware of his status within legal and political communities. There were also a number of letters written by settlers themselves which protested encroachment at Whycogomagh on behalf of the Mi'kmaq living there. County courts were used to make complaints known, as illustrated in another piece of correspondence of July 29, 1858 from William James who complained that since the visit of the Lieutenant - Governor to Baddeck ,and, "His Excellency's answer to the Indians petition lately in our County Court House,"<sup>93</sup> there had been several more intrusions.

Eight years later, in 1867, events in Whycogomagh came to a head over a 60-acre tract of reserve land which two men, who are only referred to as Mr. Gillis and Mr. McKinnon, wanted to build a saw mill. Gillis' petition requested access to the land, as did McKinnon. A report from the local Agent dated October 21, 1867, described the outcome. Apparently Gillis had hired a surveyor to look at the land but had been frightened away. A report dated November 21,

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<sup>92</sup>NAC, Indian Affairs, RG 10, volume 460, July 11, 1850

<sup>93</sup>NAC, Indian Affairs, RG 10, volume 460, July 29, 1858

1867, from Gillis' surveyor described the reaction of the Mi'kmaq. He wrote, "I was met by quite a large number of Indians who protested against My [sic] making the survey - They threatened to use violence if I attempted to perform the work. They also threatened to burn any buildings which Gillis might erect." They asserted that the land, "belonged to them and say they will not allow any person to enter upon it without their consent."<sup>94</sup>

To add emphasis to statements to the surveyor, the Whycogomagh Mi'kmaq also wrote a letter of complaint to the Superintendent General of Indian Affairs in Ottawa. In a letter of September 11, 1867, the Mi'kmaq stated that the last surveyor who looked at the lands, "pledged his word on your part as the Government that no further encroachments would be made on our lands if we would continue to live here and improve the lands to the utmost of our means like white people." They added, "We further beg leave to state that it grieves our hearts very much after such trust and confidence in your government that no further encroachments would be tolerated," arguing that if authority over the land was granted they hoped that it would be reversed, "otherwise we will be under the necessity of taking our guns to prevent further encroachments on our lands."<sup>95</sup> Internal correspondence of the Secretary of State dated May 19, 1869, noted that the Mi'kmaq had sent a copy of the September letter, noting their dissatisfaction, to other government departments. The Secretary concluded that

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<sup>94</sup>NAC, Indian Affairs, RG 10, volume 460, James A. Austin, Surveyor to SP Fairbanks, November 21, 1858.

<sup>95</sup>NAC, Indian Affairs, RG 10, volume 460, North Side Whycogomagh Basin to SP Fairbanks, 12 September 1867.

the Mi'kmaq, "object in very strong terms to any disposal of their land, stating at the same time, that they are clearing and planting their property."<sup>96</sup> Although the department denied McKinnon's application, accepting that the Mi'kmaq were attempting to cultivate the land, this incident provides an important avenue for evaluating Mi'kmaq attitudes regarding local land issues.

In Whycogomagh, the local Indian Agent described some of the difficulties he had encountered with the Mi'kmaq, who resisted the latest changes to the Indian Act, which ordered the participation of the Chiefs in accordance with its regulations. He wrote, on 29 April, 1869:

It is very difficult to bring them into the arrangement, but they wish to hold the lands in common and deal with them as they please, selling the wood and hay whenever a purchaser was to be found. It is impossible to persuade them into any System at variance with their accustomed habit.<sup>97</sup>

The Agent expressed frustration with the latest series of amendments to the Indian Act, noting that during the last session of Parliament a clause was passed which required the consent of the Indian Chief regarding land matters. He observed, "I fear as regards the Tribe here it would prove a very unsafe check. The custom heretofore has been for the Commissioner to obtain the fullest information, and then to report all the circumstances to the Government for their decision."<sup>98</sup> He requested that his superior pass judgment, "without reference to a

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<sup>96</sup>NAC, Indian Affairs, RG 10, volume 460, Secretary of State to SP Fairbanks, May 19, 1869.

<sup>97</sup>NAC, Indian Affairs, RG 10, volume 460, Report to Secretary of State, 29 April 1869.

<sup>98</sup>Ibid.

chief."<sup>99</sup> Symbolically, this incident marked the beginning of a shift in Indian Affairs policy. Ottawa would no longer accept a Mi'kmaq governing body, but would henceforth attempt to change this political system through the local Agents.

Perhaps the most compelling reason the local Whycogomagh Indian Agent had for requesting that the department bypass the Chief, was the fact that a majority of Chiefs were united in protesting encroachment. For example, a Chapel Island petition dated July 27, 1869 (barely two months after the latest developments at Whycogomagh) signed by Francis Thomas, Mi'kmaq Chief, and witnessed by the parish priest J. Couteau, stated that it represented some 567 souls. However, "That this number your petitioners believe to be much below the actual number of Indians belonging to the Micmac tribe in Cape Breton,"<sup>100</sup> as more Mi'kmaq were in Newfoundland and Prince Edward Island. Thomas argued that the lands, "allotted to the Tribe are now in an unsatisfactory state much encroached upon by squatters and trespassers yielding no benefit what so ever to the Tribe". He asked that the province, "take measures to secure them all lands reserved for their use in Cape Breton."<sup>101</sup> In order to do this effectively, the petition requested that the initial surveys of the land be used to determine the extent of intrusion and possibly act as a guide for measuring compensation. The

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<sup>99</sup>Ibid.

<sup>100</sup>NAC, Indian Affairs, RG 10, volume 460, Petition of Micmac Indians of Cape Breton in Council. Chapel Island, 27 July 1869.

<sup>101</sup>Ibid.

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During this exchange, it is also possible to see that the larger tribal councils had made their sentiments known in a petition sent to Joseph Howe<sup>104</sup> from Indian Island, July 21, 1871. Interestingly, it was written at the same time of year and in the same district as the Chapel Island petition. The main difference was that it was collectively signed as the representation of the "Chiefs of the Micmac Tribe", namely Chief John Dennis (presumably Grand Chief John Denys Jr. the last of the hereditary Grand Chiefs<sup>105</sup>) and six captains, and further certified by two priests. The council asked for the removal of grievances by which, "We allude to the occupation by white settlers of certain parts of our reserved lands"<sup>106</sup> noted specifically as Whycogomagh, Middle River and Indian Island. These sites are the same ones mentioned by Couteau. Thus, from this series of early correspondence it is possible to demonstrate that Mi'kmaq resistance to the encroachment of lands involved all levels of the Grand Council, which is consonant with the arguments presented by Janet Chute regarding the gradual involvement of progressively larger levels of the Grand Council as dictated by Mi'kmaq political protocol.

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<sup>104</sup>Joseph Howe was elected to the Nova Scotia Legislative Assembly in 1836. He acted as Indian Commissioner from 1841 until 1848. His years in this position undoubtedly acquainted him with many Mi'kmaq Chiefs. In 1871, at the time of this petition, Joseph Howe was functioning in the capacity of Secretary of State for the Provinces and was therefore a political figure of influence in the affairs of Nova Scotia. He had been elected to represent Hants County in the House of Commons in 1867 and was re-elected twice in this capacity. He died in Halifax on June 1, 1873 (see J.K. Johnson ed. The Canadian Directory of Parliament 1867-1967 (Ottawa: Public Archives of Canada. 1968) p.280).

<sup>105</sup>Leslie Jane McMillan, *Mikmawey Mawio'mi: Changing Roles Of The Mi'kmaq Grand Council From The Early Seventeenth Century To The Present*. p.97

<sup>106</sup>NAC, Indian Affairs, RG 10, volume 460, Chiefs of the Micmac Tribe to Joseph Howe, July 21, 1871.

With an understanding of Mi'kmaq political value systems, it is possible to argue that the Mi'kmaq during the nineteenth century were engaging in diplomatic dialogue which was consonant with these beliefs. Delegations of Mi'kmaq chiefs went to England to remind the Queen of the treaty relationship and petitions were sent to ask for her support. One well known example is the letter written by Grand Chief Paussamigh Pemmeenauweet (Louis Paul) asking for her support.<sup>107</sup> That attempts to engage in negotiation were not that successful, is due in large part to the refusal of the federal and provincial governments to listen. The Canadian government had its own agenda for First Nations people. As Jennifer Reid notes, the conception of power in European terms differed significantly from that of the Mi'kmaq, and because the European population was greater, the ability to define identity and policy rested with the immigrant society rather than with the Mi'kmaq. It seemed that the Mi'kmaq had to find other ways of being recognized by federal authorities.

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The Grand Council was the governing body of the Mi'kmaq nation. The Mi'kmaq had a land base, language, and political culture in existence prior to European contact and had maintained political alliances with other First Nations in the area through an intricate diplomatic protocol. With the development of Mi'kmaq political culture, a corresponding set of values was brought into existence. Of particular importance was the understanding of power, and the

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<sup>107</sup>Ruth Whitehead, The Old Man Told Us: Excerpts From Micmac History 1500-1950 (Halifax: Nimbus Publishing Ltd., 1991) p.218

expression of this power through verbal negotiations. In the nineteenth century, negotiation was manifested through petitions and writing that corresponded to the levels of involvement of the political system. One of the largest sources of conflict in the nineteenth century was White encroachment onto reserved lands. As demonstrated in the correspondence concerning Whycogomagh, different levels of the Grand Council became involved when such matters of urgency presented themselves, a practice consonant with the political culture of the Mi'kmaq Nation. In Nova Scotia, Indian Affairs originally developed to ensure friendly relations between the British Crown and the Mi'kmaq. Once a settler society had been established and friendly relations were no longer as important as they had been, Indian Affairs had become the responsibility of the Nova Scotia Legislative Assembly. The Assembly adopted a policy of settlement and created reserves to meet this end. This mandate changed little when Indian Affairs was passed to the federal government at Confederation in 1867. By Confederation it has been shown that the necessary conditions for a relationship focused on change and resistance had been established between the Mi'kmaq and Indian Affairs. The next chapter examines how the Mi'kmaq resisted assimilation during the first half of the twentieth century and began to adapt to the legal system, opting for court challenges over petitions and changing styles of leadership, as embodied in the figure of Ben E. Christmas.

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## **Chapter 3**

**Tenets of Resistance:  
The Kings Road Reserve and the Sylliboy Case.**

Two cases have emerged from the first half of the twentieth century which seem to have captured the essence of Mi'kmaq resistance at this time. On the surface, it appears that the outcome of both cases adds to the argument that the Mi'kmaq were losing the struggle against assimilation by the time Centralization occurred in the 1940's, for, in each incident, the Mi'kmaq apparently lost. Yet, closer inspection reveals that while Indian Affairs policy became more restrictive after each case, (more likely the result of a nationalisation of Indian Affairs policy rather than anything specifically related to the Mi'kmaq), the Mi'kmaq presented a defence which incorporated long standing Mi'kmaq political culture with contemporary court settings. This chapter explores the amendments made to the Indian Act and the links to land surrenders. It also examines the events surrounding the Kings Road Reserve, the Sylliboy case, and the outcome of both cases, and attempts to highlight the tenacity of Mi'kmaq leadership in resisting attempts made by Indian Affairs to control the political process.

The story of the Kings Road Reserve expropriation began in 1907, when a group of fourteen Mi'kmaq families petitioned for a plot of land in the vicinity of North Sydney.<sup>1</sup> According to ethnohistorian Elice Gonzales, Mi'kmaq settlement in North Sydney was partly the result of Mi'kmaq involvement in the developing

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<sup>1</sup>National Archives of Canada (NAC), Indian Affairs, RG 10, volume 3103, file 307,576, Petition to Superintendent General of Indian Affairs from North Sydney, January 21, 1907.

mining industry.<sup>2</sup> The treatment of the Mi'kmaq at North Sydney set the tone for what was to come at Kings Road. The Deputy Superintendent refused the petition to purchase lands stating that there were no funds available. He considered the two existing reserves, namely the Sydney reserve comprising 3.73 acres, and Caribou Marsh, comprising a further 536 acres, sufficient for Mi'kmaq needs.<sup>3</sup>

According to the local agent, D.K. McIntyre, "Indians of Nova Scotia are simply squatters on private land and liable to be told to move away at any time."<sup>4</sup> As for their employment situation, he noted that they lived, "depending principally on work around town,"<sup>5</sup> and described them as a people, "who still love the woods and the camp life."<sup>6</sup> A 1909 report from A.J. Boyd, Inspector of the Maritime Provinces, agreed with McIntyre's findings, observing, "The Majority of them are evidently disposed to move from place to place, and have no desire to occupy fixed dwellings. Consequently, the majority live in cone dwellings." He reported, "I endeavoured to point out to them the folly of not living where they would have an opportunity of pursuing their welfare by building houses for themselves and

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<sup>2</sup>Elice B. Gonzales, Changing Economic Roles for Micmac Men and Women: An Ethnohistorical Analysis (Ottawa: National Museum of Man, Mercury Series No. 72, 1981) p.81

<sup>3</sup>NAC, Indian Affairs, RG 10, volume 3013, file 307, 567, Superintendent General to Deputy Superintendent, January 31, 1907.

<sup>4</sup>NAC, Indian Affairs, RG 10, volume 3103, file 307, 576, D.K. McIntyre to Secretary, March 6, 1907.

<sup>5</sup>Ibid., p.1

<sup>6</sup>Ibid.

cultivating the soil."<sup>7</sup> Contrary to creating more reserved lands in areas beneficial to the Mi'kmaq and accommodating their chosen lifestyle, therefore, Boyd recommended that the group at North Sydney be forcibly moved back to their original reserves, which were Whycogogmah, Malagawatch and Eskasoni. To ensure co-operation, he advised the refusal of relief and medical assistance to those in distress. Land, in his opinion, could not be obtained without paying, "a fancy price for it."<sup>8</sup> The Superintendent endorsed the cost-effective counter-measure suggested by Boyd and agreed to the addition of a housing initiative as a further enticement to take up permanent residence upon a reserve and assume a settled lifestyle.<sup>9</sup>

As Boyd attempted to persuade the Mi'kmaq to move, he was given two responses, blank refusal, or a stated intention to move. Interestingly, he tells of how he had brought the Grand Chief Denny with him, "a man of good common sense and sound judgement" who in Boyd's opinion was "deeply interested in the welfare of his [...] subjects, being anxious for those to reside on the reserves and make permanent homes for themselves, and participate in education."<sup>10</sup> This move clearly backfired, for correspondence revealed that the tribal government had

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<sup>7</sup>NAC, Indian Affairs, RG 10, volume 3103, file 307, 576, Report of AJ Boyd to Deputy Superintendent, June 15, 1909.

<sup>8</sup>Ibid., p.1

<sup>9</sup>NAC, Indian Affairs, RG 10, volume 3103, file 307, 576, Secretary of Indian Affairs to AJ Boyd, June 26, 1909

<sup>10</sup>NAC, Indian Affairs, RG 10, volume 3103, file 307, 576, AJ Boyd to Secretary of Indian Affairs, July 14, 1909

already formed a response to the proposed removal at North Sydney. A letter dated March 8, 1910, from Ottawa noted the receipt of a letter of Feb. 24th, which enclosed a copy of the letter from Chief Joseph Christmas and Councillor John D Paul of the Kings Road reserve. Although the original is not on file, the contents were reviewed, essentially noting that Chief Christmas did not think much of the Department's plan.<sup>11</sup> Boyd ignored the protest and informed the department that he was still encountering resistance. His solution was drastic:

I find no other Indian families willing to move anywhere and I find that there is but one way to get the Indians away from there and that is, to get the owners of the property to prohibit them from settling there. Unless we get the owners of the property to protest, all other efforts will be useless for even if those Indians there now were to be removed, other Indians will come and settle in their place.<sup>12</sup>

The promise of houses was, in Boyd's mind, all that was necessary to overcome Mi'kmaq resistance. Failure to fund this project would result in a loss of faith, which had apparently persuaded three families to move. Funding had to come through, "otherwise it will be useless to deal with them at all."<sup>13</sup> It did not. A memo of November 3, 1910, noted that construction of housing was not authorised "until further funds are voted by Parliament."<sup>14</sup> The Mi'kmaq in North Sydney had also been active in voicing their protest to a North Sydney MP, D.D. McKenzie, who

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<sup>11</sup>NAC, Indian Affairs, RG 10, volume 3013, file 307, 576, unsigned correspondence from Ottawa, March 8, 1910.

<sup>12</sup>NAC, Indian Affairs, RG 10, volume 3013, file 307, 576, AJ Boyd to Secretary, March 8, 1910.

<sup>13</sup>NAC, Indian Affairs, RG 10, volume 3013, file 307, 576, AJ Boyd to Secretary, August 8, 1910.

<sup>14</sup>NAC, Indian Affairs, RG 10, volume 3013, file 307, 576, Secretary to AJ Boyd, November 3, 1910.



regularly wrote to Superintendent Frank Pedley demanding that the Mi'kmaq be given lands and access to education. His last letter was dated November 21, 1910, but once housing was refused, correspondence concerning the North Sydney Mi'kmaq petered off. What happened after 1910 is not revealed in surviving records.

What this case did do was bring Kings Road Mi'kmaq to the attention of Department officials. Once a departmental policy supporting general dispersal had been approved by Ottawa, local officials, predominantly in the person of A.J. Boyd, immediately began looking for ways to further cut costs and bring in revenue for Indian Affairs coffers. While it was decided that it would be unwise to move any of the North Sydney people into the Sydney reserve, it was revealed that local officials considered their reserve too small to accommodate any more people. Not only that, but they foresaw the need eventually to move the Sydney people to Caribou Marsh, owing to the supposed moral and physical improprieties of city life. Underlying this surface reasoning, however, was a stronger economic motive, for Boyd clearly stated, "The reserve is a valuable property and is conveniently situated for a site for factories or for any small industries."<sup>15</sup>

By 1910, the department went so far as to offer to assume part of the costs for a legal case against Mi'kmaq living off reserve.<sup>16</sup> This could only mean that there were plans to force the Mi'kmaq people to assimilate by forcing them to live

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<sup>15</sup>NAC, Indian Affairs, RG 10, volume 3013, file 307, 576, AJ Boyd to Secretary, March 8, 1910.

on-reserve under constant supervision. The Sydney reserve was recommended for sale to offset costs of proposed resettlement. However, the department recognised that it must have the consent of the Mi'kmaq, otherwise, having, "so long been accustomed to live near the City, there would be a probability of their returning as squatters to the outskirts of the City and by so doing create a like position to that found so objectionable at North Sydney."<sup>17</sup> By 1911, the full force of the Indian Act regarding land use was felt by the Cape Breton Mi'kmaq. The series of amendments which pertained directly to the perception of the power of tribal Chief and council came into effect. Not only was the issue of land surrender raised but so too was the legitimacy of Mi'kmaq government. The Kings Road case marks the point where political autonomy and land surrender were linked together under Indian Act regulations passed in 1911.

If there was a conflict of interest over a piece of land, authority was wrested from the hands of the Chiefs. As it stood, "The Exchequer Court of Canada shall have jurisdiction to hear and determine any such action."<sup>18</sup> In practice, this meant that in Nova Scotia, Mi'kmaq leaders were not only officially deprived of the rights to determine whether land was surrendered, but were also officially deprived of the ability to determine what was best for their people, particularly if reserved land was located near urban centres. With regards to the specific legislation used to in

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<sup>16</sup>NAC, Indian Affairs, RG 10, volume 3013, file 307, 576, Secretary to DK McIntyre, March 1, 1910.

<sup>17</sup>Ibid., p.1

<sup>18</sup>Ibid., p.128

1911 to overrule the wishes of the Mi'kmaq Chiefs, the Indian Act was amended to read:

In the case of an Indian reserve which adjoins or is situated wholly or partly within an incorporated town or city having a population of not less than eight thousand, and which reserve has not been released or surrendered by the Indians, the Gov. in Council may, upon the recommendation of the Superintendent General, refer to the judge of the Exchequer Court of Canada for inquiry and report the question as to whether it is expedient having regard to the interest of the public and of the Indians of the band for whose use the reserve is held.<sup>19</sup>

In essence this statement meant that a Judge of the Exchequer Court<sup>20</sup> was entitled to decide what was in the best interests of the public and First Nations peoples involved regarding their proximity to one another. In practice, this legislation allowed for the Judge to sanction a form of apartheid which favored the interests of the public. (It must not be forgotten too that the high real estate value of the property also gave the cost-conscious Indian Affairs an added incentive to sell the lot.)

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<sup>19</sup>Ibid., p.129

<sup>20</sup>According to Black's Law Dictionary, 6th ed. (Minnesota: West Publishing Co. 1990) p. 357 the Exchequer had formally both an equity side and a common law side, but its equity jurisdiction was taken away by the Statue 5, vict., c. 5 (1842), and transferred to the Court of Chancery. The Judicature Act (1873) transferred the business and jurisdiction of this court to the "Exchequer Division" of the "High Court of Justice" and by Orders-In-Council under Sec.32 of that Act the "Exchequer Division" was in turn merged in the Queen's Bench Division. According to John Yogis,ed., Canadian Law Dictionary, 2nd ed. (Toronto: Barron's Educational Series, Inc. 1990)p.125, the Court of King's Bench or Court of Queen's Bench (depending on the reigning monarch); the English common-law court, both civil and criminal, so called because the King or Queen formally presided; now known as the King's Bench or Queen's Bench Division of the High Court of Justice, embracing the jurisdiction of the former Court of Exchequer and Courts of Common Pleas."

The opportunity to sell the Sydney Reserve came in the form of a petition submitted by J. A. Gillies for the removal of the Sydney Mi'kmaq in 1900.<sup>21</sup> Nearly two decades later, there was a hearing in the Court of the Exchequer. This case provides historical background of the reserve, testimony of three captains, and the findings of the judge. It also reveals the perspectives of local agents and the methods used in attempts to get the tribal council to agree to a land surrender. As well, it is a conflict in which all levels of the Grand Council were involved. Local Chiefs testified and submitted a 15-point rebuttal which was backed by the Grand Chief who wrote letters also protesting the sale of the reserve.

According to Mi'kmaq testimony, the Sydney reserve was granted in 1875, while Indian Affairs records indicate that the reserve was granted in 1882. When the railway was constructed, one half acre was expropriated leaving a 2.06 acre plot where there had once been 3.75 acres. The rest remained as part of the reserve. Gillies argued that prior to 1881, there was only one Mi'kmaq resident, John Issac who maintained a full time residence on the site, and during that year constructed a log cabin. In 1889, the Sydney Steel Co. was founded and more Mi'kmaq moved to the reserve to work. As far back as Nov. 29, 1888, there is correspondence noting the necessity of a reserved site at Sydney as, "The Indians cannot do without camping ground in, or in the vicinity of Sydney. It is thither they usually go to sell their handicraft, and being unable to return home the same day,

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<sup>21</sup>NAC, Indian Affairs, RG 10, volume 7762, file 27161-F, Court of the Exchequer Proceedings p.22

and not affording a boarding house or hotel, they camp on that little reserve."<sup>22</sup>

According to Indian Affairs, the little reserve was part of Eskasoni.

