L'NUEY
MOVING TOWARDS
A BETTER TOMORROW

# TREATIES OF PEACE AND FRIENDSHIP

A treaty is defined as a formal agreement between two or more parties that define ongoing rights, benefits, and obligations on all sides. They are enacted between countries and nations. What is the significance, though, of these, formalized, "pieces of paper" to the Mi'kmaq, and to the Epekwitk Mi'kmaq in particular? To understand this, one needs to first get familiar with the long and complex history of this sovereign Nation.

## MI'KMAQ HISTORY

Mi'kmaq oral history tells the story of the world being covered with water and Sebanees arriving in kjiktu'lnu ("our great boat"), what is now Prince Edward Island (PEI), on his boat of ice, carrying all the animals and fish his Mi'kmaq family would need to survive. It is also said the melting of the ice boat was what created PEI's unique land formation. (Whitehead, p. 5). Archaeological sites, including shell middens containing the remains of oysters, clams, and other shellfish and campsite remains containing burned bits of seal, bear, beaver and other mammals, have been found in many places throughout Mi'kma'ki[1], the traditional territory of the Mi'kmaq. So, both Mi'kmaq oral history and archeological records clearly agree: the ancestors of the Mi'kmaq arrived in Mi'kma'ki at least 12,000 years ago, most likely following caribou, and other large land mammals, as well as the plants growing on the edges of the retreating ice of the last Ice Age.

After making their home in Mi'kma'ki for millennia, freely trading, hunting, fishing and gathering, Mi'kmaq life changed with the coming of the British and the French settlers, officials, and governments -altering Mi'kmaq resource use, language, religion, and existence from this era forward.

The political and geographical boundaries of this region also shifted along with the time periods, and along with whichever group, French or English, believed they were in charge. However, to the Mi'kmaq Nation, the traditional territory of Mi'kma'ki remained the same, including the Québec, Gaspé Peninsula; eastern New Brunswick; all of Prince Edward Island and Nova Scotia; and southern Newfoundland. Instead of the arbitrarily designated colonial named spaces, however, the Mi'kmaq divided Mi'kma'ki into seven distinct districts[2], the names of which are still in use today:

1. **Kespukwitk** - Lands End (the region including Lunenburg, Queens, Shelburne, Yarmouth, Digby and Annapolis Counties, Nova Scotia);
2. **Sipekni'katik** - Wild Potato Area (the region including southern Halifax County, Hants, Colchester Counties and a portion of Cumberland County, Nova Scotia);
3. **Eskikewa'kik** - Skin Dressers Area (the region including northern Halifax County and Guysborough County, Nova Scotia)
4. **Unama'kik** - Land of Fog (Cape Breton Island);

5. **Siknikt** - Drainage Area (southern New Brunswick to the edge of Wolastoqiyik territory along the St. John River watershed);

6. **Kespek** - Last Land (the Miramichi, Restigouche Rivers watersheds in New Brunswick and the Gaspé Peninsula in Québec)[3];

7. **Epekwitk Aqq Piktuk** - Laying in the Water and The Explosive Area (Prince Edward Island and the region which includes of portion of Cumberland County and Pictou and Antigonish Counties, Nova Scotia). (Kekina'muek, p. 11)

As can be seen in the list above, Epekwitk (Prince Edward Island), forms the district which also includes Piktuk (a portion of Cumberland County and Pictou and Antigonish Counties, Nova Scotia). The significance of this to the Treaties will be outlined in later sections. It should also be noted that there is a federally recognized Mi'kmaq tribe in Presque Isle, Maine, USA.

## MI'KMAQ GOVERNANCE STRUCTURE

The traditional Mi'kmaq government structure began at the Band or community level with a Chief, or Saqmaw. As a "first among equals," each Chief was responsible for the families within their area, including the younger generation in an apprenticeship capacity, to advise and chastise, and lead their people into war. Chiefs also had the responsibility to provide for the families in their group during times of trouble and famine, as well as allocating hunting areas. (Nietfeld, p. 439) Early Mi'kmaq governance also included a Council of Elders, whose role was varied and included assembling to arbitrate quarrels and differences of opinion, as well as the allocation of resource gathering areas. (LeClerq, p. 234)

The next governance level was the Mi'kmaq Grand Council, the Sante' Mawio'mi. It was presided over by the Kji-Saqmaw (the Grand Chief) and it was used to resolve mutual problems, promote solidarity, and to act as dispute mediator of last resort. Meetings involved Saqmaw and Keptins from various Mi'kmaq communities, and could sometimes include members of other First Nations, such as the Abénakis, the Peskotomuhkati [Passamaquoddy]; the Penobscot, and the Wolastoqiyik [Maliseet].

