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INDIAN AND NON-NATIVE USE OF THE MIRAMICHI RIVER

AN HISTORICAL PERSPECTIVE

by Brendan O'Donnell

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Policy and Program Planning

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INTRODUCTION

The following is one of a series of reports on the historical uses of waterways in New Brunswick and British Columbia. These reports are narrative outlines of how Indian and non-native populations have used these rivers, with emphasis on navigability, tidal influence, riparian interests, settlement patterns, commercial use and fishing rights.

These historical reports were requested by the Interdepartmental Reserve Boundary Review Committee, a body comprising representatives from Indian Affairs and Northern Development [DIAND], Justice, Energy, Mines and Resources [EMR], and chaired by Fisheries and Oceans. The committee is tasked with establishing a government position on reserve boundaries that can assist in determining the area of application of Indian Band fishing by-laws.

Although each report in this series is as different as the waterway it describes, there is a common structural approach to each paper. Each report describes the establishment of Indian reserves along the river; what Licences of Occupation were issued; what instructions were given to surveyors laying out these reserves; how each surveyor laid out each reserve based on his field notes and survey plan; what, if any, fishing rights were considered for the Indian Bands; and how the Indian and non-native populations have used the waterway over the past centuries for both commercial and recreational use.

Primary sources for this information are found in the National Archives of Canada, the Provincial Archives of New Brunswick, the Harriet Irving Library of the University of New Brunswick, the British Columbia Provincial Archives, the Hudson's Bay Company Archives, the Indian Land Registry at DIAND, and in the Legal Surveys Division of EMR. Secondary sources are found in the National Library of Canada, DFO's departmental library, DIAND's departmental library, or are brought in from other libraries throughout Canada on inter-library loan.

Each report in the series is being distributed to the Reserve Boundary Review Committee members. It is hoped each will make this research available to other members of their department by depositing the reports in their departmental library.

Indian and Non-Native Use of the Miramichi River

An Historical Perspective

by Brendan O'Donnell

The Miramichi River, New Brunswick, flows chiefly through Northumberland County and empties into the Gulf of St. Lawrence at Miramichi Bay. The river is approximately 140 miles long and nine miles wide at its mouth.¹ The Miramichi is divided into two principal branches -- the Southwest or main branch and the Northwest. These two branches join at Beaubears Island, near Newcastle, about thirty-five miles from its mouth.

The Southwest or main branch of the Miramichi rises in a lake a short distance from the Tobique River, a tributary of the St. John, then flows with considerable rapidity over a rocky bed in an easterly direction until it empties into the Bay. Near its source are three or four lakes, and its chief tributaries are the Cain, Bay du Vin, Napon, Bartibog, Renous and Black Rivers. About ninety miles from its head, the river becomes considerably expanded owing to the discharge of a number of small rivulets.

The Northwest branch, which is approximately ninety miles in length, rises in the highlands bordering on the East side of the Nepisiguit River. Its chief tributaries are the Little Tomogonops, Portage, Big Sevogle, Little Sevogle and the Little Southwest Miramichi Rivers. [The Little Southwest Miramichi should not be confused with the Southwest Miramichi, two totally different rivers.]

¹ The Encyclopedia of Canada, Volume IV. (W. Stewart Wallace, ed.). Toronto: University Associates of Canada, 1948. Page 307. See also Wayne Curtis, Currents in the Stream: Miramichi People and Places. Fredericton: Gooselane Editions Ltd., 1988. Page xi.

After the St. John River, the Miramichi is considered the second most important water artery in New Brunswick. The total drainage area of this river is 5,500 square miles.² The Miramichi is considered navigable throughout most of its course, especially during the spring-summer months. On the Northwest branch, vessels drawing fifteen feet have been reported to be able to navigate up to three miles above its junction with the main branch; schooners of sixty to seventy tons have proceeded three miles further upstream; and canoes can navigate to the river's source. On the Southwest or main branch, the river is reported navigable for large vessels to the railway bridge two miles above Newcastle; schooners are reported to be able to proceed upstream for another twenty to twenty-five miles; and canoes can navigate for forty to fifty miles above the bridge.³

The tidal influence on the Northwest branch of the Miramichi River can be felt at least as far upstream as Red Bank Village⁴, and has been reported detectable at the Indian Point Indian Reserve.⁵ On

² R. Chambers, "Preliminary Report on the Surface Geology of New Brunswick," in Geological and Natural History Survey of Canada, Annual Report 1885, Volume 1. Montreal: Dawson Brothers, 1886. Page 1266. See also R. Chambers, "Report on the Surface Geology of North-Eastern New Brunswick...", in Geological and Natural History Survey of Canada, Annual Report 1887-88, Volume III. Montreal: William Foster Brown & Co., 1889.

³ The Encyclopedia of Canada, p. 307.

⁴ R. Chambers, "Preliminary Report on the Surface Geology of New Brunswick," p. 1466; The Encyclopedia of Canada, p. 307; Encyclopedia Canadiana, Volume VII. Toronto: Grolier of Canada, 1977. Page 114; and The Canadian Encyclopedia, Volume II. Edmonton: Hurtig Publishers, 1985. Page 1144.