The first request to move the Mi'kmaq from this site came in 1900, and in 1911, Indian Affairs was able to overrule Mi'kmaq refusal to surrender the land. A report prepared by Indian Agent Rev. McDonald, dated April 15, 1913, noted that he had attempted to get a surrender from the Chief the previous August but the Chief was away, "and the Indians were not willing to do much until they could see him, and I could not do very much until I saw him."<sup>23</sup> At that point, Joe Julien was the chief, or subchief as the agent recognised him to be. When he attempted to consult the chief again the next year, Joe Christmas had assumed the post.<sup>24</sup> Captain Christmas informed the agent that all votes of the Sydney band were collected and sent to Grand Chief John Denny, who resided in Eskasoni. McDonald stated that the Grand Chief, "seemed at the time opposed to the removal of the Indians from this reserve."<sup>25</sup> McDonald also described how he resorted to attempts to bypass the wishes of the Grand Chief by compiling a list of adult men over the age of 21 and holding a vote, the end results being, "out of 18,

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<sup>22</sup> Ibid., p.22

<sup>23</sup> Ibid., p.71

<sup>24</sup>In the 1928 Sylliboy case, Joe Christmas identified himself as the Chief of the Sydney band and the North Sydney Band. He also described himself as a member of the Grand council; an Assistant Deputy Chief to the Grand Chief. (Ruth Whitehead, The Old Man Told Us: Excerpts from Micmac History 1500-1950 (Halifax: Nimbus Publishing Ltd. 1991) p.327

<sup>25</sup>NAC, Indian Affairs, RG 10, volume 7762, file 27161-F, Court of the Exchequer Proceedings.p. 71

eleven voted in favour of the removal and 7 against."<sup>26</sup> However, the agent accepted the futility of his actions when he admitted before the Judge that not all of the men over 21 were present at the time of the vote, a failure even by western election standards. In contradiction to the results of the vote, McDonald described the proceedings of a meeting called at the schoolhouse. His description of the outcome revealed the style of decision making used by the Mi'kmaq:

The Chief, who was favourable to a move then addressed them and the discussion was taken up by several others of the band. They finally instructed the Chief to voice their disapproval of surrendering the reserve under any conditions, and asked that the Government purchase for them either part or whole of the property owned by Mr. Gillies and which adjoins the reserve on the south side.<sup>27</sup>

This passage is significant because it demonstrates that there were political ties between the Sydney and Eskasoni Mi'kmaq. Although there was an elected representative on the Kings Road reserve, the Grand Chief oversaw the election process. It also appears that the Sydney Captains would not make any decisions regarding the surrender of land unless it went through the Grand Chief, regardless of their own personal views. What is also significant about this passage is the measures that the local Indian Agent took in attempting to force a land surrender. Once the Grand Chief had expressed his disapproval, the Indian agent tried to over-rule this decision by implementing a western styled process on site. There appears to have been some resistance to the Indian agents actions as not all men showed up for the vote, and in the later meeting at the schoolhouse

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<sup>26</sup>Ibid., p.72

were firm in their decision not to surrender the reserve which further indicates that there was a consensus between the Grand Chief and the majority of Mi'kmaq who lived on the Kings Road reserve.

As the trial proceeded, Mi'kmaq leaders argued against surrendering the reserve. Both Captains were united in their protest of the alternative sites. Joe Julien, then reserve constable, was asked if he could understand what he was being asked. He responded, "Not very well,"<sup>28</sup> probably as there were no translators present. Julien stated categorically that Indian Affairs could not attempt to control the Mi'kmaq, "or they will scatter."<sup>29</sup> When questioned as to the willingness of the Mi'kmaq to move if the reserve was simply closed he said, "Yes, of course if the law compels us to move out of that, I guess that is what most of us will do, scatter every man for himself. Perhaps I will go away from Sydney altogether to the Mines, and others will go to other places."<sup>30</sup> Julien refused to accept the idea that Mi'kmaq people were confined to reserves, for, when questioned as to what the children would do when the reserve got too crowded, he stated, "They might be born there but they don't belong there."<sup>31</sup>

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<sup>27</sup>Ibid., p.86

<sup>28</sup>Ibid., p.312

<sup>29</sup>Ibid., p. 318

<sup>30</sup>Ibid.

<sup>31</sup>Ibid., p. 321

The testimony of Joe Christmas revealed the changing economic conditions faced by his people. When asked about the employment situation of the people on reserve, he described his own situation: "My jobs were mostly making oars, but not this year, I can't sell my oars now. The gasoline boats spoilt me altogether."<sup>32</sup> As for the rest of his people, he stated that, "some years ago they did coopering, and making handles and making baskets and tubs and pick handles. We used to make pick handles for the mines but not now. We cannot sell Indian work now, it is all manufactured in factories. The people are working at days work now."<sup>33</sup> (Women cleaned lawyers offices, and scrubbed floors.) Because of this, Christmas contended that it was necessary for the Mi'kmaq to remain close to the city, where the jobs were.

Both captains rejected all four proposed locations for a new reserve. The Lingan Road location was rejected because of the noxious gas from the Coke Ovens. The Grand Lake Road location was rejected because of hostility from other groups living in that area, specifically, the Black population. The Cow Bay Road site had bad soil and Westmount was simply too far away from employment in Sydney and would result in economic disaster. Joe Christmas ended his testimony with a request to stay on the Sydney reserve. If Indian Affairs tried to force a move

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<sup>32</sup>NAC, Indian Affairs, RG 10, volume 7762, file 27161-F, Court of the Exchequer Proceedings, September 20-24, 1915. p. 343

<sup>33</sup>*Ibid.*, p.333



the Mi'kmaq would scatter: "My Indians want to stay there and they will be better off if they stay there too."<sup>34</sup>

Ben Christmas observed in his testimony that if the sewage system was improved and some houses were moved, conditions would improve. He stated,

Judging from what I heard from the people they are anxious to stay where they are, because that place could be improved. The public is kicking about the unsanitary system, we could have the sewage system in our own houses, and if our houses were properly placed, there would be room for 4 or 5 now. They are scattered like blocks.<sup>35</sup>

He argued too that the location of the Sydney reserve was beneficial for the Mi'kmaq in terms of being ideal for employment, access to medical attention, and proximity to the Indian Agent. The fact that there was already a school on site also made the reserve ideal in terms of education.

As well as oral testimony given at the trial, a number of written documents reflect Mi'kmaq disapproval of the proposed relocation. The attorney appointed to represent the Mi'kmaq, a J. Rowlings, submitted a brief stating,

The said Indians further say that they should not in any event be removed until proper compensation be made to the individual members of the band for the personal losses and damages which they would sustain in respect to building and improvements made upon the lands of the said reserve; nor until a suitable reserve has been obtained and set apart for them in lieu of the said reserve.<sup>36</sup>

There was also a '15 point Answer of the Micmacs' submitted by the Sydney Mi'kmaq which rebutted point for point the reasons given to the judge as to why

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<sup>34</sup>Ibid., p. 334

<sup>35</sup>Ibid., p.329

<sup>36</sup>NAC, Indian Affairs, RG 10, volume 7762, file 2706-F, Submission by J. Rowlings.

they were considered a public threat. The 'Answer' denied that public interest would be served, that Mi'kmaq habits and habitations were unsanitary, that they were unable to exist alongside the White population, and that they were addicted to debauchery, were quarrelsome, or immoral. The Mi'kmaq also protested the assertion that their presence inhibited the development of the city. Perhaps one of the most important statements found in this document is the seventh point, which protested the very foundation of the Indian Act which sought to turn First Nations peoples into farmers. The Sydney Mi'kmaq argued against the idea that their interests, "demand larger quarters or an opportunity of cultivating the soil contiguous to their residence."<sup>37</sup> Their protest concluded with the reminder that Mi'kmaq interests, particularly economic ones, would in fact be harmed by being forced off the reserve.

As well as this expression of local dissatisfaction, the Grand Chief submitted a petition dated Feb. 15, 1915. He made reference to a letter dated February 12, 1915 (which is not on record) responding,

in reply, I respectfully beg leave to state, that I and my people are absolutely opposed to the removal of our Micmac families from the Sydney reserve and in their behalf I earnestly appeal to your committee to use your esteemed influence at the City Council to prevent the passing of Mr. Gillies resolution.<sup>38</sup>

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<sup>37</sup>NAC, Indian Affairs, RG 10, volume 7762, file 2706-F, '15 Point Answer of the Micmacs'.

<sup>38</sup>NAC, Indian Affairs, RG 10, volume 7762, file 2760-F, Petition to AA McIntyre, Chairman of the Indian Reservation Committee. February 15, 1915.

A.A. McIntyre, Chairman of the Indian Reservation Committee appointed to inquire into the nature of the Sydney Conflict reached the conclusion that expropriation would be disadvantageous to the Sydney Mi'kmaq. The committee contended, "we should be infringing on those rights if we drove them into the country"<sup>39</sup> and agreed with the contentions of Julien and Christmas.

Thus, from the proceedings of the Kings Road case it is possible to illustrate that there was a political solidarity between the people of the reserve and their representatives. Attempts made to over-rule the Grand Chief met with failure and the elected Captains were firm in insisting that the Indian agent go through the Grand Chief before making any decisions themselves. Further, the statements made by the Captains demonstrate that the Mi'kmaq were able to launch a successful counter to the claims made by Gillies and local Indian Agents. Mi'kmaq arguments apparently convinced the Committee appointed to examine the conflict.

The Judge on the other hand, supported the idea of Wardship enshrined in the Indian Act and sided with Gillies and local Indian Agents. He found that, "The racial inequalities of the Indians as compared with white men, check to a great extent any move towards social development, a state of affairs which under the system now abstaining can only grow worse everyday as the number of Indians is increasing."<sup>40</sup> Although he noted the opposition of the Mi'kmaq, he invoked the 1911 amendment, which vested in him the authority to decide whether it was

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<sup>39</sup>NAC, Indian Affairs, RG 10, volume 7762m file 27061-F, AA McIntyre, February 15, 1915.

necessary to remove the Mi'kmaq. Unsanitary conditions and the sanitary system were deemed to be sufficient conditions.

From the records, it appears that the department did nothing with the Sydney reserve until the 1920's. Chief Ben Christmas ultimately initiated the move after long term neglect of the sanitary system led to an outbreak of tuberculosis. In a letter to D.C. Scott, Superintendent General of Indian Affairs, Christmas condemned the reserve and demanded that action be taken to remedy the deplorable conditions. He sent identical telegrams to other Members of Parliament and again to Prime Minister McKenzie King on April 18, 1925. Once the site of the present day Membertou reserve was selected, Ben Christmas began a massive campaign to provide appropriate conditions for his people. His letter-writing campaign, initiated in the 1920's, spans decades and deals eloquently with many issues. Christmas tried to hang on to the old reserve as Boyd's report of 1926 noted: "Some of the Indians, now on the new Sydney reserve, including Mr. Ben E. Christmas, his father, Joe Christmas, and police constable John Gould, have not demolished their shacks on the old reserve, and are very reluctant to do so."<sup>41</sup> Indeed, Christmas was so vociferous in his protests that on more than one occasion Superintendent Scott felt it necessary to apologise to various Members of Parliament, warning Christmas, "it is quite unnecessary for you to make your representation otherwise than through the regular channels of the Dept. and that in

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<sup>40</sup>Ibid., p.4

so doing you are not furthering the interests of your people in any way."<sup>42</sup> A.J. Boyd was goaded to the point that he tried to withhold employment from Christmas, writing to the secretary on June 5, 1926, "If the Indians of Sydney should be furnished with all the conveniences that Mr. Christmas wants for them, every Indian settlement in the Country would be demanding similar favours, and creating endless trouble for the Dept."<sup>43</sup> After many clashes, Boyd confessed to Scott that he would deal "quite effectively"<sup>44</sup> with the Sydney Indians. What he meant has not been preserved in archival holdings.

The perceived need to deal effectively with the Mi'kmaq of Nova Scotia is evident in Indian Affairs correspondence of the 1920's. The idea of wardship enshrined in the Indian Act was fixed policy in Nova Scotia after the outcome of the Kings Road case. The outcome of the Sylliboy case confirmed that the Mi'kmaq were being affected by regulations imposed by structures of authority external to Mi'kmaq society. For example, William Wicken makes the observation that beginning in 1912, the Mi'kmaq became increasingly subject to provincial

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<sup>41</sup>NAC, Indian Affairs, RG 10, volume 7762, file 27061- 1B, AJ Boyd to DC Scott, November 18, 1926.

<sup>42</sup>NAC, Indian Affairs, RG 10, volume 7762, file 27061 - 1B, DC Scott to Ben E Christmas, May 6, 1926.

<sup>43</sup>NAC, Indian Affairs, RG 10, volume 7762, file 27061 -1B, AJ Boyd to Secretary of Indian Affairs, April 22, 1926.

<sup>44</sup>NAC, Indian Affairs, RG 10, volume 7762, file 27061 - B, AJ Boyd to DC Scott, October 27, 1926.

laws, "regarding hunting, trapping and selling game animals"<sup>45</sup> The presence of Grand Chief Gabriel Sylliboy and elder Joe Christmas whose links to the Grand Council were previously established during the Kings Road case, indicates that the Grand Council was also involved in protesting the regulation of what were regarded to be inherently Mi'kmaq rights and beyond the realm of government interference. Wicken states, "Believing that the government had no right to interfere with Mi'kmaq fishing or hunting, the community had assumed responsibility for the regulation of harvesting wildlife."<sup>46</sup> Provincial legislation took this responsibility away.

Comprehensive conservation measures were enacted in the 1926 Lands and Forests Act by the Provincial government.<sup>47</sup> While legislation dating as far back as 1794 had made exceptions regarding Mi'kmaq people, the 1926 Act removed this clause. The result was that a number of Mi'kmaq hunters were convicted across Nova Scotia, although, as William Wicken argues, "Mi'kmaq claims regarding treaty rights were understood quite widely by non-aboriginal

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<sup>45</sup>William Wicken, "Heard It From Our Grandfathers": Mi'kmaq Treaty Tradition and the Sylliboy Case of 1928," p. 153

<sup>46</sup>Ibid., p.148

<sup>47</sup>RM Willes Chitty, ed. Canadian Criminal Cases Annotated: A Series of Reports of Important Decisions in Criminal and Quasi-Criminal Cases in Canada Under the Laws of the Dominion and of the Provinces Thereof, With Special Reference to Decisions Under the Criminal Code of Canada, 1906, In All the Provinces; with Annotations, Tables of Cases Reported and Cases Cited, and a Digest of the Principal Matters, Volume L (Canada: Canada Law Book Co., Ltd., 1928) p. 327

communities in the Maritimes."<sup>48</sup> In 1928, Gabriel Sylliboy challenged these restrictions. Exerpts from the rough notes of the Proceedings of the Sylliboy Case of 1928 record Sylliboy arguing,

since I was a boy heard that Indians got from the King free hunting and fishing at all times. Still believe treaty good. When officer took pelts I told him I had treaty. He sd he knew nothing about that. I sd. let me go and I'll show you a copy of treaty. I sd. if I wanted to I cd. prevent him taking furs but as he didn't know about Treaty I wd let him take furs.<sup>49</sup>

Added to Sylliboy's testimony are the accounts of four other elders who all confirm Sylliboy's contention that the right to hunt had been recognized by the Crown. Wicken observed that the testimony of the elders is important in that "Their words reflect an oral tradition which had coalesced before the residential school system, centralisation and the post-war boom precipitated significant alterations in Mi'kmaq society."<sup>50</sup> Joe Christmas, then seventy-four years of age, also described how, in his capacity of Chief he had enforced the traditional rights of the tribe: "While I was chief [ I ] made rules for people not to disturb other people's rights. Told them they must not hunt when fur not fit, but that they could at any other time."<sup>51</sup>

As in the Kings Road case, the presiding Judge, Judge Patterson, effectively ignored the testimony of the Mi'kmaq, settling on the written

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<sup>48</sup>William Wicken, "Heard It From Our Grandfathers": Mi'kmaq Treaty Tradition and the Sylliboy Case of 1928," p.154

<sup>49</sup>Ruth Whitehead, The Old Man Told Us: Excerpts from Micmac History 1500-1950, p.328

<sup>50</sup>William Wicken, "Heard It From Our Grandfathers": Mi'kmaq Treaty Tradition and the Sylliboy Case of 1928," p. 147

<sup>51</sup>Ruth Whitehead, The Old Man Told Us: Excerpts from Micmac History 1500-1950, p.327

documentation, which in this case was the context of the 1752 treaty. In his judgement, he too reflected the paternalistic attitude of non-native society towards the Mi'kmaq when he found that:

... the Indians were never regarded as an independent power. A civilised nation first discovering a country of uncivilised people or savages held such a country as its own until such time as by treaty it was transferred to some other civilised nation. The savages' rights of sovereignty even of ownership were never recognised.<sup>52</sup>

Sylliboy lost and Patterson's decision set the tone for future interpretation of the treaties and by implication, other aspects of Mi'kmaq life. For example, Indian Affairs refused to provide lawyers for Mi'kmaq convicted under provincial game laws. As Wicken has stated, "Government reliance on courts to determine policy, has by default, emphasised European-produced documentation for understanding both British and Mi'kmaq perspectives of the treaty making process."<sup>53</sup>

One of the links between the Kings Road case and the 1928 Sylliboy Case was the presence of one individual named Ben E. Christmas who was the son of Joe Christmas. His appearance at both trials is interesting because he appears to be a link between the old and new ways, and a representative of a new style of leadership. Christmas served as Chief of Membertou for many years, with close links to the Grand Council. Founder of the Grand General Indian Council of Cape

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<sup>52</sup>RM Willes Chitty, ed. Canadian Criminal Cases Annotated: A Series of Reports of Important Decisions in Criminal and Quasi-Criminal Cases in Canada Under the Laws of the Dominion and of the Provinces Thereof, With Special Reference to Decisions Under the Criminal Code of Canada, 1906, In All the Provinces; with Annotations, Tables of Cases Reported and Cases Cited, and a Digest of the Principal Matters, Volume L, p.327

<sup>53</sup>William Wicken, "Heard It From Our Grandfathers": Mi'kmaq Treaty Tradition and the Sylliboy Case of 1928," p.146



Breton, an organisation apparently created to represent Mi'kmaq people during the 1946-48 hearings of the Joint Committee of Senate and House of Commons in the midst of Centralisation, and an active participant on the executive of the North American Indian Brotherhood, Ben E. Christmas was a figure compelling recognition in an environment which preferred that Mi'kmaq people assimilate into the ways of the immigrant society. His methods of protest, however, were markedly different from the methods used by other Mi'kmaq leaders during the Kings Road Reserve and Sylliboy cases.

As mentioned earlier, Christmas was the author of a letter-writing campaign which documented many protests concerning the treatment of the Sydney Mi'kmaq. Christmas also supported Grand Chief Sylliboy's case by writing to other chiefs protesting the treatment of Mi'kmaq hunters. In a letter to Chief Maloney of Shubenacadie, Christmas proposed:

I want to get in touch with every Indian hunter and trapper in your Reserves, if I can, as soon as possible, for the purpose of getting their support in presenting our Hunting Rights to the Nova Scotia Legislature which opens early next month.<sup>54</sup>

He wanted a deal with the province whereby each hunter would be paid a sum for every month of the closed season. Christmas's intentions were simple, "If we do not fight for our Rights nobody will. Time is now getting short, and you cannot afford to lose any time. I mean business, and no half about it and I intend to tell the

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<sup>54</sup>Beaton Institute, UCCB, UNSI Collection, Untitled Documents File, No. 25, Ben E Christmas to Chief John B Maloney, January 16, 1935.

government so."<sup>55</sup> Chief Maloney had also written letters protesting the conviction of hunters from his reserve. In one of his letters, Maloney discussed the conviction of a hunter in possession of deer meat. Although the hunter had been found guilty, this case had been appealed a number of times using the treaties of 1760 and 1761 in defence. Maloney observed the need for a new kind of leader learned in ways of the legal system, stating, "It has come to the place where we need Counsel learned in the law to defend the case in order to protect, as far as possible, the rights of Indians of this province. We could not get a lawyer through the department of Indian Affairs."<sup>56</sup> He appealed for funding, directing it to a G.H. Vernon, Barrister of Truro. The outcome of this appeal has not yet been located on file.

Once access to the land had been denied by the courts, the Mi'kmaq were forced to look elsewhere for employment. Ethnohistorian Elice Gonzales traces the shift away from the long-standing subsistence economy and towards industrial employment. The development of the mining, coal and steel industries supplemented Mi'kmaq incomes and allowed them to maintain a degree of independence:

the Industrialisation of Nova Scotia allowed the Micmac to enter the mainstream of Nova Scotian economic development, to a degree which had not existed since the fur trapping days of the early 18th century. Micmac men were involved in two out of the three major industries, coal, steel and

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<sup>55</sup>Ibid., p.1

<sup>56</sup>Beaton Insititue, UCCB, UNSI Collection, Untitled Document File No.24, Chief John B Maloney, January 26, 1934.

lumbering operations, and intermittently participated in the third, fishing, though not in fish processing.<sup>57</sup>

Gonzales also makes the point that although there was an increase in opportunity for Mi'kmaq men and women during this period, they were still excluded from positions of highly skilled employment, and when the Maritime economy declined and the industrial centres atrophied, the Mi'kmaq were greatly affected during the 1930's.<sup>58</sup> Historian E.R. Forbes argues that during the Great Depression of the 1930's, the Maritime region was hit harder than any region east of the Prairies.<sup>59</sup> In relation to Mi'kmaq people, Forbes states, "At the margins of the Maritime economy, Blacks and Native people were traditionally the last hired and the first fired. Although both had evolved a partially subsistence economy, the elimination of their modest income from wages and handicrafts caused severe hardship."<sup>60</sup> With few alternatives left, Mi'kmaq people were forced to turn to Indian Affairs.

During the 1930's there was much frustration expressed by the upper levels of Indian administrators over the state of affairs in Nova Scotia and the apparent lack of Department control over the Mi'kmaq. The practice of employing part-time agents was found to be unsatisfactory. A report from the Deputy Superintendent General noted, "Here we have 19 part time Indian Agents being paid from 27 1/2

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<sup>57</sup>Elice B. Gonzales, Changing Economic Roles for Micmac Men and Women: An Ethnohistorical Analysis, p.91

<sup>58</sup>Ibid., p.93

<sup>59</sup>E.R. Forbes, "The 1930's: Depression and Retrenchment" in The Atlantic Provinces in Confederation, E.R. Forbes and D.A. Muise eds. (Toronto: University of Toronto Press, 1993) p.272

cents to 50 cents per day. We cannot expect much in return for such small pay, nor are we receiving much."<sup>61</sup> Not surprisingly, in each of the 19 agencies in the province Mi'kmaq affairs were neglected. A memo of August 1935 stated:

In many agencies no records are kept, all letters, vouchers, and returns being placed in a box. In some cases the Agents think it too much trouble to look up my past correspondence ignoring the Departments' requests for monthly returns. One of the worst offenders is CH Cameron of Parrsborough who stated that he would be damned if he would furnish a return requested by the department.<sup>62</sup>

The report of the Deputy Superintendent in 1933 further outlined the perspective of the general population towards the Mi'kmaq as, "why bother with the Indian, the Government is obliged to look after him."<sup>63</sup> Correspondingly, the Mi'kmaq also felt that the government was bound to provide measures for their welfare; "There is always present that tradition that, at some time in the dim distant days of early history, treaties were made whereby it was provided that the Government had to look after and care for the Indian." However, the Depression had effectively "boycotted the Indian from day labour."<sup>64</sup> While the report admitted that overly paternalistic policy and the attitudes of Nova Scotian employers were largely responsible for the economic hardships of the Mi'kmaq, the Deputy Superintendent

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<sup>60</sup>Ibid., p. 283

<sup>61</sup>Treaty and Aboriginal Rights Research Centre (TARR), Potts Collection, Department of Indian Affairs, RG 10, volume 3220, file 536-764-1, Memorandum, August 29, 1935 p.1

<sup>62</sup>TARR, Potts Collection, Department of Indian Affairs, RG 10, volume 3220, file 536-764-1, General Report of the Deputy Superintendent, June 26, 1933.