It should be noted that from the early 1900's, there came a shifting in the perceived roles and responsibilities of the Mi'kmaq Grand Council. One can view this shift as being brought about through An Act respecting Indians, the Indian Act, with its banning of gatherings, political organizations, and, most especially, the role of Hereditary Chiefs. The role of the Mi'kmaq Grand Council is now viewed as one of a more spiritual or advisory capacity; providing shared knowledge and advice to Mi'kmaq Band Councils on various topics. This shift can also be viewed as regionally specific, with differing views on the Grand Council throughout Mi'kma'ki. For the purposes of this paper however, we will be focusing upon the traditional, historical, roles of Saqmaw, and the Sante' Mawio'mi.

[1] For one example, the Jones archaeological site, located on St. Peters Bay, on the northeastern coast of PEI, contains early campsite remains, dating from 9,000 to 10,000 years ago. (Keenlyside, p. 2).

[2] As there is debate among historians regarding the inclusion of Newfoundland in the historical record of the Mi'kmaq Nation, this report will deal only with the seven indicated.

[3] The "Ganong Line" which arbitrarily divides New Brunswick into the eastern Mi'kmaq portion of the territory, and the western Wolastoqiyik territory, is the matter of some debate as it does not include the central region of New Brunswick where both territories overlap.

## TREATIES

Prior to European contact, it is thought the Mi'kmaq engaged in agreements and treaties with other First Nations. Mi'kmaq oral history mentions treaties of friendship and treaties involving hunting areas, prior to the coming of the Europeans to this region. They were believed to have been discussed and agreed upon with other First Nations at Grand Council, Sante' Mawio'mi, type meetings, whose role was outlined earlier. Indeed, Père Biard, an early French Missionary, mentioned in his letters home about large gatherings he called "State Councils" where several "Sagamores" would "come together and consult among themselves about peace and war, treaties of friendship and treaties for the common good . . ." (Biard, Vol. III, p. 88)

As well, a Jesuit missionary was present at a meeting on Miscou Island, New Bruswick, in 1645 where there was a form of a "Grand Council" as many First Nation representatives were present to discuss peace.

> "Then they had everything [presents] carried into a great cabin, where many Savages — Montagnais, Algonquins, three of the nation of the Sorcerers, and two Betsiamites were assembled. The Captain of our coasts takes the floor in the name of the Captains of Acadia, and of him of the Bay of Rigibouctou, his kinsman, from whom he says he has commission to treat for peace..."
> (Jesuit Relations, XXX, pp. 142-143)

Why is the governance structure important? Did the Grand Council members, and individual Chiefs, have the authority to sign treaties on behalf of their regional members, or their Nation? As noted by distinguished professor of Indigenous history, Dr. William Wicken, for the Mi'kmaq to participate in treaty negotiations, "they must have had the political capacity to do so." (Wicken, p. 40)

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## PEACE AND FRIENDSHIP TREATIES

The Mi'kmaq relationship with the French and the Acadians, starting when they first arrived on these shores, was one of mutual respect and military alliance, not one defined by formalized treaties. The military alliance was believed to be necessary because of the long-standing pattern of peace and conflict between their French allies and the British. Contrary to the Mi'kmaq alliance with the French, the British viewed their relationship with the Mi'kmaq as one that needed a more formal approach.

Beginning in 1725, a series of Peace and Friendship Treaties were signed between the British and the Mi'kmaq. They are referred to as "Peace and Friendship" Treaties as that was the cornerstone of the agreements. "And that the said Indians shall have all favour, Friendship & Protection shewn them from this His Majesty's Government" (Treaty of 1752). These early Treaties (signed 1725-26, 1749, and 1752) were to ensure the Mi'kmaq would cease hostilities towards British settlers,

> "...And We further promise on behalf of the said Tribes We represent That the Indians shall not Molest any of His Majesties subjects or their Dependents and their Settlements already made or Lawfully to be made or in their Carrying on their Traffick or their affairs Within the said Province..."
> (Treaty of 1725)

and the British would not interfere with Mi'kmaq hunting, fishing, and harvesting throughout Mi'kma'ki. "...It is agreed that the said Tribe of Indians shall not be hindered from, but have free liberty of Hunting and Fishing as usual..." (Treaty of 1752)

Besides referencing the few places where British settlers were living, the surrendering of land by the Mi'kmaq was not mentioned; the focus was on maintaining peace between the two nations.