<sup>63</sup>TARR, Potts Collection, Department of Indian Affairs, RG 10, volume 3220, file 536-764-1, Report of the Deputy Superintendent, June 26, 1933. p. 2

<sup>64</sup>Ibid., p. 3

also placed blame on the Mi'kmaq and their refusal to settle: "The result is that we have reserves with not an Indian on them and Indians living not only off reserves but in counties where there is no reserve at all, and to encourage the "poor Indian" we give him an Indian Agent to look after him, squatted on land which is not under our control."<sup>65</sup> Control over the Mi'kmaq, as it was in 1935, was "quite impossible" under the current system of organisation. Indian Affairs therefore undertook to re-organise administration in Nova Scotia. Centralisation was the result.

Census data of 1931 record a Mi'kmaq population in Nova Scotia of 2,191.<sup>66</sup> However, these figures must be treated with caution, for a report of 1935 categorically stated that Mi'kmaq people who refused to settle were to be enfranchised, or removed from relief lists.<sup>67</sup> As well, the Mi'kmaq who had already settled and were considered to be self-supporting were, in a number of cases, enfranchised without their consent. For example, a letter dated November 19, 1935 stated that those Mi'kmaq, "Who own their own houses and lots, and are, for all intents and purposes except welfare, members of the community in which they live. For some of these people I think the Department should take no further responsibly."<sup>68</sup> This seemed to be an effective cost-cutting measure. It also had

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<sup>65</sup>Ibid., p. 7

<sup>66</sup>Dominion Bureau of Statistics, Canada. The Seventh Census Of Canada, 1931: Volume 2, Population By Areas (Ottawa: J.O. Patenaude, King's Printer. 1933.) p. 323

<sup>67</sup>TARR, Potts Collection, Department of Indian Affairs, RG 10, volume 3220, file 536-764-1, Memorandum, November 15, 1935.

<sup>68</sup>TARR, Potts Collection, Department of Indian Affairs, RG 10, volume 3220, file 536-764-1, Memorandum, November 19, 1935.

political consequences in terms of eroding the land base of the Mi'kmaq and undermining political leadership, especially in regard to land surrenders. Membership of the Nation could only shrink under this administrative plague, where a person could wake and find him or herself no longer recognized as a Mi'kmaq. For example, in the case of the New Germany Reserve, Indian Affairs decided to sell any land which was not permanently settled by Mi'kmaq people. Indian Affairs notified the local agent that he was, "authorised to promise the Indians from whom these surrenders should be taken a subsequent distribution of 50% of the proceeds."<sup>69</sup> The New Germany reserve was not settled, and as the local agent noted, "The chief objection to this reserve, from the Indian view point, appears to be that it is far away from a market of any proportion and it would prove difficult for the Indians to dispose of their finished product. There are however, several of the younger Indians who do not do the regular Indian work, but favour cutting wood or working in lumber mills etc."<sup>70</sup> It appears that there was no consultation with the Grand Council, or any other chiefs regarding the disposal of this reserve. A discussion of who was considered to be a legitimate Mi'kmaq however, did occur. When the Inspector arrived on site to conduct the land surrender, he discovered that there were only two residents living on the reserve on a full-time basis. One man was 86 years old, living on relief, the other was

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<sup>69</sup>NAC, Indian Affairs, RG 10, volume 7756, file 27042-1, Secretary to Indian Agent, November 5, 1926.

<sup>70</sup>NAC, Indian Affairs, RG 10, volume 7756, file 27042-1, Indian Agent Maxner to Secretary, April 28, 1931.

unmarried and had lived on the reserve for the past forty-five years. When reporting to Ottawa about the surrender the agent indicated, "when I ascertained the conditions on the Reserve I struck out this clause (of the 50% split) and made no mention to them of any distribution."<sup>71</sup> And, with the signatures of the two men on the surrender, it was considered legitimate under Section 51 of the Indian Act and was accepted by the Governor General in Council July 12, 1933.

One of the families in the area, deemed by the department to be self-supporting, attempted to protest the surrender and questioned the legitimacy of it.

A letter by its legal representative, a W.P. Potter, argued:

It is clear that the whole transaction is irregular and in view of the fact that only 2 persons who claim to be Indians signed the Document that purported to surrender the whole of the Reserve to the Crown, it is doubtful if these two have the power to surrender the rights of the descendants of Indians having interests in lots of the reserve other than those on which those two alleged Indians resided. <sup>72</sup>

The case brought to the Department by Potter was not reviewed until November 14, 1933. Indian Affairs refused to entertain protest for two reasons. The first was that the protesting families were not considered to be legitimately Mi'kmaq; the second was that because the surrender had been obtained and accepted, Mi'kmaq title had therefore been extinguished. Potter responded with the fact he represented the grandchildren of the Mi'kmaq, named John Hammond, first given

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<sup>71</sup>NAC, Indian Affairs, RG 10, volume 7756, file 27042-1, Memorandum from Inspector Williams, July 7, 1933.

<sup>72</sup>NAC, Indian Affairs, RG 10, volume 7756, file 27042-1, WP Potter to Superintendent General, January 16, 1934.

title to the land. He also contended that the notion of being full-blooded Mi'kmaq was ridiculous for, "the Indians who formerly lived on the Reserve have inter-married with whites and there are no full-blooded Indians there now, in fact none who are closer to third generation to the original Indians."<sup>73</sup> Further, he made the point that one of the two men who signed the surrender were related to the now enfranchised grandchildren, making the surrender invalid. Legally, Potter questioned the right of Indian Affairs to conduct a land surrender in the area: "There is no organised or recognised band of Indians and it is difficult to make an agreement with any persons who had the right to surrender the Reserve to the Government."<sup>74</sup> The Department responded to Potter's contentions with the statement, "The parties whom Mr. Potter is acting are not Indians in any sense of the term, neither have we any responsibility in connection with them so far as the laws relating to Indians may extend."<sup>75</sup> Hence, the question of who was given status as Mi'kmaq and who lost it appears to have been the result of an arbitrary decision made by Indian Affairs personnel headquartered in Ottawa and rooted firmly in their economic interest. A lonely protest to the disposal of the Penal reserve, considered valuable by a pulp and paper company at approximately the same time, appears to echo the situation in which Mi'kmaq political leadership had

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<sup>73</sup>NAC, Indian Affairs, RG 10, volume 7756, file 270642-1, WP Potter to Superintendent General of Indian Affairs, January 16, 1934.

<sup>74</sup> Ibid., p.1

<sup>75</sup>NAC, Indian Affairs, RG 10, volume 7756, file 27042-1, Inspector Williams to M.P. Ilsey, December 10, 1934.



been placed by the 1930's. One unnamed Mi'kmaq wrote to the department asking, "why the Land will be all destroyed there will be nothing left for the Benefit of Indians [?]."<sup>76</sup>

During the first half of the twentieth century, new trends emerged in the relationship between Indian Affairs and the Mi'kmaq Nation. For the first time, the courts were used to determine where the boundaries between Indian Affairs and Mi'kmaq communities lay. By implication, this also meant that the political jurisdiction of Indian Affairs and the Grand Council were tested. The outcome of the Kings Road reserve case clearly articulated the position of Indian Affairs regarding the issue of land occupation and set the tone for future developments in Mi'kmaq-federal relations. It is also seen in this case that Mi'kmaq leaders could and did mount an effective defence which involved the Grand Council. The fact that the Sylliboy case was brought to court by the Grand Council indicates that Mi'kmaq leaders were aware of the encroachments being made to spheres of influence. As Indian Affairs attempted to move deeper into the lives of Mi'kmaq people, new forms of resistance had to be found against such intrusions. Ben E. Christmas was one example of a new form of leadership which emerged. Apprenticed in the courtrooms of the Kings Road Reserve case and the Sylliboy case, Christmas spoke candidly, and did not hesitate to inform Indian Affairs officials as to the needs of his people. Nor was he hesitant to attempt new forms of political organisation, like the Grand General Indian Council of Cape Breton, in

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<sup>76</sup>NAC. Indian Affairs, RG 10, volume 7756 ,file 27042-1, unsigned, June 18, 1934.

order to influence external committees like the Joint Committee of Senate and House of Commons even though it invited personal hardship.

In any case, the first half of the twentieth century saw Indian Affairs toughen its stance on assimilation. Occupation of reserved land was now a federal concern, as was land use. Officially, these responsibilities and a certain amount of freedom had been taken away from Mi'kmaq communities. In real terms, as the next chapter illustrates, it does not appear that Indian Affairs was as successful outside the law courts as it was inside them, and local Indian Agents actually maintained a working relationship with Mi'kmaq communities which was sanctioned by the Grand Council until the initiation of Centralization. As the 1930's progressed and Nova Scotia found itself gripped in the Great Depression, Mi'kmaq people were negatively affected and were forced to turn to Indian Affairs for assistance. At the same time, Indian Affairs was examining its administration for ways to cut costs and increase revenue. As it did this, land sales were emphasised, part-time agents were found to be inefficient, and the question of who was Mi'kmaq was raised with the idea of enfranchising those who were able to support themselves as another cost-cutting measure. Yet, despite the losses in the cases discussed in this chapter, each case illustrates a form of resistance that had begun to adapt itself to the courts. Indeed, it was not weakness on behalf of Mi'kmaq defence which lost both cases, but rather, the strength of the Eurocentric ability to unilaterally define parameters of power and decide what was 'best' in a situation where Mi'kmaq claims were apparently valid. As Chief Maloney had observed in

1934, the time had arrived for a new kind of leader who was learned in the law and could protect the rights of the Mi'kmaq in Nova Scotia.

## **Chapter 4**

### **Section 75 Elections: Centralization and the Vote**

Centralization had as its genesis what Lisa Patterson terms, "an almost pathological fear of large expenditure."<sup>1</sup> The outbreak of the First World War fundamentally changed the role of government in Canada in that it intervened and regulated the social and economic life of the nation on a scale previously unknown.<sup>2</sup> The onset of the Great Depression furthered government intervention, as did the Second World War. H.J. Bury, timber inspector and Indian Agent, first enunciated the concept of Centralization in this context, in the 1920's. His proposal involved relocating all of Nova Scotia's Mi'kmaq on to three reserves. It was his contention that once this was accomplished, the Department would save money by replacing the nineteen part-time agents with three full time agents, and it would also enable Indian Affairs to control, institutionalise, and rapidly assimilate the Mi'kmaq. In 1936, Indian Affairs inspector, Dr. Thomas Robertson investigated the conditions in Nova Scotia and also recommended Centralization,<sup>3</sup> and the idea was revisited once more prior to the Second World War, as the Federal government searched for funding. W.S. Arneil, a war veteran with ties to Indian Affairs administration, was chosen to survey Nova Scotia for a third time in 1941.

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<sup>1</sup> Lisa Lynne Patterson. "Indian Affairs and the Nova Scotia Centralization Policy" (MA Thesis, Dalhousie University, 1985) p.19

<sup>2</sup>Ibid, .p.21

<sup>3</sup>TARR, Potts Collection, Indian Affairs, RG 10, volume 3220, file 538 764-21, Report of Dr. Thomas Robertson, June 9, 1936. p 7

He also articulated the plan, which was finally implemented in 1942. In the final analysis Centralization was a policy of relocating all of the Mi'kmaq of Nova Scotia onto two reserves. One reserve, Eskasoni, was located in Cape Breton, and the other, Shubenacadie, was located on the mainland. Little thought was given to the long term sustainability of this plan. In hindsight, Patterson contends that this policy, "proved to be a presumptuous, adventuresome, and completely inappropriate scheme reflecting the insensitivity, paternalism and lack of expertise characteristic of the Indian Administration of the 1940's."<sup>4</sup> Indeed, "Centralization affected Indian life in the province more than any other post-Confederation event; today, its social, economic, and political effects are still felt."<sup>5</sup>

According to Anita Maria Tobin, there were actually two phases of Centralization. The first occurred in 1916, following the Halifax explosion when the residents of the Tuft's Cove reserve were moved to Millbrook. Tobin argues that the 1916 Centralization effort was successful because Mi'kmaq leaders of both communities were involved in the decision making procedure. In particular the Chief of the Millbrook reserve was able to determine membership, which prevented overcrowding and excessive resource use.<sup>6</sup> Millbrook was subsequently used as an example of the benefits of Centralization and left out of the second phase which

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<sup>4</sup> Lisa Lynne Patterson. "Indian Affairs and the Nova Scotia Centralization Policy" p i

<sup>5</sup> Ibid., p.1

<sup>6</sup>Anita Maria Tobin, "The Effect Of Centralization in the Social and Political Systems of the Mainland Nova Scotia Mi'kmaq (Case Studies: Millbrook - 1916 & Indian Brook - 1941)" (MA Thesis, St. Mary's University, 1999) p.55

occurred in the 1940's.<sup>7</sup> Tobin argues that one of the reasons for the failure of the 1940's effort was the fact that Mi'kmaq leadership was ignored in the decision making process, as she states, "the decision to centralize was made in Ottawa and delegates were sent to Nova Scotia to set the project in motion, oblivious to the concerns of the rights of the people involved."<sup>8</sup> Threats of being economically abandoned or involuntarily enfranchised were the main characteristics of the second Centralization.<sup>9</sup>

One of the long-term consequences of Centralization was the institution of a political system which conformed to the requisites of the Indian Act and ignored the Grand Council. (It must also be remembered that First Nations were excluded from the federal franchise until 1960). The events which transpired in Nova Scotia as a result of Centralization effectively created a national paradox. After the Second World War there was an effort made by the Inside administration (the internal administration located in Ottawa) to move away from the oppositional stance taken by Indian Affairs regarding traditional Aboriginal structures of government on a national level. In Nova Scotia, however, the reverse occurred. This chapter examines the style of political representation which existed prior to Centralization (the policy of forced re-location which began in 1942 and was abandoned in 1949), and argues that there was an electoral process in place on reserves which

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<sup>7</sup>Ibid., p.58

<sup>8</sup>Ibid., p.57

<sup>9</sup>Ibid., p.76

incorporated the election process sanctioned by the Indian Act while supplementing it with the structure of the Grand Council. It is argued in this chapter that it wasn't until the 1940's that the structure of Mi'kmaq political culture which incorporated the elected elements of the Indian Act on reserve with the long-standing district styled political culture was threatened. Prior to Centralization, members of the Grand Council recognised the importance of political representation and in many areas, particularly during the 1930's, initiated the election process and helped the Indian Agent consistently maintain an elected representative, in spite of the fact that Headquarters refused to acknowledge the Grand Council in anything but a symbolic capacity. It will be shown that Mi'kmaq chiefs were united in their support of Grand Chief Sylliboy and protested by refusing to participate in the electoral process while his case was before the courts. Finally, this chapter discusses how Centralization placed the Grand Council in direct conflict with Indian Affairs policy and led to the initial stirrings of alternative methods of political organisation through the creation of the United General Indian Council of Nova Scotia and the motivation of Mi'kmaq leaders to ally themselves to the National Indian Brotherhood, headed by Andy Paul.

In 1936, Dr. Thomas Robertson's report concluded that the economic conditions of the Mi'kmaq were poor. A minority lived on reserve while the majority lived off reserve and those Mi'kmaq who lived closer to urban centres were worse off economically. Robertson pointed to the contradictory nature of relief funding, arguing that since the disappearance of hunting, fishing and trapping, those



Mi'kmaq who attempted to farm were penalised when crops were produced.<sup>10</sup> In effect, Mi'kmaq who attempted to settle were obstructed by bureaucracy.

W.S. Arneil's report of August, 1941, echoed Robertson's findings, adding that self-supporting Mi'kmaq were no longer deserving of recognition and should be given the same rights as other Canadians, stating: "He [the Mi'kmaq] has long since outgrown the characteristics usually in evidence on an Indian reserve, and it is difficult for me to convince myself that the full rights of Canadian citizenship should be withheld from such Indians"<sup>11</sup> He too noted the prejudicial attitude on the part of local employers towards the Mi'kmaq, adding, "It is my opinion that the average employer will not hesitate to display the same attitude should unemployment become prevalent in the future."<sup>12</sup> While Arneil emphasised the need to have the co-operation of the Mi'kmaq in Centralization, his recommended Advisory Committee - consisting of a clergyman, an RCMP officer, a doctor and an Indian Affairs officer - neglected to include Mi'kmaq leaders. With an end goal of assimilation in mind, Arneil emphasised the cost effectiveness of administrative concentration because, "Present conditions are, in many respects, intolerable. Neglect and faulty administration are very much in evidence."<sup>13</sup> Remarkably,

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<sup>10</sup> TARR, Potts Collection, Indian Affairs, RG 10, volume 3220, file 538 764-21, Report of Dr. Thomas Robertson, June 9, 1936. p 7

<sup>11</sup> TARR, Potts Collection, Indian Affairs, RG 10, volume 3220, file 538 764-21, Report of WS Arneil, August, 1941. p 6

<sup>12</sup> Ibid., p.5

<sup>13</sup> Ibid., p.12

acreage rather than the potential for long term economic sustainability appears to have determined Arneil's choice of location. As Lisa Patterson observes, "the department embraced the simplistic centralisation scheme without regard for the disruption it would cause the residents of relatively well-established and self-sufficient reserves."<sup>14</sup> Yet, Centralization was made a reality by OIC PC (Order in Council by Privy Council) 33/2570 with the recommendation of the treasury board.<sup>15</sup> In her analysis, Patterson contends that Arneil's logic was quickly adopted by the federal government because the Department of Finance held a great deal of influence on the government in the prelude to the Second World War. "The practices built on the structures of the past had failed," she writes, "but, with Ottawa desperate for funds to meet wartime costs, the proposal to centralise Nova Scotia's Indians suddenly became irresistible."<sup>16</sup> The program thus began in 1942, but was abandoned in 1949.

At the turn of the century there had been a joint effort made by Mi'kmaq leadership and the Department of Indian Affairs to establish some form of political communication as Mi'kmaq families moved on to reserves. From the department's perspective it was an opportunity to implement western-style electoral processes stipulated by the Indian Act. From the Mi'kmaq perspective, it appears that political representation was deemed necessary and did not appear to affect traditional

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<sup>14</sup> Lisa Lynne Patterson. "Indian Affairs and the Nova Scotia Centralization Policy", p. 55

<sup>15</sup> Ibid., p.55

<sup>16</sup> Ibid., p.58

government; rather, it supplemented it by maintaining an open channel of communication to Ottawa via the reserve. For example, an 1895 letter from Cape Breton detailed the processes of the traditional tribal council. Local Indian agents acknowledged the position of the Grand Chief and as John C. Chisholm, agent for Richmond county noted, "his jurisdiction extends according to tradition and custom to every part of N.S [and] in this capacity he visits at different times his people in the various Reserves of Cape Breton and N.S [sic] Proper."<sup>17</sup> John Denny, who inherited the position from his father, had been appointed ten years before at the annual mission held at St. Ann's. He was elected, "by the vote of every Indian there and their assemblies from all the Reservations in the Province or at least a fair representation from them."<sup>18</sup> Four other councillors were appointed by the chief with the understanding that they were free to resign at any time. Thus, it seems that maintaining an elective system by reserve did not affect the overall structure of tribal government prior to Centralization. In 1919, Indian Affairs correspondence described the election of Grand Chief Gabriel Sylliboy as, "a very ceremonious and imposing affair".<sup>19</sup> A.J. Boyd went so far as to petition Ottawa to provide a stipend for the Grand Chief in fact, because the position was a difficult one. "His predecessor died in poverty", Boyd noted, "as the result of time and

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<sup>17</sup>Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7936, file 32-60 pt.1, Indian Agent John C. Chisholm to Secretary of Indian Affairs, January 12, 1895.

<sup>18</sup>Ibid., p.1

money spent for the benefit of others."<sup>20</sup> Boyd clearly respected the duties of the Grand Chief:

He is expected to perform the very important duty of peacemaker by settling disputes and adjusting differences, of a more or less serious character which he does so effectively that litigation of any kind is an unheard of occurrence among the Indians of Nova Scotia. He is also required to convene district meetings, at which he must preside, and which are attended by the principal men of a group of bands. Matters of general interest to Indians represented at any such meeting are discussed and in due course of action each case decided upon. His other duties, with which I am not conversant, have reference to church affairs.<sup>21</sup>

Correspondence from the turn of the century indicates that while Indian Agents were attempting to carry out their duties, Ottawa was also attempting to formulate a policy regarding Mi'kmaq tribal government. Once headquarters accepted provincial boundaries and structured agencies along these lines, there was a move to have elected Mi'kmaq leaders listed on paper so as to fit the parameters of Indian Act policy regarding elected leadership.

However, Ottawa hesitated in accepting the Grand Chief. For example, when John C. Chisholm, still the agent for Richmond county, wrote to Ottawa concerning the appointment of Thomas Wilmont as captain of the reserve he asked, "whether it has been customary for the chief to make such an

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<sup>19</sup>Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7936, file 32-60 pt.1, AJ Boyd To Duncan Campell Scott, August 19, 1919.

<sup>20</sup>Ibid., p.2

<sup>21</sup>Ibid.

appointment."<sup>22</sup> The response was unclear: "In any case it should be subject to confirmation by the department upon the recommendation of its agent."<sup>23</sup> Ottawa observed that while there was only one chief for the whole province of Nova Scotia, "several bands in the Province have chiefs, some of whom were elected under the authority of the Department".<sup>24</sup> Moreover, the standing of John Denny as Grand Chief was not recognised as being province-wide. He was recognised only in Cape Breton: "There is ... no record of John Dinny [sic] as Chief of the whole province, there is a return shewing [sic] his re-election as Head Chief by the Micmac of the Island of Cape Breton on the 7th of August 1890".<sup>25</sup> In 1909, the department clarified its position in a letter addressed to Denny himself. Denny had written to Ottawa protesting the struggles that were occurring on the Kings Road reserve. He warned, "Now I am seeing that if they get an election it will only make matters worse than they are - it will divide them up into two factions and they will keep the fight up until some of these is killed."<sup>26</sup> He advised, "Do not grant an election at all; let there be no sub-chief there at all, I am the Grand Chief and I can look after that reserve as well as this one [Eskasoni]"<sup>27</sup> Interestingly, he suggested

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<sup>22</sup> Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7936, file 32-60 pt.1, Secretary of Indian Affairs to John C Chisholm,

<sup>23</sup>Ibid., p.1

<sup>24</sup>Ibid.

<sup>25</sup>Ibid.

<sup>26</sup>Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7936, file 32-60 pt.1, John Denny to Secretary, September 16, 1909.

<sup>27</sup>Ibid., p.1

selling the reserve in an attempt to keep the peace and to remove the bad influences, however, this statement must have been in frustration, for the Grand Chief had been quite active in trying to keep the Kings Road reserve. He had been there often, "but the subchief has been more of a hindrance than help for my efforts".<sup>28</sup> The department replied that an election would be held in spite of the Grand Chief's warning. According to Ottawa, Denny was only credible to the department because he had been appointed prior to Indian Act amendments. The secretary, John D. McLean, stated,

As you were elected chief of the Indians of Cape Breton county on Aug.7, 1890, for an indefinite term, and have not been elected since the three year system was applied, on May 16, 1899, under Section 94 of the Indian Act you are entitled to hold rank of chief, but not to exercise power as such until elected under the three year system.<sup>29</sup>

Ironically, it appears that for the first half of the century, the election procedure in place in Nova Scotia did not affect the traditional election methods used by the Mi'kmaq primarily because they, the Mi'kmaq, were not confined to reserves. The only place where there were elections held in accordance with Indian Act provisions was on a reserve. This dynamic was illustrated in the discussion of the Kings Road reserve concerning the land surrender and the relationship between elected Captains and the Grand Chief in Eskasoni. Across the province, it appears that the role of the agent was that of external observer,

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<sup>28</sup> Ibid.

<sup>29</sup> Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7936, file 32-60 pt.1, Secretary to John Denny, September 27, 1909.

and it was not until the first decade of the 1900's that Indian Affairs was party to elections held on reserve. For example, correspondence from the Colchester county agency in 1908 noted that the Mi'kmaq had simply informed the agent, in writing, of the election of Joseph Gould as chief and Jacob Brooks and Joseph Julien as councillors.<sup>30</sup> Until that time the agent observed that although the people of this reserve were, by virtue of their numbers, entitled to a chief and two councillors according to the Indian Act, "up to the present time the Department has not authorised the holding of any election, as hitherto the Indians have not made any request in that direction."<sup>31</sup> Ottawa was quick to point out that, "the Department cannot confirm any election unless the same has first been authorised and is held under your direction."<sup>32</sup> In this case, however, although the election was held without the involvement of the agent, the agent found it impossible to force another election in order to meet Departmental standards. After encountering much opposition, he replied, "I would suggest, that it would be conducive to the welfare and peace of mind of the Dept. of Indian Affairs, and myself, if the matter of election of chief was allowed to stand over for the present."<sup>33</sup>

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<sup>30</sup> Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7934, file 32-47 pt.1, Secretary to Indian Agent RH Smith, January 28, 1908

<sup>31</sup>Ibid., p.1

<sup>32</sup>Ibid.

<sup>33</sup> Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7934, file 32-47 pt.1, Robert H Smith to Secretary, March 9, 1908

Briefly, the notion of a western-style electoral system had been encapsulated in the 1868 'Act for the Gradual Enfranchisement of Indians', which was then consolidated into the Indian Act of 1875. As of 1888 Indian Affairs chose to respect the internal election process of Mi'kmaq tribal council. However, in 1906 the Indian Act was amended to read, "Life Chiefs and councillors or headsmen now living may continue to hold rank until death or resignation, *or until their removal by the Governor in Council for dishonesty, intemperance, immorality or incompetence.*"<sup>34</sup> It appeared from this statement that the Inside Administration of Indian Affairs in Ottawa had begun conceptually to make inroads on the traditional structures of government. Once Indian Affairs officials had determined that it was necessary to bring in the western-style election process, Indigenous government was devalued with the statement, "the life chiefs and councillors or headsmen shall not exercise powers as such unless elected under the provision aforesaid."<sup>35</sup> Thus, Indian Affairs was prepared to disregard tribal leaders unless they were recognised as legitimate by the western electoral process, but then, if they were elected by the western electoral process they could be dismissed arbitrarily by the will by the Governor-in-Council. While this was the official stance taken by Indian Affairs, the situation in Nova Scotia was quite different.

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<sup>34</sup>Canada, *Indian Acts and Amendments: 1868 - 1950, Volume 1* (Ottawa: Treaties and historical Research Center, Research Branch, Corporate Policy. Department of Indian and Northern Affairs Canada. undated) p. 113 (my emphasis)

<sup>35</sup>*Ibid.*



As agents in other counties attempted to guide the election process, Indian Affairs indicated in correspondence such as that of September 26, 1912, that elections were considered valid under the 1889 amendment to Section 93 of the Indian Act, contained in Part 1 which applied to all Indian bands in the older provinces. Section 75 stated:

Whenever the Governor in council deems it advisable for the good government of a band, to introduce the elective system of chiefs and councillors or headmen, he may provide that the chief and councillors or headmen of any band shall be elected, as hereinafter provided, at such time and place as the Superintendent General directs; and they shall in such case be elected for a term of three years. The councillors or headmen may be in proportion of two for every two hundred Indians; but no band shall have more than one chief and fifteen councillors or headmen: provided of course that any band composed of at least thirty members may have a chief.<sup>36</sup>

Section 75 also stated, "in the event of the Governor-in-Council providing that the chief and councillors or headmen of a band shall be elected, the life chiefs and councillors or headmen shall not exercise powers as such unless elected under the provision aforesaid."<sup>37</sup> In spite of this provision, the application of this clause was not uniform across the province, and it seems that the two systems existed side by side, with a majority of Mi'kmaq adopting and adapting traditional political practices to department mandates. There was, however, frequent resistance to Ottawa's assumptions. For example, in 1919 in Colchester county, the agent experienced difficulties holding an election. Although he had received permission

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<sup>36</sup>Canada. *Indian Acts and Amendments: 1868 - 1950, Volume 1* (Ottawa: Treaties and historical Research Center, Research Branch, Corporate Policy. Department of Indian and Northern Affairs Canada. undated) p. 99

<sup>37</sup>Ibid.

from Ottawa to hold elections he encountered so many disputes that he had postponed the process for almost four years. Elections did not occur until the Grand Chief visited the reserve and sanctioned them. The agent reported, "Last September Grand Chief Sylliboy of Cape Breton visited the reserve and strongly urged the desirability of having a chief".<sup>38</sup> Shortly afterwards, the agent received the request of a number of Mi'kmaq to hold an election. As a result Joseph Julien was elected chief, and William Stephens and Lewis Paul as councillors. During the 1920's, correspondence indicates that the Mi'kmaq also maintained an independent election system when necessary. An agent's report dated January 16, 1920 informed Ottawa that Chief Francis Paul had been elected Nov. 1, 1920, "by a gathering of all the Indians of Antigonish county the late Chief Francis Paul having died the last July."<sup>39</sup> He had been voted to the position by acclamation. A letter from Paul himself, dated December 17, 1920, informed the department as to the date of his election stating, "my term of office is for life."<sup>40</sup> Paul requested the sanction of the federal government and badges which were the symbols of his office. He observed, "As the good of the tribe depends largely on the influence I have over them and as such influence depends largely on the Governments

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<sup>38</sup> Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series. Indian Affairs, RG 10, volume 7934, file 32-47 pt.1, RH Smith to Secretary, January 20, 1919.

<sup>39</sup> Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7934, file 32-46 pt.1, WJ Cameron to Secretary, January 16, 1920

<sup>40</sup> Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7934, file 32-46 pt.1, Chief Francis Paul to Minister of Indian Affairs, December 17, 1920

approval and sanction of my appointment I would thank you to give this matter your kind and immediate consideration."<sup>41</sup> The agent, W. Cameron noted, "I may say that Chief Paul tells me that the same day he was elected Chief, that they also elected two councillors, Joseph Sylliboy of the Heatherton reserve and Peter Nicholas of Afton reserve."<sup>42</sup> He affirmed his role as observer stating, "I may say that I did not know it was necessary for me to report the death of the late Chief Prosper to the Department but I had nothing to do with the election of Francis Paul. I was not consulted about it [and] they held the meeting themselves."<sup>43</sup> Initially, recognition was refused and according to the files there had been no election since 1912, when the late chief had been elected.

The relationship between local chiefs and the Grand Council was momentarily highlighted in Indian Affairs correspondence during the prelude to Grand Chief Sylliboy's trial, for, on February 16, 1925, Indian agent R.H. Kennedy described how the recently- elected Chief and Councillors refused to sign the Oath of Office forms as required by Indian Affairs. He noted their protest stating, "They claim that so far as they know no chief in Nova Scotia has heretofore been asked to subscribe to any such form and they hold that they have certain hunting and fishing rights under old treaties, also that they have the right to go on woodland

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<sup>41</sup>Ibid., p.1

<sup>42</sup>Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7943, file 32-46 pt.1, WJ Cameron to Secretary, February 2, 1921.

<sup>43</sup>Ibid., p.1

and cut".<sup>44</sup> He added, "they fear that they will in some way be giving up these supposed rights by subscribing as above."<sup>45</sup> When the agent attempted to insist, standing on due process, he was met with a refusal, it may be "all right for a white man but not for an Indian".<sup>46</sup> The agent declared the election invalid, but the same men were elected the second time. In the end, Indian Affairs officials backed down on the issue of signing the Oath of Office. A memo from H.J. Bury noted, "In view of the fact that the whole question of the status of Indians in the province is now being given consideration I would suggest that it would not be an opportune time to insist on the Chief and Councillors taking the oath."<sup>47</sup>

There was a lull in the election procedure during the 1930's. Indian Agent R.H. Kennedy reported that he had held an election in Colchester county on January 1928, and in 1931 he posted notice for nominations but got no replies, "the feeling at the time was that a chief could do very little for the Band and was expected to do a great deal and was kept in hot water. I am of the opinion that they are better off without a Chief"<sup>48</sup> In 1934, Kennedy noted that there had been an election held but the agent had been unaware of the fact until he received notice of

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<sup>44</sup> Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7934, file 32-47 pt.1, RH Kennedy to Secretary, February 16, 1925

<sup>45</sup>Ibid., p.1

<sup>46</sup>Ibid.

<sup>47</sup> Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7934, file 32-47 pt.1, Memorandum from Ottawa, February 23, 1925.

<sup>48</sup> Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7934, file 32-47 pt.1, RH Kennedy to Secretary, October 8, 1932

the results. He concluded, "This was the first intimation I had that they proposed to hold an election. (They have not been holding elections for some time past)."<sup>49</sup> While Kennedy noted the presence of voters who were not members of the band,<sup>50</sup> he did not record any names. It is possible that members of the Grand Council were initiating the process because Kennedy affirmed that the nominations were good, or acceptable to himself as he acted in the capacity of Indian Agent and official representative of Indian Affairs. Elsewhere, in Antigonish county, agent Cameron also encountered difficulties until Ben Christmas visited the reserve. In this case, the elected chief was unable to fulfil his official duties.<sup>51</sup> Cameron had been approached by the two councillors who had advised him of the need to have a competent chief. Ben Christmas had, "told them they should have a Chief appointed. So that is why they are following his advice"<sup>52</sup> Thus, the Mi'kmaq were clearly aware of the importance of political representation and intertwined election processes on reserves with the political protocol of the Grand Council. Indeed, reserve participation might well have failed without the support of the Grand Council during the first half of this century.

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<sup>49</sup> Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7934, file 32-47 pt.1, Indian Agent RH Kennedy to Secretary, January 4, 1934

<sup>50</sup>*Ibid.*, p.1

<sup>51</sup> Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7934, file 32-46 pt.1, Indian Agent WJ Cameron to Secretary, March 20, 1934.

<sup>52</sup>*Ibid.*, p.1

There were elections across Nova Scotia until the 1940's, although most of the official Indian Affairs files are silent as to what happened on many of the reserves during that decade. There is one mention of the election process that survives. On April 28, 1943 a memorandum to Inspector Rice of Shubenacadie from the Director of Indian Affairs discussed the request of the residents of the Afton reserve to have the agent hold elections. He wrote, "In view of the reorganisation plans that are underway it is considered that the matter should be left in abeyance for the time being"<sup>53</sup>

Once Centralization had been decided upon as official policy, it is difficult to trace what happened to the system of elections that has just been described. Few records survived the administrative amalgamation of 1942 and remaining records are sparse. The reels of film which house information on this subject in the National Archives of Canada list these files as 'closed'. Politically, the Mi'kmaq people received little benefit from the 1951 changes to the Indian Act. In fact, it can be argued that a great deal of political autonomy was lost, for, in 1951, the first Band lists were drawn up, the Grand Council was ignored yet again, and the divisive issue of status and non-status was officially decided in Nova Scotia. By 1958 these artificial divisions had been formalized by another Order-in-Council. Given the upheaval, both geographic and administrative, which was caused by

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<sup>53</sup> Confederacy of Mainland Micmacs, Collection of National Archives of Canada Red Series, Indian Affairs, RG 10, volume 7934, file 32-46 pt.1, Director of Indian Affairs to Inspector HC Rice, April 28, 1943.

Centralization (the decision to concentrate the Mi'kmaq and the records of their affairs on two reserves), this scarcity of sources is perhaps not surprising.

Lisa Patterson presents what appears to be the only existing statement of approval of Centralization made by Grand Chief Sylliboy. At the time, the Grand Chief was 70 years old and the event was remembered by his son who was then 27. Patterson notes:

To the government, the seventy-year-old Chief's signature may have represented Indian consent to the policy, but many Nova Scotia Micmacs fail to see how the Grand Chief and only a handful of men could have made such a decision without consulting them.<sup>54</sup>

There is no record of what was promised, contingent on the move. Patterson's field research is thus invaluable in filling the gaps in the written record. One interviewee remembered for example, "They told us our houses would have electricity, water would be put in, we would have nice basements, they would be finished, a furnace would be put in."<sup>55</sup> Barns, outhouses, employment and a choice of location were also promised. Interestingly, Patterson's interviews also reveal the Mi'kmaq's perception of the Indian Agent: "Ottawa seemed so far away and the power of the agent had over their lives made him seem like God."<sup>56</sup> There were also memories of threats of intimidation. Mi'kmaq were told that relief and medical care would be stopped and, "Government trucks would arrive and load up with

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<sup>54</sup> Lisa Lynne Patterson. "Indian Affairs and the Nova Scotia Centralization Policy," p.101

<sup>55</sup>Ibid., p.102 (statement taken from informant made during Patterson's field research.)

<sup>56</sup>Ibid. (statement from informant made during Patterson's field research.)

people's belongings, etc. and move them away."<sup>57</sup> Another interviewee remembered, "They took everything we had, they wanted us to follow that stuff to Eskasoni."<sup>58</sup> Houses on the smaller reserves were burned down before replacement houses were not yet ready at the Centralized reserve.<sup>59</sup> Not surprisingly, poor housing, limited employment, food shortages, and relief dependence became the hallmarks of Centralization. Apparently, "Indian labourers at Eskasoni and Shubenacadie were expected to do many jobs for which they were ill-prepared, but the local white people hired to supervise them were equally ignorant"<sup>60</sup> Socially, relations deteriorated, as "Artificially congregating natural leaders and people from various and distinct places produced tensions at the two central reserves."<sup>61</sup> Since Indian Agents encouraged the needy to move first, Patterson notes the feeling that "the original families began to feel their territory was being invaded by undesirables."<sup>62</sup>

Politically too there were serious ramifications resulting from the policy of Centralization. On March 27, 1941 Ottawa asked local Indian Agents as to the desirability of holding elections. While Ottawa recognised that Indian Affairs had no official authority to select Chiefs or Councillors, it was suggested this should not

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<sup>57</sup>Ibid., p.103 (statement from informant made during Patterson's field research.)

<sup>58</sup>Ibid. (statement from informant made during Patterson's field research.)

<sup>59</sup> Ibid., p.104 (statement from informant made during Patterson's field research.)

<sup>60</sup> Ibid., p.108

<sup>61</sup> Ibid., p.111

<sup>62</sup> Ibid.



deter the Agent, "from using whatever influence he has with the Indians to induce them to choose men who would likely provide proper leadership."<sup>63</sup> (The idea of 'proper leadership' appeared to mean that the elected Mi'kmaq chief would allow Indian Affairs a free hand in local affairs without resisting.) A Quarterly report dated August 10, 1944, described how the Mi'kmaq were beginning to deal with such large scale interference by Indian Affairs. After the annual mission at Chapel Island, Mi'kmaq delegates, "informed me [Inspector Rice] that they were going to organise for the better or worse as they claim that they have nothing to show, in black and white, or in any manner, on paper, concerning centralisation. This situation had been bothering them from the start."<sup>64</sup> He told them to arrange a meeting so that the issues could be resolved once and for all. The next report confirmed the meeting, "but it is well that they know their limits and they get information in black and white. They never had an understanding of what relief constitutes and they figure that this is something due them."<sup>65</sup>

The minutes of this meeting are not on record but subsequent correspondence indicates that there were disputes between Indian Agent and members of the Grand Council living in Eskasoni. For example, in April of 1944, there was a show-down between the Indian Agent and Grand Captain Simon Denny. The agent refused to recognize Denny's position. The Indian Agent wrote

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<sup>63</sup>National Archives of Canada (NAC), Indian Affairs, RG 10, volume 7115, file 1/3-5 pt.1, Department Circular, March 27, 1941

<sup>64</sup>NAC, Indian Affairs, RG 10, volume 9022, file 23-4 pt.1, Quarterly Report, August 10, 1944.

<sup>65</sup>Ibid., p.1

to Ottawa stating, "We told Mr Denny that his supposed status was unknown to the department and he was quite irritated over the matter."<sup>66</sup> The Grand Chief informed the agent that Simon Denny had been appointed eight years ago and, "has acted and was recognised as a Head Councillor, or Captain as he was generally called, since that time."<sup>67</sup> Denny apparently handed over his badge of office in frustration. Then, "A number of Indians concerned feel that they are now without this man's leadership and we feel that the time is here for a legal adjustment of the matter."<sup>68</sup> Grand Chief Sylliboy and Grand Captain Simon Denny had written a further letter to the Minister of Indian Affairs then stating, "We are not satisfied with the way that Indian Affairs are managed and we feel some injustice has been done in handling our affairs."<sup>69</sup> However, the minister forwarded the letter to the local Indian Agent who confronted the two. It was the contention of the Agent that the members of the Grand Council were making mischief. He wrote:

Grievances are not voiced or upheld by the large majority of the Indians here but we have learned that supporters of complaints here made house to house visits soliciting others to join with them. Captain Denny's home, we understand, is their headquarters but we are straightening out their ideas and they know it. We have just learned that it was one of this clique which caused the strike for higher wages which we experienced last summer and as reported at that time.<sup>70</sup>

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<sup>66</sup>NAC, Indian Affairs, RG 10, volume 9022, file 23-4 pt.1, Quarterly Report, April 20, 1944.

<sup>67</sup>Ibid., p.1

<sup>68</sup>Ibid.

<sup>69</sup>NAC, Indian Affairs, RG 10, volume 9022, file 23-4 pt.1, Grand Chief Gabriel Sylliboy and Grand Captain Simon Denny to JD Crerar, Minister of Indian Affairs, March 9, 1944.

<sup>70</sup> Ibid., p.1

What happened immediately is not recorded, but, on June 22, 1945, Grand Chief Gabriel Sylliboy, his son Simon, and their families moved from Eskasoni back to the Whycogomagh Reserve.<sup>71</sup> Before he left, the Grand Chief wrote a letter stating that he was leaving because of unfulfilled promises made by Indian Affairs. Following the expression of disapproval of members of the Grand Council towards Centralization, other forms of political organisation came into being in Nova Scotia and motivated Mi'kmaq leaders to join other Aboriginal organisations which united First Nations across the country.

A year later, correspondence from F.B. McKinnon still recognised the jurisdiction of the Grand Chief in Cape Breton and described the political system in effect at the time. He wrote,

Please be advised that the only chief recognised in this agency of 5 bands is Gabriel Sylliboy. This man was elected a number of years ago and the CB Indians consider him as chief of all the Micmacs of the Maritimes. He is not re-elected every three years but seems to hold his title for life as did his predecessor. On the five reserves of this agency they appoint triannually what they term a Captain who represents that particular band only.<sup>72</sup>

In 1947, the Secretary of the Department of Indian Affairs observed,

With regard to the Bands of Nova Scotia, the situation is slightly confused. Officially there has been only one Band here, the Micmacs of Nova Scotia, in the name of which band funds are held, but for which no chief or Councillors have ever been elected under the Indian Act. Rather inconsistently, the different groups of Indians in the old part-time Agencies were recognised as Bands for some local purposes and some of them elected Chief and Councillors under the three year elective system, part 1 of

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<sup>71</sup> NAC, Indian Affairs, RG 10, volume 9022, file 23-4 pt.1, Grand Chief Gabriel Sylliboy, June 22, 1945.

<sup>72</sup>NAC, Indian Affairs, RG 10, volume 8494, file 50/3-5 pt.1, FB McKinnon to Secretary, September 4, 1946.

the Indian Act. For the purposes of census, we now recognise two bands, Eskasoni and Shubenacadie, but for the Trust Fund only one Band in Nova Scotia is still recognised pending clarification.<sup>73</sup>

In Eskasoni there was an election held on November 26, 1947. Chief Joseph F. Gould and four councillors were elected. However, problems quickly developed. A letter dated February 9, 1948, from F.B. McKinnon described how nearly all of the councillors had resigned: "one of our councillors wished to resign because of ill health, another because he had plans to enter the United States, and another because he felt that his ideas were not accepted readily enough."<sup>74</sup> McKinnon requested advice, adding testily, "I do not feel like wasting time on nomination or election days at the whim of every Indian councillor."<sup>75</sup> Ottawa regretfully informed him that his attitude did not indicate "a proper approach to the question or understanding of your functions in the matter as Superintendent."<sup>76</sup>

Council elections were halted by Indian Affairs in 1950 until the release of the findings of the Joint Committee of Senate and House of Commons.<sup>77</sup> Since 1867, there had been only two parliamentary inquiries into Indian Affairs, the first in 1926 to examine the issue of land claims presented by the Allied Tribes of British

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<sup>73</sup> NAC, Indian Affairs, RG 10, volume 7115, file 1/3-5 pt.1, Secretary of Indian Affairs to MP John H Blackmore, May 6, 1947

<sup>74</sup> NAC, Indian Affairs, RG 10, volume 8494, file 50/3-5 pt.1, FB McKinnon to Secretary, February 9, 1948.

<sup>75</sup> Ibid., p.1

<sup>76</sup> NAC, Indian Affairs, RG 10, volume 8494, file 50/3-5 pt.1, Secretary to FB McKinnon, February 18, 1948

<sup>77</sup> NAC, Indian Affairs, RG 10, volume 8494, file 50/3-5 pt.1, Secretary to FB McKinnon, November 8, 1950

Columbia, and the other in 1930 to examine the adoption of the western styled election process. The 1946 committee observed that, "a lapse of more than 20 years without parliamentary investigation [was] too long to permit ... good administration of a Branch or Department of Government which deals with such human problems as Indian Affairs"<sup>78</sup> The committee used a 12-point mandate to examine treaty rights and obligations, taxes, enfranchisement, the right to vote on Dominion elections, band membership, encroachment, schools, social and economic status, and a number of other administrative details. With regards to band membership the committee stated, "that a new definition of 'Indian' and the amendment of those sections of the Act which deal with band membership will obviate many problems"<sup>79</sup> It also recommended a revision of band membership lists. As for elections, "It is realised that many Indians are not anxious to have or to use the franchise, under the misapprehension that, if they do exercise it, they will lose what they consider their rights and privileges."<sup>80</sup> The Committee also found that linked to this issue was the necessity of paying taxes, concluding that there was a prevalence of First Nations paying taxes, without the right to vote: "This is taxation without representation"<sup>81</sup>.

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<sup>78</sup>Canada. Special Joint Committee of Senate and House of Commons on Indian Affairs (Kings Printer: Ottawa. 1947) p.189

<sup>79</sup> Ibid., p.187

<sup>80</sup> Ibid., p.186

<sup>81</sup> Ibid.