The Mi'kmaq, as did other First Nations, had, and continue to have, an intertwined connection to the land and its resources, as illustrated in the following narrative:

> In 1749, Edward Cornwallis became Governor of Nova Scotia. As an English Protestant Governor, he quickly moved against any group he believed would interfere with the English's right to govern the territory. First, he tried to force an oath of Allegiance upon the Acadians settlers. When this did not work, he turned his attention upon the Mi'kmaq and their French supporters. Without using the customary gifts, Cornwallis attempted to force the Mi'kmaq away from their French counterparts and bring them under the rule of the British Crown.
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> During one of their many skirmishes ("battles"), Cornwallis ordered a Mi'kmaq Chief to appear before him. As the story goes, the Mi'kmaq Chief strode into the camp. Cornwallis ordered him to cease hostilities and surrender. The Chief proudly replied, "The land on which you sleep, is ours; we sprung from it as do the trees, and the grass, and the flowers. It is ours forever, and we will not yield it to any man" (Lossing, p. 511) The Chief and his associates then strode out of the camp and back to the fighting.

Therefore, the reference, or in these cases the non-reference, to "land" is significant.

## BAPTIST LA MORUE

But, the peace alluded to in the early Treaties was short-lived, as conflict between the French and the British, and their Indigenous allies continued until 1760, with the loss of Québec, and other key French areas, to the British, and the beginning of the end of the Seven Years' War. This also meant the role of France as a military power in this region was coming to an end. Acadian settlers and Indigenous leaders began trickling into British held Forts including Fort Cumberland, to declare their submissions for peace.

Among the records of this time period is the mention of Epekwitk Mi'kmaq Chief Baptist La Morue, "Chief of the Isle of St. John". In a letter dated March 7, 1760, from Colonel Joseph Frye to his Excellency the Governor, Frye states

> "Mr. Manach, a French Priest, who has led the Charge of the People at Merimichi, Rishebucta and Boutox, with a Number of principal Men of those Places arrived here, when they renewed their Submission in a formal Manner, by subscribing to Articles (drawn suitable to the case)."
> (Pennsylvania Gazette, 1760).

With Manach, were two Mi'kmaq Chiefs from whom Frye "received their Submissions for themselves and Tribes, to His Britannic Majesty, and sent them to Halifax for the Terms by Governor Lawrence." (ibid) The letter states Manach further informed Frye that a number of other Chiefs of the Mi'kmaq Nation would be coming to Cumberland after spring hunting was over. One of the names in the list Frye was given of the "Indian Chiefs inhabiting the Coast of Acadia" included Chief Baptist La Morue.[4]

[4] Another contemporaneous mention of Chief La Morue occurs in a 1761 diary narrating the adventures of Gamaliel Smethurst, a British trader who lived with and traded with the Acadians and the Mi'kmaq, after being abandoned soon after arriving in this region. Smethurst mentions La Morue ["Lamoureux"], another Chief, and other Mi'kmaq, assisting in the recovery of goods from a shipwreck. La Morue also tells Smethurst he will send four men with him to Fort Cumberland. An interesting side note to this, is the mention of the Mi'kmaq Chiefs having "...large silver medals of the French king, hanging to ribbons round their necks." (Smethurst, 380)

This was expanded upon by Abraham Gesner, in an 1847 account referencing this time period. Gesner had a decades-long relationship with both the Mi'kmaq and the Wolatoqiyik, and a familiarity with their languages, therefore it is believed he may have received his information from these First Nations communities, directly. He researched and wrote this description shortly before being appointed Nova Scotia Commissioner of Indian Affairs in 1847.

> "During the winter, eight more Indian Chiefs surrendered themselves; and the whole Micmac tribe, which then amounted to 6000 souls, abandoned the cause of France, and became dependent upon the English. The following are the names of the chiefs that signed the obligation of allegiance, and the places of abode: Louis Francis, Chief of Miramichi; Dennis Winemowet, of Tabogunkik; Etienne Abchabo, of Pohoomoosh; Claud Atanage, of Gediaak; Paul Lawrence, of La Have; Joseph Algemoure, of Chignecto, or Cumberland; John Newit, of Pictou ; Baptiste Lamourne [La Morue], of St. John's Island; Rene Lamourne [La Morue], of Nalkitgoniash; Jeannot Piquadauduet, of Minas; Augustin Michael, of Richibucto; Bartlemy Anngualet, of Kishpugowitk.
>
> The above Chiefs were sent to Halifax"
> (Gesner, p. 47)

La Morue, along with other Mi'kmaq Chiefs, were to go there to sign a series Peace and Friendship Treaties. The Peace and Friendship Treaties signed in 1760-61, guaranteed Mi'kmaq the right to hunt, fish, gather and earn a reasonable living, without British interference.