There was a national Aboriginal political organisation in existence at the time known as the North American Indian Brotherhood (NAIB) under the direction of Andy Paull which was also involved in the hearings of the Joint Committee of Senate and house of Commons. In Nova Scotia, it seems that Ben Christmas attempted to join this national movement by forming a local organisation known as the United General Indian Council of Nova Scotia, which was affiliated with the North American Indian Brotherhood. Only one submission from this organisation has been located to date: a presentation to the House of Commons with Christmas functioning as President. It is difficult to determine the extent of this organisation or its membership as no other documents have, as yet, been found. The submission itself is undated, but enclosed resolutions are dated August 7 and 8, 1945, and were passed by a meeting of the First Nations of the Maritime Provinces and the Province of Quebec which took place in the Big Cove Reserve in New Brunswick. The resolutions dealt primarily with treaty rights. The document contends that Indian Affairs had failed in its mandate, "to see that the Indians privileges were granted."<sup>82</sup> There was protest over federal and provincial legislation which attempted to restrict Mi'kmaq treaty hunting and fishing rights and a six-point statement made by the Maritime First Nations proposed that land taken be returned, "That the Indians not be removed from one Reserve to another without

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<sup>82</sup>Beaton Institute, UCCB, UNSI Collection, Untitled Document File, No.27, "Resolutions passed by the Indians of the Maritime Provinces and the province of Quebec at the meeting held at Big Cove Reserve, in the Province of New Brunswick, on the seventh and eight [sic] day of August A.D. 1945"

their consent,<sup>83</sup> that the treaty rights be respected, adequate medical care be given, and that,

the Department of Indian Affairs be requested to take the necessary steps for the election of Indian Chiefs for each reserve, which Chief should be the mouth piece of the Reserve and the authority in said Reserve and that this Chief be paid a salary of at least twenty-five dollars a month in order that he may devote more time to the office and the welfare of his reserve.<sup>84</sup>

In the brief of the United General Indian Council of Nova Scotia, Ben Christmas spoke forcefully against Centralization, stating,

I am going to say some unpleasant things against the Centralisation movement and management and I expect reprisals; as a matter of fact, I made certain complaints last July, and the Indian Agent and his clerk have not spoken to me since. I expect after today they won't even look at me.<sup>85</sup>

Christmas continued, "the Indians did not agitate for it, were not even consulted when the scheme was contemplated, and consequently had no choice in the matter."<sup>86</sup>

A majority of Mi'kmaq were opposed to Centralization because the chosen sites were isolated, the roads were often impassable, the area was devoid of economic opportunity with regards to hunting and fishing, and lumbering was expensive and difficult. In sum, Christmas postulated, "There has been more unemployment and distress at the centralised reserve than all other Cape Breton

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<sup>83</sup>Ibid., p.1

<sup>84</sup>Ibid.

<sup>85</sup>Beaton Institute, UCCB, Untitled Document File, No.26, "Submission of Ben E Christmas, President, United General Indian Council of Nova Scotia to Senators and Members of Parliament." Undated.

<sup>86</sup> Ibid., p.2

reserves combined, despite the fact that thousands of dollars have been spent there."<sup>87</sup> It was his contention that, "Centralization has become a great instrument to beat the Indians into submission, including our veterans who have fought for King and Country in the last two world wars."<sup>88</sup> He strongly decried the treatment given to the veterans in fact, stating that, "To our knowledge the local administration is doing absolutely nothing to assist our veterans to become permanently re-established."<sup>89</sup> As for the amenities on the Centralized reserves, a majority of the houses were badly built and the local Indian Affairs administration was tyrannical. Christmas observed that they, "dictate[d] who should occupy them and when to vacate them."<sup>90</sup> In concurrence with the 1945 meeting at Big Cove, Christmas moved that Indian Affairs should re-instate elections of Chief and Council at each reserve, "to maintain good reservation government."<sup>91</sup> There were two points which Christmas wanted resolved, the first being the question of whether Canada recognised ancient rights, and the second that if there was recognition of these rights, legislation should define clearly what these rights were. Christmas concluded,

It is submitted that the question of centralisation, which seems to be the most important matter at present under consideration, would be greatly

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<sup>87</sup> Ibid.

<sup>88</sup> Ibid., p.4

<sup>89</sup> Ibid.

<sup>90</sup> Ibid., p.7

<sup>91</sup> Ibid., p.9



simplified if the Indians were in a position to know exactly what their rights and liabilities are as regards to taxation, enfranchisement and other matters, we heartily endorse the submissions of North American Indian Brotherhood, by Chief Andrew Paull, President, of Vancouver, BC<sup>92</sup>

As the Joint Committee toured Nova Scotia, representatives from the Millbrook reserve expressed their dissatisfaction with the current state of affairs, presenting three petitions. What is notable from the transcripts of the meeting was the perseverance of the local leadership, as noted by the Mi'kmaq speaker referred to as Mr. Martin in the transcripts of this meeting,

According to Mr. Rice [the Shubenacadie Inspector] or the department -- I don't know which -- there is no such thing as a council or chief on this reserve, but we have carried on. We haven't been re-elected or there haven't been any elections since we were elected councillors and chief, but they dissolved that at the same time when Shubenacadie started.<sup>93</sup>

While there were elections held on the Centralized reserves, "the others, according to my understanding having lost their status by reason of the amalgamation."<sup>94</sup>

All of the petitions presented to the Joint Committee voice disapproval of Centralization. With regards to the proposed changes to the Indian Act, Millbrook residents stated, "We definitely resent the government's decision to centralize all small reservations into a larger unit at Shubenacadie".<sup>95</sup> To add emphasis to their words, another brief prepared by solicitors Burchell and McDougall, presented a

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<sup>92</sup> Ibid.

<sup>93</sup> DIAND, Treaty and Claims Research Center Archives, K 56, "Royal Commission on the Millbrook Reserve, Truro N.S., October 28, 1946." p.382

<sup>94</sup> Ibid., p.1

<sup>95</sup> Ibid., p.384

seven-point response to the proposed changes in the name of the Millbrook people. In tandem with the outcome of the Big Cove meeting and the statement by the United General Indian Council of Nova Scotia, the Millbrook submission stated that treaty rights were not respected, that proposed changes respecting band membership did not affect the Millbrook Band. As to the vote: "Our clients do not feel that they should be paying income tax where they do not have the right to vote. It would appear that they feel that there should be taxation with representation."<sup>96</sup> In sum, Burchell and McDougall stated, "With regard to changes in the Indian Act our clients feel that Section 52 of the Act should be removed from the Act or at all events should be modified so that the Indians have some say in their own destiny with regard to removal from their homes."<sup>97</sup> The submission from the Shubenacadie elected council was not much different. In response to whether there were problems with the general administration of Indian Affairs, the council responded, "Yes, but they are other matters far too numerous to go into detail at this point"<sup>98</sup>

Anita Tobin argues that there was no effective Mi'kmaq leadership during Centralization at Shubenacadie. She states, "One has to wonder why these people had not provided themselves with a leader to represent their interests in light of

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<sup>96</sup> Canada. Special Joint Committee of Senate and House of Commons on Indian Affairs p.854

<sup>97</sup> Ibid., p.834

<sup>98</sup> Ibid., p.868

such dramatic changes taking place within their community in 1941.”<sup>99</sup> It is possible that there was no political representation, as recognized by the Department of Indian Affairs, simply because there had been orders not to hold elections. Given the scarcity of records it is possible that there were moves made to protest Centralization which were not recorded, or were lost or destroyed. Perhaps moves made by Mi’kmaq leaders to take action were viewed as attempts at making trouble, as was the case with the Grand Council in Eskasoni. Further, lack of political participation seems to fit with the dramatic silence observed in Eskasoni in the 1950’s. It is also possible that this silence was a method of resisting the dictates of Indian Affairs officials. Given the fact that there was no consultation and refusal to participate met with drastic consequences, it would appear that elected political representation would have been perceived as a pretence and therefore irrelevant. Silence would have been a much more effective way of expressing Mi’kmaq displeasure.

After Centralization, the Quarterly Reports for the decade of the 1950’s uniformly reported that interest in maintaining a high level of reserve government waned drastically. The Quarterly report of September 30, 1950, noted for example, that, “Four council meetings were held; three of these meetings had to be cancelled because of poor attendance on the part of the chief and councillors.”<sup>100</sup> Again in June of 1951, “Three council meetings were held during this period. Some

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<sup>99</sup>Anita Maria Tobin, “The Effect Of Centralization in the Social and Political Systems of the Mainland Nova Scotia Mi’kmaq (Case Studies: Millbrook - 1916 & Indian Brook - 1941)”,p.61

trouble is being experienced in getting a full turn out of the councillors."<sup>101</sup> The last quarter was no better, "Attempts were made to hold two council meetings but each time they had to be cancelled because of a lack of a quorum on the part of the councillors."<sup>102</sup> By 1951, word came from Ottawa that elections were to be held elsewhere.<sup>103</sup> Centralization was over. However, the situation was desperate by 1952, as the agent indicated, "we are trying to confine the work on the reserve to the married men, and to encourage the single men to find work off reserve"<sup>104</sup>

Tobin argues, "It can be stated without any doubt that the disorganised state of the political structure on Indian Brook was the result of the breakdown in political and social structures due to decades of legislation under the Indian Act and the inability of the Mi'kmaq to find their own means of economic support."<sup>105</sup> While there undoubtedly was a breakdown in social structures during Centralization, the decades of legislation prior to the 1940's may not have been as destructive as Tobin argues. In fact, the argument has been made in this chapter that prior to Centralization Mi'kmaq leaders maintained a political dialogue which incorporate elements of the Indian Act and Mi'kmaq political protocol, as

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<sup>100</sup> NAC, Indian Affairs, RG 10, volume 9022, file 23-4 pt.1, Quarterly Report, September 30, 1950

<sup>101</sup> NAC, Indian Affairs, RG 10, volume 9022, file 23-4 pt.1, Quarterly Report, June 12, 1951

<sup>102</sup> NAC, Indian Affairs, RG 10, volume 9022, file 23-4 pt.1, Quarterly Report, December 31, 1951

<sup>103</sup> NAC, Indian Affairs, RG 10, volume 8494, file 50/3-5 pt.1, Secretary to FB McKinnon, November 14, 1951

<sup>104</sup> NAC, Indian Affairs, RG 10, volume 9022, file 23-4 pt.1, Quarterly Report, June 30, 1952

<sup>105</sup> Anita Maria Tobin, "The Effect Of Centralization in the Social and Political Systems of the Mainland Nova Scotia Mi'kmaq (Case Studies: Millbrook - 1916 & Indian Brook - 1941", p. 61

maintained by the Grand Council. In her analysis Tobin does not present any evidence of Grand Council influence on the mainland, in fact she does not mention the Grand Council at all, and appears to rely only upon election results set by the Department of Indian Affairs. This data is sketchy at best. Further, it must also be stated that it was not the Mi'kmaq who were at fault for failing to be economically self-sufficient, rather, as Tobin herself illustrates, external factors, such as systematic racism may have had more effect.<sup>106</sup> Centralization exacerbated these conditions.

Once Centralization ended, the main preoccupation of Indian Affairs was to create Band Lists. Changes to the Indian Act in 1951 made this necessary in order that funding could be released. According to the administrative officials of the Department of Indian Affairs, there was no officially recognised system of Mi'kmaq government except for the Councils run by Indian Agents. Lisa Patterson observes, "Bands therefore had to be created, a process which took about five years and raised several interesting issues related to centralisation."<sup>107</sup> In 1958, eleven bands were created. There was a general list, which encompassed Yarmouth, and Gold River, Wildcat reserves and the Mainland was divided into six reserves: Afton, Pictou Landing, Truro, Shubenacadie, Annapolis Valley, and Bear River, while Cape Breton was divided into Eskasoni, Chapel Island, Whycogomagh, Middle River, Wagmatcook, and Sydney. Patterson states that,

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<sup>106</sup> Ibid., p. 45

"Band division did little to ameliorate the conditions discovered by community development officers from St. Francis Xavier University's Extension department who began work on the reserves of the Eskasoni agency in 1957."<sup>108</sup>

Thus, from the turn of the century until Centralization there was an election process in place which incorporated elements of the Grand Council diplomatic culture as well as selected aspects of the Indian Act which were only implemented with the approval of both the Grand Council and local Indian Agents. It appears that the election process was a significant expression of Mi'kmaq political culture and for many decades, the local Indian Agent was simply informed of the results, or allowed to observe as long as he did not hinder the process. If he attempted to do this, the local Mi'kmaq community refused to have any representative at all until a member of the Grand Council arrived to begin the election process anew. Thus, the argument can be made that prior to Centralization, local Mi'kmaq communities refused to jeopardise the political traditions of the Grand Council without express approval from the Grand Council itself. Despite the fact that Indian Affairs refused to extend formal political recognition to the Grand Council, Mi'kmaq communities did so to such an extent that local Indian Agents were rendered completely ineffective. These actions translate into an effective form of resistance which united Mi'kmaq communities firmly with the Grand Council. The attempts made during Centralization to force assimilation upon the Mi'kmaq people had negative

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<sup>107</sup> Lisa Lynne Patterson. "Indian Affairs and the Nova Scotia Centralization Policy" p.125

<sup>108</sup> Ibid., p.128

consequences for the Grand Council, ultimately resulting in a show-down between Indian Agent and Council members. The Grand Chief moved and the Indian Agent was left to his own devices. In the final analysis, it could only be a Pyrrhic victory for Indian Affairs.

Without the support of long-standing Mi'kmaq leaders, reserve government effectively became a puppet organisation in the decade that followed. And, as the final chapter will demonstrate, Centralization actually created the necessary conditions for a grass-roots movement of discontent, and a new generation of leaders, aided by the St. Francis Xavier Extension Department, continued to create political organisations external to the governmental apparatus maintained by the Department of Indian Affairs. In May of 1968, the Eskasoni agency was blockaded by men, women and children demanding improvements to housing, sanitary conditions and medical care. That same year another short lived organisation with the acronym 'UN' was founded by World War Two veteran Lawrence Paul. Its mission statement was mighty. After the release of the 1969 White Paper, the Union of Nova Scotia Indians was formed, while the 'UN' voluntarily folded in favour of having one united Mi'kmaq voice. Another phase of Mi'kmaq-Federal government relations was initiated. In some ways the formation of the United General Indian Council of Nova Scotia during the 1940's was a small foray into the field of alternative political organisation and may have even been ahead of its time. The organisation which formed two decades later was well aware of the administrative intricacies of Indian Affairs, staffed by individual

Mikmaq who were university-educated, and supported by a community which had been toughened by two decades of coping with the fallout of Centralization.



## **Chapter 5**

**Masters of their own Destiny Revisited:  
Decentralization, Education, and  
the Union of Nova Scotia Indians**

In her study of Canadian Indian policy, Sally Weaver has discussed the growing awareness of non-native Canadians regarding the plight of the country's First Nations. The concept of 'participatory democracy,' brought into popular political usage by Pierre Trudeau, led to increasing demands for a greater public role in the formation of government policies, and the policy-making process itself came under greater public scrutiny.<sup>1</sup> The newspapers of Nova Scotia during the decade of the 1960's were filled with examples of this kind of advocacy. There were also expressions of concern over issues like poverty and civil rights and closer to the political hub of Canada, organizations like the Toronto-based Indian-Eskimo Association sustained interest in Indian Affairs. Events such as the 1967 Centennial celebrations inspired a re-examination of the past and the question of a national Canadian identity. The Quebec separatist movement and the Black Power movement challenged the status quo as did the growing Red Power movement. Civil rights became increasingly important as, "liberal -minded people developed a concern for minority groups and their rights to cultural and linguistic expression."<sup>2</sup>

An anti-poverty movement also began to recast perspectives about First Nations in Canada. Weaver continued:

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<sup>1</sup>Sally Weaver. Making Canadian Indian Policy: The Hidden Agenda 1968-1970 (Toronto: University of Toronto Press. 1981) p.8

<sup>2</sup>Ibid., p.13

Consequently, as efforts to cope with national unity, ethnic diversity, and poverty gained momentum in the 1960's, Indians became more visible to the public and were placed all too obviously among the most disadvantaged minorities in society. As the public, and particularly the press, became better informed of Indian poverty and alienation, a collective sense of guilt about the historical treatment of Indians emerged and the federal government came under heavy criticism.<sup>3</sup>

The 1963-67 Hawthorn Commission compiled frightening statistics regarding levels of poverty and the effects of inadequate health-care provided to Canadian First Nations' peoples. The report made many recommendations for change such as community development programs, the assumption of certain responsibilities to the provinces, band grants for self-administration, and the creation of an Indian Claims commission. A 'Citizens Plus' perspective was recommended as a move away from long-standing assimilationist perspectives and importantly, in 1964, Decentralization began. It was hoped that, "through the community development process Indians would become more self reliant, and through the transfer of federal services to the provinces, Indians would receive services from the same sources as other Canadians, thereby reducing dependence upon the Indian Affairs branch."<sup>4</sup>

As these community development programs were established, Weaver observed, "the young and enthusiastic community development workers, who were committed to changing the traditional ways of Indian Affairs management, inevitably clashed with the authoritarian Indian agents on the reserves."<sup>5</sup> This

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<sup>3</sup>Ibid., p.15

<sup>4</sup>Ibid., p.27

<sup>5</sup>Ibid., p.28

does not appear to have been the case in Nova Scotia. The Saint Francis Xavier Extension Department, which operated an extensive community development program, maintained a good relationship with the local Indian Affairs agency. Importantly, though, as Weaver demonstrates, administrators did not anticipate the rejection of Indian Affairs which occurred as higher levels of self-determination were achieved by First Nations communities.<sup>6</sup> This trend is identifiable in Cape Breton where, in 1966, the Eskasoni Band Council asked Indian Affairs to vacate the reserve. As for the Advisory Boards, Weaver argued they were, "composed of band-appointed representatives, [and] reflected the notion of Indian participation at the regional and national levels rather than at the local level as the community development program was designed to do."<sup>7</sup> Once a system of government sanctioned by the Indian Act had been created in Nova Scotia, education became important as a means of resisting assimilation.

Indeed, no study of Mi'kmaq political resistance in Nova Scotia would be complete without a brief exploration of the impact of education. It is widely accepted that education programs have been one of the cornerstones of Indian Act assimilation policy. Yet, in Nova Scotia, the argument can be made that education also played a very important role in the formation of a new generation of Mi'kmaq leaders trained to handle the bureaucracy of Indian Affairs and the administrative aftermath of Centralization. In 1949, the same year that the policy

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<sup>6</sup>Ibid.

<sup>7</sup>Ibid., p.29

of Centralization was officially abandoned, Indian Affairs was transferred from the Department of Mines and Resources to the Department of Citizenship and Immigration. As the policy makers changed, so too did the policy.

This chapter argues that the relatively late introduction of compulsory Indian education in Nova Scotia, combined with large-scale Indian Affairs involvement in local Mi'kmaq systems of government in the 1940's, partially explains the later development of Aboriginal provincial organization. As well, it will be suggested that the involvement of the Saint Francis Xavier Extension Department after 1957 enabled rapid development of a Mi'kmaq perspective which could successfully navigate the complex bureaucratic terrain of political negotiation for funding. As evidenced by the mission statement of the Union of Nova Scotia Indians, funding granted by the federal government was to be used to establish programs which had the long-term goal of revitalizing Mi'kmaq identity and culture. Further, the creation of UNSI will be interpreted as a rejection of the political separatism imposed by Indian Affairs during the 1950's which sought to turn Mi'kmaq political leadership into municipal styled councils.

There was a precursory organization to UNSI, known as the UN (Ulnueeg Nigonidike, or, L'nu'k l'kanuti'ek) which translates from Mi'kmaq to "Indians, we are going forward" according to the local *Highlander* newspaper of 1968. It was the intent of this body to create an organization which functioned outside Band council government and government agencies. The mandate of the UN was to achieve "full sharing by all Indians in the responsibilities and duties of this

democratic society, and full sharing of its benefits."<sup>6</sup> Rights, and the protection of rights, topped the agenda. This organization was instrumental in advocating the need for education which fostered Mi'kmaq identity rather than hindered it. The emphasis on sharing knowledge seemed to have lent itself naturally to a re-examination of the Indian education system. Politically, this movement translated into a move towards Indian control over Indian Affairs, a motto which was revisited in the formation of UNSI.

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In the years following Centralization, local Indian Affairs Agents, or Indian Superintendents as they were known in the 1950's, found it nearly impossible to administer Mi'kmaq affairs in Nova Scotia. The main difficulties were caused by the 1951 amendments, specifically concerning the need to have the permission of Band council to release funding. Formally, there was no unified Band Council government as specified by the terms of the Indian Act in operation in Nova Scotia. Officially, the Mi'kmaq of Nova Scotia were still considered one band and, as discussed in previous chapters, Indian Affairs had refused to acknowledge the Grand Council in an official capacity. According to the correspondence of the 1950's, Indian Affairs administrators found it necessary to create Band Councils. Events came to a head when, in 1953, F.B. McKinnon, the Regional Supervisor of Indian Agencies, requested funds for cutting the

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<sup>6</sup>PANS: Reel No. 1309, *The Cape Breton Highlander*, November 6, 1968, volume 5, No. 45, p.1

undergrowth along the boundaries of the Eskasoni reserve. L.L. Brown, the

Superintendent of Reserves and Trusts Division, refused the expense, noting:

this expenditure would be properly chargeable to Band funds but, as you are aware, under the new Indian Act there is no way of releasing Trust Funds without the consent of the Band Council for such a purpose as this. It is hoped that within a year, possibly, the Band lists of the Micmacs will be established and thereby enable a division of the funds, which done, with the consent of the Band Councils monies may be released for purposes such as this.<sup>9</sup>

Nearly seven years later the lists were still incomplete.

It is possible to trace a similar trend regarding the illusion of consultation which Sally Weaver and Dorothy Anger identified in subsequent correspondence relating to the division of the Mi'kmaq people into separate bands. A letter dated February 18, 1955 noted, "that it would be in the best interests of the Indians to divide the Nova Scotia band, together with their lands and funds, into smaller units, [this] is certainly in line with their [the Mi'kmaq] thinking in the matter."<sup>10</sup>

Politically, the letter adds:

While there is no special affinity between any of these groups there is similarly no animosity. They visit each other, intermarry regularly and, having a common language and religion, there is not now and never has been to my knowledge any friction among the various groups. In the past, through some convention of their own, they elected a Grand Chief of the Micmacs (including the Nova Scotia mainland) for life and the present incumbent is Gabriel Sylliboy of Eskasoni, a man now entering his eighties... Strangely enough the Indians always used excellent judgment in the selection of this Grand Chief whose influence over them is much greater than the elected chiefs and councillors.<sup>11</sup>

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<sup>9</sup>TARR: Potts Collection, Department of Indian Affairs, RG 10, file 274 /30-1, v.1, Superintendent of Reserves and Trusts to Regional Supervisor of Indian Agencies, April 9, 1953.

<sup>10</sup>TARR: Potts Collection, Department of Indian Affairs, RG 10, file 274 /30-1, v.1, F.B. McKinnon, Regional Supervisor of Indian Agencies to Indian Affairs Branch. February 18, 1955.

<sup>11</sup>Ibid., p.1

Reserves were re-surveyed in preparation for this division and it was decided that the Minister of Indian Affairs had the authority, under Section 17 of the Indian Act, to divide the Mi'kmaq into bands, without their consent if necessary.<sup>12</sup> In a 1956 Memorandum to the Director, L.L. Brown, the Superintendent of the Reserves and Trusts Division wrote:

The Indians of Nova Scotia are of one tribe, the Micmacs of Nova Scotia, and although on various occasions in the past there was a tendency to consider various groups as separate bands, it can be accepted that at no time did either the Province of Nova Scotia or the Federal Government create separate bands nor were any lands set apart for the sole use of any group.<sup>13</sup>

He added that all reserves were held for the benefit of that band as were Trust Funds. He stated:

Despite the fact that it was initially understood that the reserves belonged to the Micmacs of Nova Scotia generally, prior to 1920 it was the custom to carry separate trust accounts under the names of certain reserves and deposit therein moneys derived from the assets of such reserves. In 1926 it was decided that this practice should be discontinued and all funds standing to the credit of certain reserves should be placed in one account to be known as the Micmac Fund of Nova Scotia. At the date of amalgamation there were seventeen accounts totaling approximately \$25,000 in capital and \$7,000 in revenue. For the most part the accounts were small, the exceptions being a sum of approximately \$15,000 presumably derived from the sale of Fairy Lake Reserve. No.9 and \$7,000 presumably derived from the sales of the Sambro, Ingram River and Ship Harbour Lake Reserves in Halifax county.<sup>14</sup>

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<sup>12</sup>TARR: Potts Collection, Department of Indian Affairs, RG 10, file 27 4/30-1 v.2, Memorandum to the Director from L.L.Brown, December 11, 1956.

<sup>13</sup>Ibid., p.1

<sup>14</sup>Ibid.



As for the use of these funds, Brown observed that after the amalgamation, or Centralization, it was decided by administrators that the account should be frozen and it had remained so ever since. Brown recommended that consultation with the Mi'kmaq occur and that consent to a per capita share of the funds was necessary, otherwise, there would be accusations of misappropriation of funds. Brown was cynical about the possibility of a positive response from the Mi'kmaq, however, for he added, "I would expect that it would be a rather meaningless meeting from the point of view of securing any positive expression of opinion from the Indians and that in the long run the Department would have to act without positive knowledge that its plan met with the approval of all the Indians or even a majority of them."<sup>15</sup> Evidently, the decision to divide the Mi'kmaq into separate bands had been reached years before official consultation occurred with Mi'kmaq leaders.

There were two meetings held in 1957 with Mi'kmaq representatives to discuss the proposed division. Although the decision to divide the Mi'kmaq had already been made, consultation with Mi'kmaq leaders occurred to discuss the details. For example, the April 17, 1957 Memorandum to the Director which described the January 10 meeting at Truro stated, in regard to the proposal of creating four bands at Shubenacadie, Truro, Pictou and Afton and membership therein, "while the representatives present at the meeting agreed with this recommendation there was a good deal of discussion and no unanimity as to

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<sup>15</sup>Ibid.

what should be done with the other Indian residents of the Province."<sup>16</sup> L.L.

Brown, author of the report added,

Taking the long-term view it seems to me that we are more likely to achieve the integration of the Indians if they were in relatively small groups, and I can see much more possibility of the Indians at reserves such as Yarmouth, Gold River, etc. seeking enfranchisement if they are established as a band rather than being amalgamated with some other larger group who lives miles away and with whom they have little in common.<sup>17</sup>

The January 8 meeting held in Sydney saw consensus reached over the creation of five bands in Cape Breton. Although there are no official records pertaining to the membership of the Grand Council during this period, there does appear to have been some representation as Ben E. Christmas and Donald Marshall (who was later selected as Grand Chief) were in attendance. The main concern raised was whether this division would cause the same housing shortage that had occurred as a result of Centralization. In any case, Cape Breton was divided into five bands by the Minister of Indian Affairs under Section 17 on November 28, 1957. On October 22, 1958, the mainland was formally divided. Eleven bands were established and a general list created which became the Acadia band under Section 17 on June 15, 1965.<sup>18</sup>

The complete separation of administration between Mainland and Cape Breton became a powerful theme as a Memorandum to the Director of Indian

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<sup>16</sup>Ibid.

<sup>17</sup>Ibid.

<sup>18</sup>TARR: Potts Collection: Indian Affairs, RG 10, file 274/30-1, v.3, Memorandum from Acting Head, Supporting Services Division, June 15, 1965.

Affairs dated February 15, 1957 testified, "the Cape Breton Indians would waive any claim to reserve lands on the Mainland portion of Nova Scotia provided that the Mainland group would similarly waive any interest in reserves in Cape Breton."<sup>19</sup> Thus, by 1958, the political division of the Mi'kmaq Nation had been accomplished by the Minister of Indian Affairs under Section 17 of the Indian Act. As seen, whether the Mi'kmaq consented to this development was a moot point. It appears that Mi'kmaq representatives may have agreed to the establishment of elected Band Councils, possibly because it was the only way that Mi'kmaq leaders could have some input into their affairs and achieve some form of influence over funds. Indeed, as noted in previous chapters, the Grand Council had been officially ignored by Indian Affairs officials and was therefore at a disadvantage when faced with what was, for all intents and purposes, a take-over by Indian Act requirements. By 1958 it appears that the Grand Council had faded almost permanently into the background of the new political arena.

There are distinct parallels between this political assimilation which occurred in the late 1950's, and the official establishment of institutional education in Nova Scotia. In her analysis of Indian Education in Nova Scotia, Marilyn Elaine Thomson-Millward observed that Nova Scotia Mi'kmaq children were subjected to compulsory institutional education far later than Native children in other parts of Canada. She argued that the education system in Nova Scotia did play a role in what she terms 'ethnocide' by attempting to remove

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<sup>19</sup>TARR: Potts Collection: Indian Affairs, RG 10, file 27 4/30-1 v.2, Memorandum to the Director of Indian Affairs, February 15, 1957

Mi'kmaq children from their culture. Originally the role of education was to oversee, "their absorption into the citizenship of the country as self-supporting members; that this was attempted by suppressing Indian culture and language and encouraging Christianity certainly suggests ethnocide rather than genocide."

<sup>20</sup> Inevitably, there would be political consequences in later years as these children grew and adapted to this environment.

Like Weaver, Thomson-Millward isolated the paradox within Indian Act policy as she observed, "Assimilation was seen as the humanitarian way to treat the defeated."<sup>21</sup> She postulated that the nineteenth century humanitarian perspective believed that through the education process, First Nations people could be transformed and become equals with White society: "The reformer's belief that education would allow the Indian to sink or swim on his own merits not only suggested that failure was entirely the pupil's own responsibility...but assumed as well that the Indians wanted to enter white society."<sup>22</sup>

The Shubenacadie Residential School has become symbolic of this method of thinking. As Thomson-Millward stated, "It was built to consolidate Indian education in the Maritimes, to mold the lives of the students" , and to, "aid

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<sup>20</sup>Marilyn Elaine Thomson-Millward, *"Researching The Devils": A Study Of Brokerage At The Indian Residential School, Shubenacadie, Nova Scotia* . (Ph.D Thesis, Dalhousie University 1997.) p.15

<sup>21</sup>Ibid., p.71

<sup>22</sup>Ibid.

them in their search towards the goal of complete Canadian citizenship."<sup>23</sup>

Mi'kmaq people did not have to contend with this form of assimilation until the 1920's. Only then did education become compulsory for Mi'kmaq children between the ages of seven and sixteen.<sup>24</sup>

Thus, assimilation was not only on the agenda politically, but it was also a stated component of the education system as late as 1959.<sup>25</sup> Importantly, this system provided some Mi'kmaq children with an education which later became a foundation for political resistance as Mi'kmaq leaders. This link between education and political resistance was firmly established with the Mi'kmaq people in 1957 with the involvement of the Saint Francis Xavier Extension Department and the gradual institution of Adult Education and Community Development programs.

The Extension Department of Saint Francis Xavier was created in 1930. According to Alexander Fraser-Laidlaw, its mission statement was, "the improvement of the economic, social, educational, and religious conditions of the people of eastern Nova Scotia."<sup>26</sup> It was the first adult education program of its kind which, on a very low budget, taught classes through study clubs, short courses on Leadership Training and disseminated lectures through pamphlets.

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<sup>23</sup>Ibid., p.93

<sup>24</sup>Ibid., p.97

<sup>25</sup>Ibid., p.98

<sup>26</sup>Alexander Fraser-Laidlaw, The Campus And The Community: The Global Impact Of The Antigonish Movement (Montreal: Harvest House Ltd. 1961) p.71

The philosophy of the program was to bring education out of the university to people who would normally not have access to it. Founder Moses Coady inspired what became known as the 'Antigonish Movement'<sup>27</sup> which achieved international recognition after the Second World War. Fraser-Laidlaw observed:

The world at that time was feverishly searching for a way out of the Great Depression: here was a program that went from theory to practice in a relatively short period of time, that struck at the most serious problems of the time - the economic ones, and still preserved, and indeed fostered, the democratic ideals which people in other parts of the world were surrendering for security.<sup>28</sup>

In 1949, before the plenary session of the Economic and Social Council, Dr. Coady presented a lecture before members of the United Nations. Shortly thereafter an International Institute, named the Coady Institute, was established on the Saint Francis Xavier campus. Coady's philosophy was based on the idea that, "knowledge disseminated among the masses of people is the country's greatest form of wealth for future progress and prosperity."<sup>29</sup> The basic premise was that democracy rested upon an enlightened public. In keeping with his calling as a Roman Catholic Priest, Coady also sought to present and spread the

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<sup>27</sup> For further discussion of the 'Antigonish Movement' please see Malcom A. McLellan, Coady Remembered (Antigonish, Nova Scotia: St. Francis Xavier University Press, 1985), Anne Kathleen Armstrong, Masters Of Their Own Destiny: A Comparison Of The Thought Of Coady And Friere (Vancouver: Center for Continuing Education, University of British Columbia, 1977), Ronna Fay Fossum, Moses M. Coady And Adult Education In The Maritimes (Antigonish, Nova Scotia: St. Francis Xavier University Press, 1974) Anne McDonald Alexander, The Antigonish Movement: Moses Coady And Adult Education Today (Toronto: Thompson Educational Publishing, 1997), Santo Dodaro, The Antigonish Movement : Past Success, Current Circumstances, Future Options (Truro, Nova Scotia: Nova Scotia Economic Renewal Agency Co-Operatives Branch, 1995), Moses Coady, Masters Of Their Own Destiny: The Story Of The Antigonish Movement Of Adult Education Through Economic Co-Operation (New York: Harper, 1939).

<sup>28</sup> Alexander Fraser-Laidlaw, The Campus And The Community: The Global Impact Of The Antigonish Movement, p.91

teachings of the Roman Catholic Church. He believed that in every segment of society there are natural leaders who simply needed the proper training to help their community. Short courses were designed to teach these people business arithmetic, English, book-keeping, citizenship, economics, co-operation, business co-operation, and history. Self-sufficiency was continually stressed. Economically, this idea was expressed through Credit Unions, Co-operatives and Community Development Programs. The key component in the Community Development process was the Field Worker: "He was the jack-of-all trades in adult education: teacher, organizer, and advisor in community affairs."<sup>30</sup> Coady first applied his ideas to the rural and urban centers of eastern Nova Scotia which had been among the hardest hit by the Great Depression. It appears that this policy of Community Development had a direct link with the 'Antigonish Movement' for, in 1944 one of the original members of Coady's team broke away from the movement and went on to become the General Secretary of the Co-Operative Union of Canada.

It was this same organization which presented a 1959 brief to Indian Affairs on Community Development as administrators in Ottawa were attempting to re-examine the Indian Act and make changes which were more in keeping with the liberal post-war Canadian attitude.

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<sup>29</sup>Ibid., p.73

<sup>30</sup>Ibid., p.88

Initially, involvement in Native Communities by the Extension Department was separate from Indian Affairs but from 1964 until 1969, the Extension Department received funding from Indian Affairs to maintain the Community Development program it had established. On first reading it appears that the mandate established by the Extension Department differed little from the aggressive policy of assimilation which had been the driving force behind Centralization. However, two factors indicate that this argument does not stand. The first factor was that the intent of the Extension Department's program was to assist communities in becoming self-sufficient and independent on their own terms. This was accomplished by the field workers who worked directly with Mi'kmaq people to design programs that were tailored to the specific needs of each community. Unlike Indian Affairs, which had tended to push its agenda in spite of protests from Mi'kmaq leaders, the Extension Department relied on the approval of the communities to determine the success or failure of each suggested program. According to the 1959 brief, "the objective is to place the Indian in a position to determine the kind of life he wants to live, and to give him the opportunity to live in a fully satisfying, rewarding and constructive way."<sup>31</sup> Co-operatives could be effective in doing this only if they were acceptable to the First Nations involved, for the report acknowledged, "leadership which attempts to superimpose objectives from outside will inevitably fail."<sup>32</sup> Thus, the

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<sup>31</sup>St. F.X. EDA:Indian Affairs, RG 30-3/33/427, Brief to the Parliamentary Committee on Indian Affairs by the Co-Operative Union of Canada, December 1959, p.4

<sup>32</sup>Ibid., p.18



acceptance of this kind of approach also acknowledges the idea of First Nations' self-determination.

This sentiment was echoed in a 1963 report by Florence O'Neil who worked with the Education division of Indian Affairs. She also maintained ties with the Extension Department Community Development programs for Mi'kmaq communities,<sup>33</sup> and wrote in favor of Community Development, "Based on the conviction that all human beings have within them the potential to become, 'Masters of their own Destiny' and that adult education can be a vital force to this end, this plan embodies the recommendations and respected opinions of a large number of people involved in Indian education and familiar with the problem."<sup>34</sup> The second factor which affected the role of the Extension Department was a change occurring within Indian Affairs itself. In 1961, another Joint Committee of Senate and House of Commons released its report on Indian Affairs. It was known as the 'Winds of Change' report. It appeared that these winds affected not only the lives of First Nations peoples but also the personnel of Indian Affairs. In 1964, Indian Affairs embraced Community Development as an official policy. Importantly, one of the tidbits held out to Indian Affairs through all of the briefs which supported Community Development programs was the fact that they

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<sup>33</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/679, E.F. McKinnon to Reverend Dr. J.N. McNeil, Director of the Extension Department May 6, 1964. p.2

<sup>34</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/432, Community Development Education Service: A Projected Plan for Indian Communities, Florence O'Neil, 1963. (The concept of "Masters of their own Destiny" was originally a title of a book written by Coady. It was also a theme which repeated itself in the early days of UNSI's existence.)

offered a potential way to save money; this was a gambit that Indian Affairs could never resist.

A report of August 1959 provides the first details of involvement by Saint Francis Xavier. Since the Mi'kmaq people were Roman Catholic, the Extension Department originally began working with Cape Breton Mi'kmaq communities at the request of the local clergy. In Sydney,

After many years of concentrated effort by various pastors and curates at St. Anthony Daniel Parish, of which parish Membertou is a section, the reserve was ready for a program of adult education. In October 1957 the St. Francis Xavier Extension Department was contacted to assist in outlining and promoting a study program for the reserve. The aims of the Extension Department are mainly to bring knowledge to the people; to bring about change or improvement of some kind as a result of the knowledge gained and to encourage all people to take an active part in the betterment of society.<sup>35</sup>

A Credit Union was initiated and the first major initiative of the community was a house painting project. After that, an oil furnace was installed in the Church. Larger projects such as the installation of water and sewage systems, were then taken on. The 1959 report stated that, "Again this can be financed by the Credit Union with the people covering the cost independently of the government." <sup>36</sup> At this point the Extension Department functioned independently of Indian Affairs and it was felt that, "They [the people of Membertou] must move forward with a new determination to develop themselves through their own groups,

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<sup>35</sup>St. F.X. EDA: Indian Affairs, RG 30-3/25, Membertou Reserve.

<sup>36</sup>Ibid., p.2

organizations and programs of action with outside direction but independently of the government."<sup>37</sup>

The Extension Department also tried to facilitate a communication process on the issue of street lights for the Membertou reserve between Mi'kmaq leaders, the municipal council and Indian Affairs.<sup>38</sup> To meet this end, they began to work with Mi'kmaq leaders in designing a study program for the reserves. Unlike the education experience offered by the Shubenacadie residential school, the Extension Department made its mandate clear in a report written around 1960. It stated, "The general aim of the program is the advancement of the Indian in all phases of living in order to remove the feeling of inferiority and persecution which exists when associated with white people. This can best be achieved by establishing the ability of the Indians to help themselves through co-operation and group activity."<sup>39</sup> This statement suggests that, although the idea of assimilation was still present, there was an acceptance of the idea of group identity and strength. In 1959, Short Courses were offered. The discussion centered on social and economic problems and tentative solution, as well as other issues such as housing and alcoholism. A model Band Council was also staged. It is difficult to determine how the Mi'kmaq participants in this course felt, for there are no records of their feedback. It can be assumed, however, that there was support because the Extension Department continued to offer courses

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<sup>37</sup>Ibid., p.2

<sup>38</sup>St. F.X. EDA: Indian Affairs, RG 30-3/23, Indian Activities, 1958.

<sup>39</sup>Ibid., p.1

and went on to develop a full scale Community Development program in many reserves which centered on the positive power of education for children and adults alike. After the Short Courses of 1959, the Extension Department became more involved.<sup>40</sup>

In 1964, Indian Affairs began to fund the Extension Department's programs. Correspondence between the Director of the Extension Department and the Chief of the Social Program Division of Indian Affairs approved a three-year Work Prospectus submitted by the Extension Department. Eleven community projects were undertaken and two full time field workers were employed as the Extension Department began to work closely with Indian Affairs.<sup>41</sup> A second contract was approved, which ran from 1967 to 1969, and a 1965 Semi-Annual Report of Community Development on Indian Reserves noted that local Mi'kmaq were being employed as Field Workers.<sup>42</sup> Work was unstructured and no regulations were imposed as local university-educated Mi'kmaq people were employed to help their communities. In the fall of 1965 the "X" Project was introduced where volunteer students met with Mi'kmaq people and provided tutoring for anyone who needed it. Chapel Island was redeveloped as part of the Centennial project.

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<sup>40</sup>St. F.X. EDA: Indian Affairs, RG 30-3/27, Report of Short Course for Indians, South West Margaree, October 19-23, 1959.

<sup>41</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/761, Director of the Extension Department to Chief of the Social Program Division, December 20, 1965.

<sup>42</sup>St. F.X. EDA: Indian Affairs, RG 30-33/70, Semi-Annual Report of Community Development on Indian Reserves, April 1 to September 30, 1965.

Some of these people also worked for periods of time in the local Indian Affairs agency offices. Thus, by the early 1960's it is possible to see that local Mi'kmaq people were able to access the internal workings of Indian Affairs and learn about it firsthand: this became valuable knowledge for political organization.

Once the Extension Department had secured funding from Indian Affairs, it is possible to identify a move on the part of the Extension Department to conform to Indian Affairs expectations. For example, when the same 1965 report made reference to the good relationship between the Department and Indian Affairs, it noted political strains when accommodating the needs of the local communities:

... the dictates of committees or the community often tend to pressure action which is not entirely conducive to ideal relationships unless complete understanding and sincerity are fostered, as for example the Indians contacting provincial M.L.A.'s, Members of Parliament, a normal procedure and avenue available to all communities to effect what they feel is a worthwhile matter. While we did not encourage this approach we nevertheless found ourselves at the Indian's request in the capacity of typing their proposals as they sought to tap this political resource.<sup>43</sup>

The report went on to add that Mi'kmaq leaders were becoming more comfortable making critical assessments of Band Councils and policies in newspapers and agitating for more independence. Some of the Mi'kmaq response to the Extension Department involvement can be found, in the minutes of a June 1965 meeting of the Indian Centennial Conference: "All Chiefs agreed

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<sup>43</sup>ibid., p.2

that marked improvements have been noticed by Extension help and they requested that the Department continue to do their good work through the Councils as their reserves were open to them any time and wished that their work could be spread out at the other Nova Scotia reserves.”<sup>44</sup>

Despite the positive response to the work of the Extension Department, one year later, a summary dated October to March, 1966 observed that there was friction between Indian Affairs and the Band Councils over issues such as education, employment and community development grants.<sup>45</sup> (These issues would form the nucleus of the UNSI agenda four years later.) A number of briefs were submitted, requesting that these issues be addressed, particularly by the Eskasoni Band Council. There is a sense of frustration in these writings, as the second petition for the examination of water and sewage systems stated after being ignored the previous spring, “this petition was sent to the Shubenacadie Agency but at the time the staff was being changed so much that it was difficult to get direct answers, and difficult to find a person who could come to meetings with us.”<sup>46</sup> Another letter from the Community Planning and Improvement Committee of the Eskasoni Band Council protested the poor employment situation faced by a majority of Mi’kmaq people and the correspondingly poor

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<sup>44</sup>St. F.X. EDA: Indian Affairs, RG 30-33/1268, Minutes of the Indian Centennial Conference which met in the Board Room of the St. F.X. Extension Department, Sydney, on Friday and Saturday, June 25th and 26th, 1965. p.3

<sup>45</sup>St. F.X. EDA: Indian Affairs, RG 30-33/911, Report on work with the Indians October to March 1966.

<sup>46</sup>St. F.X. EDA: Indian Affairs, RG 30-33/1681, Shubenacadie Band Council to F.B. McKinnon, October 19, 1967.

levels of education. According to the Council, approximately sixty percent of males surveyed between the ages of 16 to 60 had less than grade seven and were dependent upon seasonal work for subsistence. The letter stated, "During the past twenty years we have barely existed in a costly initiative-sapping welfare environment which, since 1956, has exceeded \$110,000 annually. This sum was more than three times that of Sydney's 1964 relief budget, with thirty times Eskasoni's populations, and almost twice that of Cape Breton county during that year."<sup>47</sup> It added, "we may well wonder, then, whether education and welfare programs, unless complemented by economic considerations, are capable of providing a positive environment from which allegedly better generations evolve, or whether idleness, underemployment and perpetual poverty, with its depressing and dependent effects on attitudes, must characterize the community's way of life for the next couple of decades." <sup>48</sup> The Council voiced its disgust with the fact that there appeared to be little being done to address the root of the problem, which was predominantly economic:

We are further frustrated by the inactivity of your Department to take positive action to eliminate the causal factors of this subsistence living. We read of increased monies and staff specialists being provided for our benefit. In fact, since 1956 the Maritime Regional Office staff has increased by 500 percent, the Agency staff by 100 percent, as compared to a 50 percent increase on the Indian population. We sometimes wonder whether your staff has become a servant of efficient and dictated

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<sup>47</sup>St. F.X. EDA: Indian Affairs, RG 30-33/ 1521, Community Planning and Improvement Committee of the Eskasoni Band Council to R.F. Battle, 1966.

<sup>48</sup>*Ibid.*, p.1

bureaucratic procedures rather than personal development of our Indian people." <sup>49</sup>

Internally, Indian Affairs had decided to allow approved Band Councils to administer their own housing programs.<sup>50</sup> There was a positive response from Eskasoni, as the Extension worker reported, "Very early in the new Council's life a great deal of time was spent on the thought that the Indian people should manage their own affairs. After much discussion it was decided by the Council that the first step was to ask the Agency to leave the reserve. The Council then drew up a resolution to this effect."<sup>51</sup> The Extension worker noted that the Council was against the continued presence of Indian Affairs on reserve, and felt frustrated with the presence of the Extension Department staff and the education staff.

The feeling of frustration became worse, for an Extension department workers report observed one year later that the Eskasoni Band Council had ceased to be as active since requesting that the local Indian Affairs office be removed from reserve; "The feeling with the Council is that the Indians should make more decisions. The council feels that when it does make a decision the Department does not listen to them. That appears to be quite true when you look

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<sup>49</sup>ibid.