Robert Cooney, the unofficial "first historian" of New Brunswick, gives a similar description of eight Mi'kmaq Chiefs, including "Baptist Lamoune" (La Morue), making their way to Fort Cumberland after the 1759-60 winter hunting season, to tender their submission. He states: "the above persons are supposed to have been the most distinguished man of the Eastern or Micmac nation, at that time estimated about 5000 souls. The Indian chiefs were sent to Gov. Lawrence at Halifax, who allowed them, after having received a renewal of their submission to his Britannic Majesty, to retain their respective dominions, and exercise her usual prerogatives." It should be noted, however, that the source of this information is not given. (Cooney, p. 38)

In October 1761, it was remarked in the Executive Council Minutes of Nova Scotia, that another Treaty of Peace and Friendship with signed by the Chief of the Pictou area Mi'kmaq.

> Treaty of Peace and Friendship of the same Tenor as that made with Joseph Shabecholout was concluded, Signed and Sealed by Janneouit Picklougawash for himself & the Pictouk & Malogomich Indians of which he is Chief, The Same being Accepted of and Agreed to by the Honourable Jonathan Belcher Esq: Commander in Chief of the Province of Nova Scotia. (Executive Council Minutes, Vol. 188, pp.282-283; Vol. 165, p.187)

Janneouit Picklougawash (Janvier Piktukewa'j), was Chief of Pictou, part of the Mi'kma'ki district of Epekwitk aq Piktuk (PEI and Pictou), therefore, it could be said he was signing it as a representative of Prince Edward Island, as well.

In 1763, the Treaties were again referenced in a Memorial by Alexander Grant to the Lords Commissioners of Trade and Plantations. "In the year 1760 General Lawrence, late Governor of Nova Scotia, made peace with the Indians of that Country and St. Johns." As St Johns Island (PEI) was by then a part of Nova Scotia, the reference can be presumed to mean the Island. Grant was petitioning to be compensated for providing goods for trade with the Mi'kmaq at a truckhouse.

## TREATIES TODAY

The idea of the Treaties did not fall into history for the Mi'kmaq. They were rather pointedly referenced in Epekwitk Mi'kmaq Chief Oliver Thomas Labone's 1838 petition to the British Crown.

> "That in former Times our Fathers were the Owners of this Island, and fully enjoyed their acquired Resources thereof until they were visited by People of the French Nation, who taught them Religion and the Duties of civilized Life; after which, by Treaty entered into by that Nation with Your Majesty's Government…" (Colonial Office, vol. 55, p. 168; vol. 56, "Petitions")

Other places in Mi'kma'ki also cited the Treaties, as seen in the Mi'kmaq Chiefs in Nova Scotia petition to Nova Scotia's Lieutenant Governor (1849). "Tired of a war that destroyed may of our people, almost ninety years ago our Chief made peace and buried the hatchet forever. When that peace was made, the English Governor promised protection, as much land as we wanted, and the preservation of our fisheries and game." (Whitehead, p. 239). Several petitions and complaints, both written and in person, around the time of Confederation, also mentioned the Treaties, and Confederation's suspected impact on them.

These Treaties were also used in legal issues. The Sylliboy court case, R. v. Sylliboy (1928) is believed to be the first to use the 1752 Treaty of Peace and Friendship to argue that the right to hunt on traditional territories was covered by the treaty. While the case was lost, Sylliboy received a posthumous pardon and apology from the government of Nova Scotia in 2017.

In 1999, in what is now known as the Marshall Decision, the Supreme Court of Canada recognized and affirmed a treaty right hunt, fish and gather in pursuit of a 'moderate livelihood', arising from the 1760-61 Treaty of Peace and Friendship. In his trial, Donald Marshall Jr. used the Treaty to argue that he was catching and trading fish, just as the Mi'kmaq had done since the Europeans first appeared in the region.

In Epekwitk Mi'kmaq oral stories, and in other parts of Mi'kma'ki, we are told that parents and Elders, while passing down traditional resource gathering methods, also shared their knowledge of the Treaties. This was, and is, a way to ensure the Peace and Friendship Treaties and their importance in the protection of Mi'kmaq rights is never forgotten in Mi'kma'ki.

One final note, it must be remembered that while these Peace and Friendship Treaties were entered into, the Mi'kmaq were never conquered, and never surrendered, gave up or ceded their land. Mi'kma'ki is still Mi'kmaq territory, and the Peace and Friendship Treaties serve as a foundation for the relationship of the Mi'kmaq and all citizens of the region.

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