<sup>50</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/738a, Memorandum to the Regional Director of Indian Affairs, Maritimes from Director of Indian Affairs. May 24, 1967, p.2

<sup>51</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/2593, Report of the Extension Department Worker, 1967.



at the time lost since the Band requested the Agency's removal."<sup>52</sup> The Extension Department worker also noted the rise of a younger generation of Mi'kmaq who were very committed to the community. He speculated that, "the splinter groups may unite and the younger element may get a chance at shaping the community's destiny."<sup>53</sup>

Another voice raised in support of Mi'kmaq youth was Lawrence Paul. Elected Chief of the Membertou reserve in 1966, Paul had served as a paratrooper in the Second World War and in Korea. He was also an articulate proponent of Mi'kmaq people taking control of their own affairs. *The Cape Breton Highlander*, a newspaper which circulated on the island during the 1960's, carried a number of articles documenting his struggles to bring about 'a brand new deal' regarding housing for his people. He took part in the 1966 negotiations between Indian leaders and provincial politicians concerning the possibility of the province providing services to reserves. In one article, a response to a local non-native perspective of the difficulties being encountered by the Mi'kmaq people, Paul made a number of points which were echoed later by First Nations leaders across the country during the outcry over the 1969 White Paper. Paul refused to accept the premise that all problems would be solved by the elimination of poverty when he responded, "If he [the writer] thinks that by getting rid of the problems of poverty you get at the root of all the Indian problems he is a crazy

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<sup>52</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/2598, Report of the Extension Worker, 1967. p.2

<sup>53</sup>Ibid.

and badly misinformed person." <sup>54</sup> In Paul's mind, the recognition of treaties was crucial to achieving equality with the rest of Canada as, "they will provide the guideline toward the first steps on the road to equality and will also be a first step towards restoring the Indians' pride and dignity because they involve such concrete things as mineral rights and the reclaiming of lands and a variety of other things which vary from province to province." <sup>55</sup> Paul also condemned the current educational practice, explaining, "Just to integrate our children in this damn parochial school system has cost the Indian Affairs Branch hundreds of thousands of dollars alone. The I.A.B. is paying the non-Indian school system to accept our children by the offer of tokens of money to enlarge their schools and other things." Equality, in Paul's opinion was a farce as he stated, "So, I would say on the basis of this system that we are starting our children off with the preconceived idea that they are being accepted as equals. But in the light of the cost of integrating them into these schools, are Indian children really being accepted or are they just being tolerated?"<sup>56</sup> As for changes in the Indian Act, Paul was not hopeful. He ended, "This revision will take over three or four years before the new law is ready to apply and by that time it will already be obsolete again."<sup>57</sup> What is curious about this article is the fact that Paul introduced himself as one member of the Mi'kmaq people who were, by his admission, a non-treaty

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<sup>54</sup>PANS: Reel No. 1309, *The Cape Breton Highlander*, Wednesday, October 16, 1968. p 7

<sup>55</sup>*Ibid.*

<sup>56</sup>*Ibid.*

<sup>57</sup>*Ibid.*

people. One month later, he was one of the co-founders of the U.N. (Ulnueeg Nigonidike, or, L'nu'k l'kanuti'ek) which translates from Mi'kmaq to "Indians, we are going forward."

Education and politics also went hand in hand when the Indian-Eskimo Association presented a teach-in on the 'Canadian Indian' in September of 1967 at Saint Francis Xavier University. Activist Andrew Delise, Chief of the Caughnawaga People near Montreal was one of the six speakers. Extension Department papers noted, "Mr. Delise is known throughout Canada as a leader of one of the most progressive Indian communities in the country, and has appeared on national television frequently to further the Indian cause."<sup>58</sup>

The U.N. was also involved in raising consciousness through the education system, coordinating another workshop on Education on February 20, 1969. In his opening speech, at this workshop Lawrence Paul emphasized the importance of education, stating, "We are quite concerned about our educational problems, if we are not, we are just heading towards an alley-way where we will not be objective to anything. We will not be able to realize, we are part of this society. Education is one of the main goals we should talk about and emphasize to our children it's importance in order to be part of this so-called white Canadian society."<sup>59</sup> While the U.N. developed programs such as this in order to function

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<sup>58</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/1031, Untitled report concerning a September 1967 presentation of the Indian-Eskimo Association at St. F.X. University, Antigonish, p.2

<sup>59</sup>ST. FX EDA: Indian Affairs, Unlisted, Education Workshop held Thursday, February 20, 1969: Sponsored by the Extension Department, p.2

outside the usual channel of reservation Band Councils and government agencies, this ideal proved to be impossible and counter to the wishes of Mi'kmaq people. In May of 1969, the organization folded in favor of the Union of Nova Scotia Indians.<sup>60</sup>

The main reason commonly given for the creation of UNSI in 1969 was that it was a reaction to the release of the 1969 White Paper. This response is only partially correct, for it ignores a number of other important factors present in the political climate of Nova Scotia including the effects of educational programs such as that run by the Saint Francis Xavier Extension Department. The rejection of the 1969 White Paper by First Nations leaders on a national level in fact, had much more to do with a lack of understanding of Native interests on the part of the federal government. Dorothy Anger, in her exploration of Mi'kmaq political identity in Newfoundland argues that there were three reasons for the rejection of the 1969 White Paper. The first was the lack of true consultation with native organizations. The development process itself, in fact, had been described by Sally Weaver as being part of the federal government's hidden agenda for Indian development. Anger noted, "the Indian people were accustomed to being ignored in the making of decisions which involved them, but they were not accustomed to a pretense of participation."<sup>61</sup> As Mi'kmaq activist Greg Johnson wrote in 1969, "One does not have to be an Indian to realize why this policy is

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<sup>60</sup>Union of Nova Scotia Indians Information Kit: Minutes of the First Organizational Meeting, p.2 (Private collection, President of UNSI, Membertou Band Office, Sydney, Nova Scotia)

not acceptable to the Indian people, since they had no part in its formulation.”<sup>62</sup>

The second reason was the fact that First Nations wished to retain their special status which would have been removed with the White Paper that conferred to them a cultural identity, land and traditions.<sup>63</sup> The final reason for the rejection of the White Paper was the failure of the plan to provide restitution for land claims and aboriginal rights.<sup>64</sup> As Johnson contended, many First Nations rejected this policy because it, “is not really a “new” policy. There was already a Termination policy in the United States from 1953 to 1960. This was withdrawn as it ended with tragic results for the majority of the Indians involved.”<sup>65</sup>

Indeed, the primary reason for the creation of UNSI was to retain a distinct and united Mi'kmaq political identity. Since Centralization, political assimilation had been attempted through the division of the Mi'kmaq people into bands in 1958. Although the official files are largely silent on the consequences of this division, traces of it can be found in the protests of Chiefs like Ben E. Christmas. The reasons why Mi'kmaq leaders accepted the division can only be speculated upon, for it seems clear that Mi'kmaq leaders of the 1950's did not initiate this

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<sup>61</sup>Dorothy Anger, “Putting It Back Together: Micmac Political Identity In Newfoundland” (MA Thesis, Memorial University. 1983) p.170

<sup>62</sup>Greg Johnson, “Welfare Services Of The Micmac Indians Of Nova Scotia. A Short Overview From Historical, Cultural And Contemporary Aspects” December 3, 1969. (Private collection of papers of the President of UNSI, Membertou Band Office, Sydney, Nova Scotia) p.10

<sup>63</sup>Dorothy Anger, “Putting It Back Together: Micmac Political Identity In Newfoundland” p.171

<sup>64</sup>Ibid., p.173

<sup>65</sup>Greg Johnson, “Welfare Services Of The Micmac Indians Of Nova Scotia. A Short Overview From Historical, Cultural And Contemporary Aspects” December 3, 1969. p.10

process; the officials of Indian Affairs so, did as a means of disentangling the administrative snarl which had been rendered unworkable by the 1951 amendments to the Indian Act. This division may have been accepted because it was the only option left to Mi'kmaq leadership as the Grand Council had been persistently ignored. The argument can also be made that the financial backing provided by Indian Affairs facilitated this new form of organization and made it difficult for Mi'kmaq leaders to devise a counter-position. Thus, the divisions had to be accommodated and reworked.

By the 1950's, a majority of Mi'kmaq people were essentially at the mercy of Indian Affairs funding because of the economic devastation caused by Centralization. As demonstrated by the 1966 expressions of the Eskasoni Grand Council this clearly was resented by many people. It appears that Mi'kmaq leaders were consulted only after important decisions had been made, and they had no official voice in the eyes of Indian Affairs policy makers until the creation of Band Council government. That this kind of government was perceived as an effective means of political assimilation was never questioned by Indian Affairs officials. With the instigation of Band Council grants in 1967, economic conditions worsened. Indian Affairs had decided to allow approved Band Councils to administer their own housing programs, provided these Band Councils conformed to Indian Act standards, as an Internal Circular noted:

With the requests of a number of bands, those participating in the grants program will wish to create a form of local self-government similar to the type of government existing in small non-Indian communities. It follows, therefore that the role of the federal government, in relation to the local

government in the Indian community, should be somewhat similar to the role of the provincial government in relation to the non-Indian community insofar as financial aid is concerned.<sup>66</sup>

A Report of the Workshop on Problem Solving, held in Amherst in January 1969, stated that when the issue of Band Grants were raised, Mi'kmaq representatives did not support the idea, as, "The group expressed general fear and suspicions with references to Grants to Bands. It was felt in many cases that the Grants to Bands were not fully understood, because they [the Mi'kmaq] were not involved in policy making."<sup>67</sup> The minutes from each discussion group of Mi'kmaq representatives were more specific. The Eskasoni Agency group felt that Band Grants were unreliable because the federal government could cut them at any time. Band Councils would then be forced to levy taxes on the reserve. They stated:

This forecast visualizes the reserves becoming obsolete and will be swallowed by the Provincial and Municipal governments. It seems the program is designed as an eventual phase-out of the reserve system. It is another way of continuing to take our land away from us. Unless the government had devoured all our lands, it will not be satisfied. Is this what you call justice? The Just Society, the government is trying to create will only come about when a Prime Minister is of Indian status and the Indian people themselves the governing power.<sup>68</sup>

The Miramichi Agency also expressed dissatisfaction with the Band Council structure. Its members argued, "We cannot fulfill our duties as chief because we

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<sup>66</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/487, Indian Affairs Branch Circular No.4

<sup>67</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/270, Working Committee Summary Report, Fort Cumberland Hotel, Amherst, Nova Scotia. January 6-10, 1969, p.2

<sup>68</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/288, Report of Workshop on Problem Solving (Indian Community Leaders) Fort Cumberland Hotel, Amherst Nova Scotia, 6-10 January, 1969.

cannot represent our people because we have only limited authority we cannot truly make our own policy for the reserve and we have no salary.”<sup>69</sup> The Shubenacadie Agency Group proposed the creation of a provincial organization. It too expressed concern over the Band Grants as, “the members foresaw many loop holes in the Band Grants.”<sup>70</sup>

UNSI was formed to counter the political absorption which seemed inevitable because of policy makers’ intent to separate Mi’kmaq Band Councils into tiny municipalities. Noel Doucette, first president of UNSI, stated in 1970 that an organization such as UNSI had been a dream since the 1920’s. He stated,

the most recent attempt [to organize] was in the past five (5) years when we were called upon by the Federal government to form an Advisory Council to advise on the desires of the Indian people. Right from the onset, the leaders realized that if they were to get anywhere they must band together and not just advise but demand from the powers that be, their rights as citizens of Canada.<sup>71</sup>

Clearly, there was a great deal of dissatisfaction with the consultation process which had been initiated by the federal government. Mi’kmaq leaders felt that this process was insufficient and formed UNSI as an attempt to counter political division, and retain a single united Mi’kmaq voice.<sup>72</sup> In January of 1969, Noel

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<sup>69</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/291, Report of Workshop on Problem Solving (Indian Community Leaders) Fort Cumberland Hotel, Amherst Nova Scotia, 6-10 January, 1969

<sup>70</sup>Ibid.

<sup>71</sup>Union of Nova Scotia Indians Information Kit : Conference on Economic Development : Summary of Speeches, Statement from Noel Doucette President of the Union of Nova Scotia Indians, May 14, 1970, p.2 (Private collection, President of UNSI, Membertou Band Office, Sydney, Nova Scotia)

<sup>72</sup>Union of Nova Scotia Indians Information Kit: Minutes of the First Organizational Meeting, p.2



Doucette, Joe B. Marshall, Alex Denny, Chief John Knockwood and Chief Roy Gould were selected as a Working Committee by the Advisory Board to formulate the structure of the new organization. By July of 1969, UNSI was formally established in the presence of Walter Dieter of the National Indian Brotherhood, Human Rights representatives, and the Regional Director of Indian Affairs.

Ironically, it seems that the Extension Department had attempted to secure a place for itself in the upheaval created by the June 1969 release of the White Paper. For example, undated minutes of a meeting held at approximately the time of the release of the White Paper between Indian Affairs administrators and Extension Department staff concerning Adult Education and Community Development Programs commented, "The question arose- why cannot St. F.X. contract directly with Ottawa until such time as the Provincial Department is geared to take over these services. Or if the administration of this program is immediately undertaken at the Provincial level, with the Extension Department contract with the Provincial Government?"<sup>73</sup> F.B. McKinnon, the Regional Director for Indian Affairs, at the same meeting, stated that the province was not going to initiate such a program at present; however, he was going to recommend that Saint Francis Xavier contract with Ottawa directly for the three-

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(Private collection, President of UNSI, Membertou Band Office, Sydney, Nova Scotia) At the first organizational meeting of UNSI, which consisted solely of Mi'kmaq representatives, one of the founding members of the U.N. was asked, "will the UN step down and no longer exist [?]. Mr. Morris [the UN representative] said that if that was the decision of the Indian people."

<sup>73</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/86-, Meeting re Adult Education and Community Development Program with Indians in Seven Indian Communities in Eastern Nova Scotia.

year program. There were no Mi'kmaq leaders listed as being present at that time.

It seems that there had been an initial conflict between the Extension Department and the newly formed UNSI over the running of the Community Development programs once it was clear that the provincial government of Nova Scotia was not going to take over Mi'kmaq affairs as anticipated. Initially, the programs offered by the Saint Francis Xavier Extension Department were helpful in that they provided a solid background in the ideology and method of democratic government sanctioned by both the Indian Act and the rest of Canadian society. However, they did favor the political integration of Mi'kmaq government into larger Canadian society in a bid to counter the negative consequences of decades of Indian Affairs administration. For example, the '1964-65 Prospectus for Work with the Indians' makes specific reference to the 1961 Winds of Change report stating that the intent of the department was to act as a liaison and catalyst: "Furthermore, the following objectives seek to implement several of the feasible recommendations proposed by, 'The Joint Committee of the Senate and House of Commons on Indian Affairs (July 1961)'. One of their main concerns was the "improvement of the Indian situation."<sup>74</sup> There was a mutual understanding between the Extension Department mandates and the Joint Committee regarding the institution of the democratic

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<sup>74</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/2310, Prospectus for Work with Indians by St. Francis Xavier University Extension Department, Antigonish, Nova Scotia.

system among First Nations political systems. The 1961 Report stated in regards to the election process, "Your committee feels that it is essential to the preservation of democracy and advancement of the Indian people that the election system prevail with short frequencies between elections."<sup>75</sup> It added, "greater independence and self-government will come from proper understanding of the Act and increased activity of the band in its own administration."<sup>76</sup> The 1961 Report recommended that education programs, like the one established at Saint Francis Xavier continue to, "acquaint Band Councils with the Indian Act and regulations thereunder and with the authority and powers of Band Councils."<sup>77</sup> This had already begun as far back as 1957.

Once Mi'kmaq representatives had learned these procedures and were anxious to assume other programs important to the welfare of their communities, it seems that the Extension Department was reluctant to relinquish them, in spite of the fact that UNSI was the cumulation of all of their efforts. In a series of letters between the Band Council, the Extension Department and Indian Affairs in 1969 this hesitation becomes clear. First, on May 15, 1969, Michael Brosseau, director of the Extension Department program, sent out a letter to Band Councils which stated:

The Indian people have expressed various opinions on the Community Development Program St. F.X. Extension is carrying out on the seven

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<sup>75</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/665, Report to the House of Commons, Saturday, July 8, 1961. p.4

<sup>76</sup>Ibid.

<sup>77</sup>Ibid., p.5

reserves involved. The Indian population was not consulted on the present contract, and there is some speculation to the effect that perhaps the Community Development Program carried out at present should not be renewed when the present contract with the Indian Affairs Branch expires on March 31, 1970. In any event that is a decision the Indian people must make. We will not make an effort to renew our contract unless the Indian people ask us to do so.<sup>78</sup>

Four months later, Noel Doucette, first President of UNSI, wrote back to one of the Extension Department's Directors, Father Topshee, stating that the leaders of Indian communities and the Executive of the Union had held a series of meetings and they had decided that the Union would take on the Community Development work in Mi'kmaq communities in Nova Scotia. He formally requested that the Extension Department not submit a Community Development proposal for the upcoming contract year. He added, "On behalf of the Indians of Nova Scotia, I take the opportunity at this same time to thank the St. F.X. Department for the work they have so devoutly carried out over the past number of years. I know that it is a result of their excellent work which makes it possible for us to say, 'We now have the leaders among our numbers prepared to be MASTERS OF OUR OWN DESTINY' ".<sup>79</sup> By December, however, some seven months after assuring Mi'kmaq Band Councils that the future of the Community Development program depended upon their wishes, the Extension department sent a confidential letter to Indian Affairs which contradicted the open approach

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<sup>78</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/990, Open letter from Michael Brosseau of Extension Department to Council, May 15, 1969.

<sup>79</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/1806, Noel Doucette, President of UNSI to Father Topshee, Director of the Extension Department, September 28, 1969.

suggested to the Band Councils. It stated, "We feel that certain problem situations warrant a contract renewal with the Branch for a period of time from April 1, 1970 to March, 1973."<sup>80</sup> The records do not indicate what these problems were. The fact that there had been discussion of a long-term role for the Extension department should the province take control of Indian Affairs, combined with this request to keep the contract in spite of the fact that UNSI had asked them not to submit a prospectus is in contradiction to the assurances provided to Band Councils. That this letter requesting a further extension of the contract was marked confidential also suggests that the Extension Department was hesitant to admit that it was reluctant to let go of a program which did bring a substantial amount of capital to the university.

Importantly, however, the reports of 1969 from the Extension Department indicate that they had recognized that a transition period had begun. A September update harkened back to the idea of self-sufficiency and the withdrawal of the Community Development workers for example, stating, "If the community is to realize its potential of becoming "Master of its own Destiny," it must realize that in the long run the citizens of the community must depend upon themselves."<sup>81</sup> The report also appeared to accept the existence of UNSI for it noted that the intent of the organization was, "to speak with a united voice in

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<sup>80</sup>St. F.X. EDA: Indian Affairs RG 30-3/33/1784, Michael Brosseau, Director of Indian Community Development Program to W.H. Rogers, Director, Community Affairs, Department of Indian And Northern Affairs, December 12, 1969

<sup>81</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/1003, Report on St. F.X. Indian Community Development Program, September 1968 to September 1969

their negotiations with the provincial and federal governments. The long-range plan of this Union is to amalgamate with other Indian unions of the Maritimes to speak as a united front."<sup>82</sup>

Interestingly, officials in Indian Affairs were not as accepting of UNSI as the Extension Department was. An in-house confidential letter of December 11, 1969, from W.A. McDonald, Regional Supervisor of Social Programs, to F.B. McKinnon, the Regional Director, stated that while the White Paper was sound, and that Indian people should receive provincial services, he did not support the idea that Indian people (Band and Council) should take over programs when they are unable to present evidence that their organizations had developed a solid base. While Saint Francis Xavier had asked for one amount of money, for example, the Union had asked for a much larger amount. McDonald observed, "I cannot see how the Nova Scotia Union at this stage (having been formed only two months ago) are in any position to staff and to run these programs effectively."<sup>83</sup> In the end a compromise was reached and the Extension Department requested and received a five month extension of the contract which terminated on July 13, 1970.<sup>84</sup> Five months later, there was a change in the upper levels of local Indian Affairs administration in Nova Scotia. F.B. McKinnon

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<sup>82</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/1004, Report on St. F.X. Indian Community Development Program, September 1968 to September 1969

<sup>83</sup>St. F.X. EDA: Indian Affairs, RG 30-3/33/1781, Confidential letter, W.A. McDonald, Regional Supervisor of Social Programs to FB McKinnon, Regional Director, December 11, 1969.

<sup>84</sup>St. FX EDA: Indian Affairs, RG 30-3/33/1785, Michael Brosseau to F.B. McKinnon, February 6, 1970.

retired, and his successor D. Greyeyes, appeared to give more support to UNSI. He wrote to Father Topshee thanking the Extension department for its successful involvement with Mi'kmaq communities: "We look on your phasing out and the taking over by the Union of Nova Scotia Indians as being a real success story insofar as St. F.X. Extension Department and the Indian people are concerned."

<sup>85</sup> However, Greyeyes added, "I hope that these good associations will continue, because the Union and we will need a great deal of support from you resources."

<sup>86</sup> Thus, by 1970 the Extension Department had withdrawn and a new phase of Mi'kmaq-Federal relations had begun.

For the Mi'kmaq people, the formation of UNSI was empowering. It was believed to be the beginning of a new era for a stronger Mi'kmaq Nation, who were now in a position to negotiate on their own terms. A speech written by Peter Christmas described the promise that political union held for the Mi'kmaq people. He stated, "At no greater time in our history do we need to strive total unity provincially and nationally. A unified voice is a must to express unified approval or disapproval of any bill from any government which may better or worsen various aspects of our lives."<sup>87</sup> He also discussed the crisis which was facing the Mi'kmaq people as a result of the loss of their culture. He observed, "It's too bad though, that the present generation of Micmacs continually make excuses for

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<sup>85</sup>St. FX EDA: Indian Affairs, RG 30-3/33/2348, D. Greyeyes, Regional Director, Maritimes to Reverend G.E. Topshee, July 6, 1970.

<sup>86</sup> Ibid., p.1

<sup>87</sup>Union of Nova Scotia Indians Information Kit: Peter Christmas, "Micmac Unity" (Private collection, President of UNSI, Membertou Band Office, Sydney, Nova Scotia) p.7

their culture, especially the language."<sup>88</sup> The solution was political, as, "a Micmac union can retain and revitalize our culture."<sup>89</sup>

An unauthored paper from the personal collection of the President of UNSI described the structure of the organization. The Union acted as the representative body for all Mi'kmaq in the province of Nova Scotia. The Board of Directors was, and still is, made up of all of the elected Chiefs on reserve. The members of the Executive of the Union were elected by a majority vote of the membership during a General Assembly, and the organization also had a constitution which specified the duties of each member. UNSI had decided to hire a Director to take over the program which was in keeping with the agreement with the Extension Department. The spokesperson for the organization was the President. The paper stated:

Since its inception, the Union of Nova Scotia Indians has taken on the task of administering several programs which were previously administered by Government departments. Funding for these programs still comes from the originating departments. Administration funds come from the Federal Department of the Secretary of State. Some of the programs administered are Community Development, Communications, Treaty & Rights research, Medical Health liaison, Alcohol and Drug Education and Court Work.<sup>90</sup>

The main function of UNSI was, and continues to be the representation of the Mi'kmaq to provincial and federal governments. It is also affiliated with the

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<sup>88</sup>Ibid.

<sup>89</sup>Ibid.

<sup>90</sup>UNSI: "The Micmac", Unauthored, (Private collection of the President of UNSI, Membertou Band Office, Sydney, Nova Scotia.)



National Indian Brotherhood, which is now the Assembly of First Nations (AFN). Thus, through structural organization, UNSI has managed to incorporate the elected system of representation enforced by the Indian Act in 1958, and still function as a liaison to the Mi'kmaq people, while maintaining some control over its structure of government. With the elected chiefs on the Board of Directors, UNSI ensured that it would have legitimacy in the eyes of the Department of Indian Affairs, and would have access to funding from government agencies. Its affiliation with the AFN also signifies its commitment to First Nations people. In fact, in 1970, George Manuel, then President of the National Indian Brotherhood, sat in on a Board of Directors meeting and discussed some of the difficulties which were being encountered by the Union. Members of the National Indian Brotherhood had also been present during UNSI's inception.

A 1969 paper written by Greg Johnson affirmed the sense of empowerment provided by UNSI. In a discussion of the current condition of the Mi'kmaq people, Johnson wrote, "the Indian Affairs Branch has strongly realized the importance of the involvement of the Micmac people in decisions that affect them and are affecting their own destiny."<sup>91</sup> Johnson discussed the Band Grants. He argued that the new welfare system was, "quite an improvement from a few years ago when [after] a fierce argument, an Indian was issued a purchase order which was only good at a co-operative store on the reserve or a

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<sup>91</sup>Greg Johnson, "Welfare Services Of The Micmac Indians Of Nova Scotia. A Short Overview From Historical, Cultural And Contemporary Aspects" December 3, 1969, p.6

designated store in a nearby village."<sup>92</sup> He argued that, "The 'Indian Agents' took too much responsibility from the people."<sup>93</sup> With the establishment of UNSI, Johnson observed that there had also been talks concerning the uneven welfare distribution and the improvement of Old Age Pensions, a program from which the Mi'kmaq had been excluded until 1952. Johnson concluded with an emphatic statement on the Mi'kmaq position on the White Paper: "The Union has rejected the New Indian Policy, as did all other Indian organizations in Canada."<sup>94</sup>

In his study of political leader George Manuel and the nature of Native resistance in British Columbia, Peter McFarlane observed the existence of two marked shifts in the direction of Indian Affairs policy during the 1960's. One of these was the existence of "a community development program for Indian communities that fit with the broad range of new initiatives of the Pearson era".<sup>95</sup> University educated non-native Community Development workers were trained and paired with educated Native Community Development workers in a move to accommodate the needs of the various communities. In Nova Scotia, educated Mi'kmaq people, mainly from the Coady Institute, also were hired to work within their communities together with workers from the Saint Francis Xavier University. The second shift in federal policy was the development of a national Indian

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<sup>92</sup>Ibid.

<sup>93</sup>Ibid.

<sup>94</sup>Ibid., p.9

<sup>95</sup>Peter McFarlane. Brotherhood To Nationhood: George Manuel And The Making Of The Modern Indian Movement (Toronto: Between The Lines. 1993) p.71

Advisory Board consisting almost entirely of First Nations leaders whom the department would consult prior to making major decisions which affected the lives of First Nations people.<sup>96</sup> The fact that this plan failed can, perhaps, be attributed more to a failure by non-native Canadians to understand the magnitude of the issue of self-government. Yet, the initiation of Community Development programs left an important political legacy. By 1969, a number of provincial organizations were in operation, led by Native leaders who were knowledgeable in methods necessary to counter bureaucracy on its own terms.

Thus, in conclusion, it can be seen that the formation of UNSI was not simply the response to the 1969 White paper. Rather, it was the cumulation of decades of resistance to the assimilationist policies of Indian Affairs. In 1958, the Mi'kmaq Nation was divided into bands by the federal government in an effort to rectify the unworkable administration of Indian Affairs in Nova Scotia. One decade later, with the assistance of the Saint Francis Xavier Extension Department, UNSI was created as a counter to attempts to treat each reserve separately. It was also created in response to the need to have a political voice that was not merely consulted when necessary but, was directly able to demand action on policies which affected the lives of the Mi'kmaq people. Internally, UNSI had the effect of attempting to unify the reserve governments and bring them closer to the people of the community. Finally, UNSI stood as an

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<sup>96</sup>Ibid., p.71

organization affiliated to other national Aboriginal organizations which were committed to rebuilding and strengthening an aboriginal voice in Canada. As discussed, the conditions of the 1960's were also conducive to the formation of a political organization in Nova Scotia because it was a time when Canadians began to re-examine their history and challenge the status-quo. By implication, they also began to challenge their own identity in a search for the 'Just Society' which Pierre Trudeau had envisioned. Indeed, even Indian Affairs had changed its mandate by the 1960's. UNSI has since undertaken a number of projects which have attempted to remedy the loss of culture, the neglect of treaty rights and the redress of land claims. In 1971 UNSI dealt with such issues as the Community Development programs, Child Welfare programs, taxation, and housing. In 1973, a Mi'kmaq Cultural Studies program was initiated to revitalize the language. Economic development projects such as the 1973 Mi'kmaq Fisheries program were also undertaken. However, in closing, it must also be stated that UNSI cannot be taken as the definitive statement of Mi'kmaq political resistance. The future may witness more change, but, it is clear that UNSI can be understood as the latest in a series of attempts made by Mi'kmaq leadership to retain a measure of control over their own affairs.

## **Conclusion**

There has been limited study of Mi'kmaq-federal relations in Nova Scotia. Wayne Daughtery's declaration that the Maritime provinces have always lagged behind the rest of Canada in the development of Indian political organizations appears to be the sum analysis of this subject. He omits the brief existence of the 'UN', (the precursor to UNSI) in 1968, and appears to credit the 1969 formation of UNSI as a reaction to the release of the 1969 White Paper, rather than as a result of long-term cumulation of political experience and resistance on behalf of Mi'kmaq leadership. While the development of a provincial political association in Nova Scotia appears relatively tardy, nobody has accounted for reasons why. This thesis proposes that one reason for the later development of provincial political association in Nova Scotia was that the traditional government body of the Mi'kmaq, the Mi'mawey Mawio'mi, or the Grand Council, was able to function effectively as the political voice of the Mi'kmaq Nation until the 1940's. The Grand Council was the governing body of the Mi'kmaq nation. The Mi'kmaq had a land base, language, and political culture in existence prior to European contact and had maintained political alliances with other First Nations in the area through an intricate diplomatic protocol. With the development of Mi'kmaq political culture, a corresponding set of values were brought into existence which were often in opposition with the value systems and political culture of mainstream society. It is interesting to observe that the creation of the Grand General Indian Council of Cape Breton during the early 1940's coincided with the

implementation of Centralization, the first state-sponsored large-scale interference in the affairs of the Mi'kmaq people. Once Centralization was initiated, one of the consequences was the near-destruction of the Grand Council in its capacity as a political voice by the time of the official abandonment of this policy in approximately 1949. As the economic base of the Mi'kmaq was nearly eliminated, so too was the political autonomy of the people. The local Indian Agents, backed by the funding of Indian Affairs, became powerful political figures and played a key role in the effective substitution for the Grand Council with elected, municipal-styled Band Councils which conformed to the requirements of the Indian Act in 1957. When these additional facts have been taken into consideration, the formation of UNSI, nearly a decade later, suggests that provincial organization in Nova Scotia did not lag behind the rest of Canada, but rather, responded quickly to a different set of conditions that were initiated by the federal government at a later date. The department of Indian Affairs, in all of its various incarnations, has been more active in the western regions of Canada, which, in turn, has allowed for the earlier development of contemporary kinds of political organizations.

It is the contention of this thesis that political resistance in Nova Scotia has been an often overlooked aspect of Mi'kmaq survival throughout the last century. It has been established that since Confederation the federal government, in the form of the department of Indian Affairs has expressed its position regarding First Nations relations in the form of the Indian Act which was passed in 1876. As discussed in the first chapter, the driving force behind this

Act has been to assimilate First Nations into the mainstream society. In Nova Scotia, the Mi'kmaq have responded to assimilation through a process of adaptation. Prior to Confederation, the Assembly of Nova Scotia foreshadowed the 1876 Indian Act by establishing reserves and settling on a policy of resettlement and the idea of re-making the Mi'kmaq into farmers. The Mi'kmaq responded by refusing to settle and attempting to negotiate through letters and petitions.

L.F.S. Upton has made the argument that the written petitions of the late nineteenth century are suspect as historical documents because of the language barrier. These documents may not convey the sentiments of the Mi'kmaq people he argues, but rather, reflect the sentiment of the English authors who wrote them. According to Upton there are two classes of petitions. One category consists of those petitions written by whites on behalf of Mi'kmaq people dealing with specific grievances, and the other consists of those petitions which have totems of chiefs and captains inscribed on them, presenting more general observations about the conditions of Mi'kmaq life. Upton has argued that none of these sources are reliable because they are written in a foreign medium which put him completely in the hands of those who wrote the petitions in English for him. While this may have been true in a number of instances, there appears to be evidence that Mi'kmaq leaders had an understanding of English and were able to use the written word as a medium of communication, particularly during the latter half of the nineteenth century. Some Mi'kmaq leaders, were able to write directly, and, if they could not, were able to find others who would write



according to Mi'kmaq wishes. Not all Mi'kmaq were in the hands of those who wrote for them, nor were they in the hands of those who were employed as Indian agents.

If Upton's second category of petitions is closely scrutinized, there appears to be a third component included in the study of these late nineteenth and early twentieth century petitions. I argue that there is an order to these petitions which is in keeping with the observations made by Janet Chute regarding the political organization of the Mi'kmaq Nations. Chute has presented the argument that within the Mi'kmaq world-view everything is cyclical. She contended that at the turn of the twentieth century, the annual mission of St. Anne had as much to do with Mi'kmaq conceptions of power as it did Catholicism. This annual event provided an opportunity for Mi'kmaq leadership to meet and discuss Mi'kmaq affairs. It was a time when chief and councillors were selected, when internal disputes were settled and revenues distributed. Until the 1930's the Grand Chief recited the treaties made with the British government and presided over the public acclamation of new captains at this gathering. In short, these annual meetings renewed the relationship between Chief and community annually, and made it difficult for missionaries and government officials to intervene in internal Mi'kmaq political affairs. Chute has argued that the relationship between a chief and his community was such that, "The upper echelons of the Micmac political system only came into operation whenever local chiefs failed to retain community cohesion for their policies, or presumed to exercise authority above that ascribed to their rank in the Micmac political

presumed to exercise authority above that ascribed to their rank in the Micmac political hierarchy."<sup>1</sup> I argue that at the root of Mi'kmaq political culture lies the family. If, as Chute states, the upper echelons only came into operation when there was a failure to retain community cohesion or when the local chief overstepped his boundaries, it does not seem to be a great leap to make the argument that the upper echelons of the Mi'kmaq political system also came into operation when local families and local chiefs were unable to cope with external threats on their own. This trend seems particularly evident in the land encroachment protests which I have included as examples in the first chapter.

Once the issue was passed through local chiefs, it went to regional, or district chiefs. These petitions have the signature of one or more chiefs and usually the signature of one priest. If the issue was not resolved at this level, it went to the Grand Council who met at Chapel Island. The petitions which are signed in Chapel Island have the signatures of many local Chiefs, the Grand Chief, and at least three different priests. The Chapel Island petitions are few and those that have been located are all signed at approximately the same time of year, which supports Chute's conclusions. I have included a diagram of how the Grand Council structure appeared to have functioned. At the heart of the circle is the family and concerns radiated outward until they reached the Grand Council.

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<sup>1</sup>Janet Elisabeth Chute, "Ceremony, Social Revitalization And Change: Micmac Leadership And The Annual Festival Of St. Anne," Papers Of The Forty Third Algonquin Conference. William Cowan.ed.,(Ottawa: Carleton University Press.1993), p.57

At the turn of the twentieth century, Indian Affairs began to seriously examine ways to quickly assimilate the Mi'kmaq in order to cut costs to the department and effectively harness the autonomy of the Mi'kmaq people. Essentially they changed their approach as to how they would achieve assimilation and passed a series of amendments to the Indian Act which allowed for the use of the courts. In the case of the Kings road reserve I have attempted to argue that the political structure which showed itself in the pattern presented in the petitions in the first chapter was still in operation by 1911. The political culture of the Sydney Mi'kmaq still focused on the Grand Council and it was the Grand Chief who maintained the voting system as well as providing support to local chief by writing letters while they went on trail. Essentially, Mi'kmaq leaders began to adapt to the trial system and were able to mount a defense which still incorporated various levels of the Grand Council. The Indian Agent was unable to force a land surrender so the Judge of the Exchequer had to do it.

During the first half of the twentieth century, new trends emerged in the relationship between Indian Affairs and the Mi'kmaq Nation. For the first time, the courts were used to determine where the boundaries between Indian Affairs and Mi'kmaq communities lay. By implication, this also meant that the political jurisdiction of Indian Affairs and the Grand Council were tested. The outcome of the Kings Road reserve case clearly articulated the position of Indian Affairs regarding the issue of land occupation and set the tone for future developments in Mi'kmaq-federal relations. It is also seen in this case that Mi'kmaq leaders could and did mount an effective defence which involved the Grand Council. The fact

that the Sylliboy case was brought to court by the Grand Council indicates that Mi'kmaq leaders were aware of the encroachments being made to spheres of influence. As Indian Affairs attempted to move deeper into the lives of Mi'kmaq people, new forms of resistance had to be found against such intrusions.

A new form of leadership emerged in the form of Ben E. Christmas. His appearance at both the Kings road and Sylliboy trials is interesting because he appears to be a link between the old and new ways, and a representative of a new style of leadership. Christmas served as Chief of Membertou for many years, with close links to the Grand Council. Founder of the Grand General Indian Council of Cape Breton, an organisation apparently created to represent Mi'kmaq people during the 1946-48 hearings of the Joint Committee of Senate and House of Commons in the midst of Centralisation, and an active participant on the executive of the North American Indian Brotherhood, Ben E. Christmas was a figure compelling recognition in an environment which preferred that Mi'kmaq people assimilate into the ways of the immigrant society. His methods of protest, however, were markedly different from the methods used by other Mi'kmaq leaders during the Kings Road Reserve and Sylliboy cases. When traditional methods of political organisation failed, Christmas attempted to create alternative ones. In some ways the formation of the United General Indian Council of Nova Scotia during the 1940's was a small foray into the field of alternative political organisation and may have even been ahead of its time. The organisation which formed two decades later was well aware of the administrative intricacies of Indian Affairs, staffed by individual Mi'kmaq who were university-educated, and supported by a community

which had been toughened by two decades of coping with the fallout of Centralization.

As the twentieth century progressed the political culture of the Mi'kmaq changed to meet the needs of those people who had begun to live on reserve. In chapter 4, in the prelude to the discussion of the impact of Centralization, it is demonstrated that without the support of the Grand Council, reserve government would have been a failure on many reserves. The 19 part-time Indian agents who were responsible for Indian Affairs in Nova Scotia were often helpless without the support of Grand Council members who effectively oversaw the election process during the first half of the century. Elections on reserve did adhere to the three year terms stipulated by the Indian Act. However, as demonstrated, the local Indian Agent was often unable to control the process on reserve, regardless of what the Indian Act said.

Once Centralization was initiated, not only was the social fabric of the Mi'kmaq negatively affected, but so too was the political culture. Anita Tobin argued that there was no effective Mi'kmaq leadership during Centralization at Shubenacadie. Although there was an attempt made by the Grand Chief and Grand Captain to protest the conditions on the Eskasoni reserve, the conditions were such that the Indian Agent, backed by Indian Affairs funding was more intent on implementing his mandate than negotiating with the Grand Council. In protest, the Grand Council withdrew from the political aspects of reserve life and shortly after election procedure and political representation fell apart.

Without the support of long-standing Mi'kmaq leaders, reserve government

effectively became a puppet organisation in the decade that followed. And, as the final chapter argued, Centralization actually created the necessary conditions for a grass-roots movement of discontent.

It is widely accepted that education programs have been one of the cornerstones of Indian Act assimilation policy. The argument has been made in the last chapter that education also played a very important role in the formation of a new generation of Mi'kmaq leaders trained to handle the bureaucracy of Indian Affairs and the administrative aftermath of Centralization. The involvement of the Saint Francis Xavier Extension Department after 1957 enabled rapid development of a Mi'kmaq perspective which could successfully navigate the complex bureaucratic terrain of political negotiation for funding

A new generation of leaders created political organisations external to the governmental apparatus maintained by the Department of Indian Affairs. These actions resulted in the creation of UNSI, which is now an entrenched organisation which has effectively institutionalised Mi'kmaq protest. Thus, UNSI was not simply the response to the 1969 White paper. Rather, it was the cumulation of decades of resistance to the assimilationist policies of Indian Affairs. UNSI has since undertaken a number of projects which have attempted to remedy the loss of culture, the neglect of treaty rights and the redress of land claims. Yet, it cannot be emphasized enough that UNSI is not necessarily the definitive statement of Mi'kmaq political resistance; it is merely the latest.

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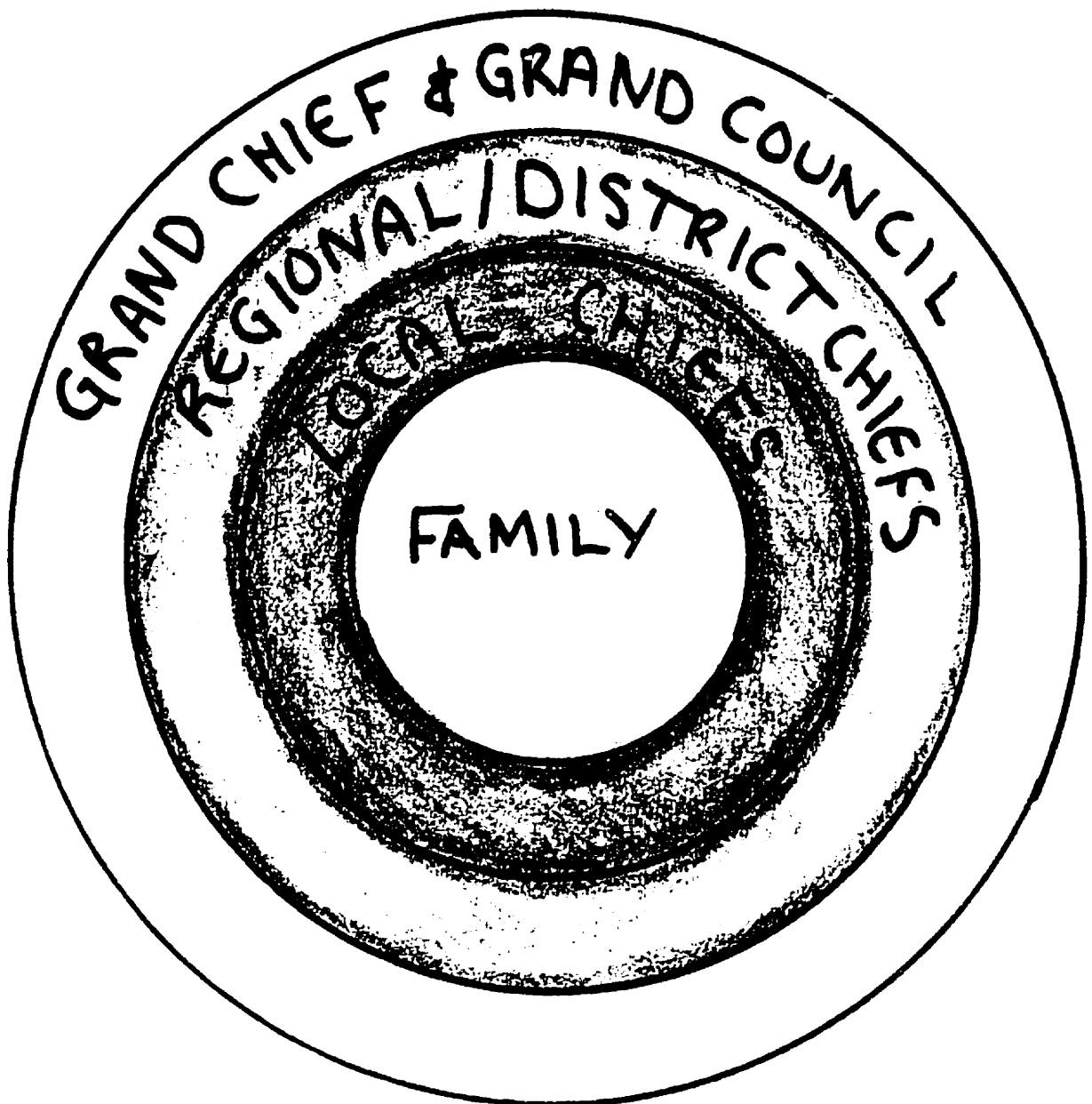
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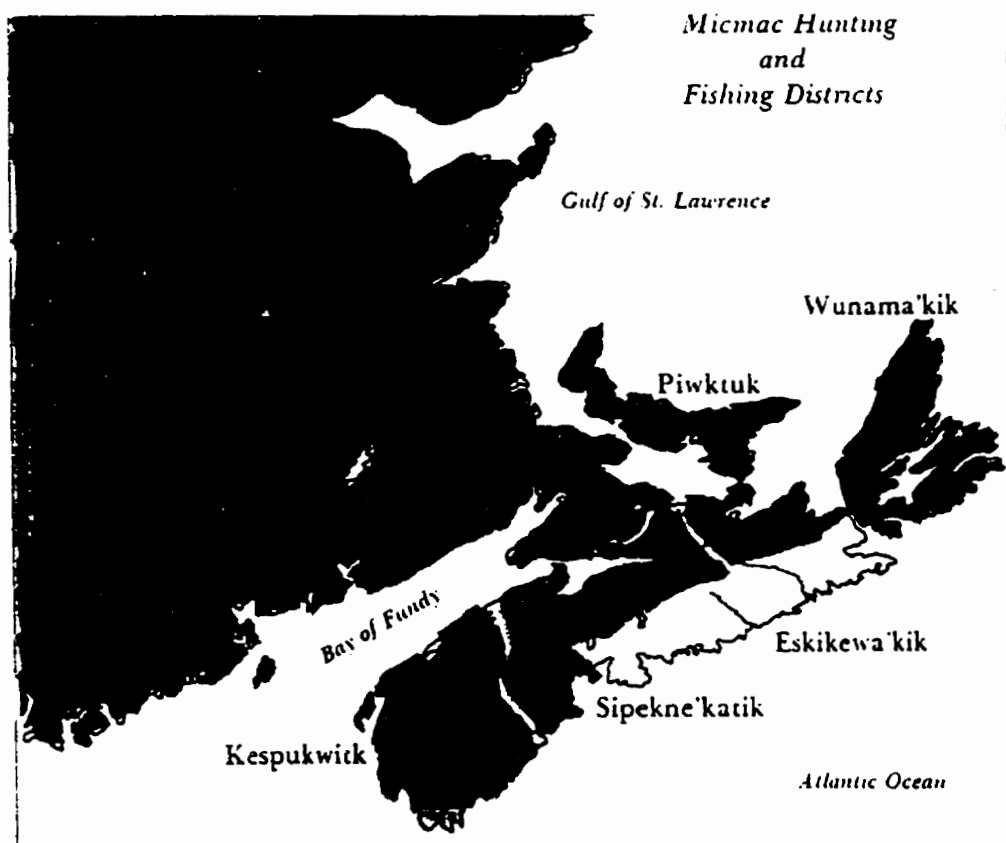
## **Illustrations**



## Mi'kmaq Grand Council Political Structure:

At the heart of the Mi'kmaq political structure lay the family. During the late eighteenth century, Mi'kmaq petitions were ordered as follows: local grievances were first sent by local families. Sometimes these petitions were written in English by Mi'kmaq families or on their behalf by non-Native authors. If issues were not resolved at this level, district, or regional chiefs then dealt with matters. These petitions have the signatures of one or more Chiefs and usually the signature of one priest. Finally, petitions concerning matters affecting the Mi'kmaq people as a whole were signed by a number of Chiefs and the Grand Chief as well as three priests. These petitions usually originated from Chapel Island during the summer season. I argue that this structure of involvement showed itself well into the twenty-first century.





## Mi'kmaq Political Structure according to the Department of Indian Affairs:

The following is an illustration of the generic western-styled political structure reflected in the Indian Act. It is not a reflection of current structures, rather, it is a pictorial illustration of the political assimilation model.