⁵ Journal of the House of Assembly of the Province of New Brunswick, from the Nineteenth Day of January, to the Fourth Day of April, being the sixth session of the twelfth General Assembly. Fredericton: John Simpson, 1842. Page cx.

the Little Southwest Miramichi River, the head of tide is reported to be at the Ox Bow Meadow.⁶ The tidal influence on the Southwest or main branch of the Miramichi River can be felt approximately forty miles above Miramichi Bay.⁷ The Department of Fisheries and Oceans places the head of tide for administrative purposes at Old Squaw Rock, above the Renous Indian Reserve No. 12.⁸

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The origins of the name "Miramichi" is from the language of the aboriginal inhabitants of the region. According to one source:⁹

Long before the white men came upon the scene, the Micmac Indians found the Miramichi and the Restigouche and all the land between an excellent place for fishing and hunting. They called the Restigouche, the Lustagooch, Goodly River, and the Miramichi, the Lustagoochechk, the Little Goodly River. The Montaignais Indians called all the land south of the Baie de Chaleur, Maissimue assi, Micmac Land; the name, spelled a dozen different ways, became eventually Miramichi, and was applied by the white men to the river rather than to the land.

⁶ See Dugald Campbell's survey plan, circa 1804, titled: "Plan of the Little Southwest Branch of Mirimichi River with Locations of Land Surveyed thereon according to Instructions from Geo. Sproule Esq. Surveyor General by Dugald Campbell Surveyor"; copy on file at the New Brunswick Department of Natural Resources, Crown Lands (Surveys), Fredericton. Plan No. N 1/13.

⁷ The Encyclopedia of Canada, p. 307.

⁸ Canada. Fisheries and Oceans. New Brunswick Tidal Waters Boundary Order made under the Fisheries Act. C.R.C., 1978 c. 845. (Ottawa): Published under the authority of the Minister, 1980. Page 106-4.

⁹ Ester Clark Wright, The Miramichi: A Study of the New Brunswick River and of the People Who Settled Along It. Sackville: The Tribune Press, 1944. Page 6.

Another source states that the Micmac word Lustagocheechk means "'good little river' for canoeing."¹⁰ The Micmac word for the Northwest Miramichi was Elmunokun, possibly meaning "a beaver hole" in reference to Big Hole near the mouth of the Big Sevogle River.¹¹

Anthropologists and archaeologists speculate that the first aboriginal people moved into New Brunswick some 10,000 years ago, although these were probably not the ancestors of the Micmac Indians who came to inhabit the Miramichi River Valley.¹² Archaeological diggings at the Ox Bow site at Red Bank, on the Little Southwest Miramichi, have led researchers to the conclusion that Micmac Indians have inhabited the Valley for at least 2500 years.¹³ However, according to Micmac legend, this Indian tribe only wrested the Miramichi Valley away from the Kwedech or Canadian [St. Lawrence Valley] Iroquois sometime between the years 1500 and 1600. Thus, the Micmacs refer to Northumberland County, along with Gloucester and Restigouche Counties, as Gespengeog or "the last land."¹⁴

¹⁰ Alan Rayburn, Geographical Names of New Brunswick (Toponymy Study 2). Ottawa: Surveys and Mapping Branch, Department of Energy, Mines and Resources, 1975. Page 184.

¹¹ Alan Rayburn, Geographical Names of New Brunswick, p. 204.

¹² The Micmac Indians today refer to themselves as the Mi'kmaq Nation. However, since all of the reference documents used in this report refers to them as the Micmac tribe, or simply the Micmacs, I shall follow this format for the sake of continuity.

¹³ James A. Tuck, Maritime Provinces Prehistory. Ottawa: National Museums of Canada, National Museum of Man, Archaeological Survey of Canada, 1984. Page 76.

¹⁴ Bernard G. Hoffman, "The Historical Ethnography of the Micmacs of the Sixteenth and Seventeenth Centuries." Unpublished Ph.D. dissertation (Anthropology), University of California, 1955; quoted in B. Dewar, "Indian (continued...)"

Prior to white contact, two Indian groups inhabited the territory now forming New Brunswick. The Micmacs occupied the entire North Shore from Gaspé to and into Nova Scotia, with villages on the principal rivers, including the Miramichi. The Malecites [or Maliseets] occupied a much smaller territory that included the St. John River Valley and the Passamaquoddy Bay region.

The Micmacs are an Algonkin-speaking people of Eastern Woodland culture. Ethnographic studies maintain that the Micmacs originally referred to themselves as El'nu, meaning "People"¹⁵ or "Indian."¹⁶ Theirs was a nomadic lifestyle prior to contact, existing exclusively on a hunting-fishing economy. Thus their settlements on the Miramichi river were originally seasonal hunting and fishing sites rather than permanently-occupied villages. There is no indication that the Micmacs ever practised any form of agriculture, other than growing tobacco, during the pre-contact period.

One historian has speculated as follows on the lifestyle of the Micmac Indians prior to their contact with Europeans:¹⁷

The Micmacs lived and died within the constraints of the world as they found it. They made no attempt to change the natural order to suit the convenience of human beings, for man was only one part of a totally

¹⁴(...continued)

Reserves, Northumberland County, N.B. Introduction --

Early History to 1808." Unpublished manuscript; copy on file at Lands Directorate, Lands, Revenues and Trusts, DIAND, Ottawa. Page 1.

¹⁵ Wilson D. Wallis and Ruth Sawtell Wallis, The Micmac Indians of Eastern Canada. Minneapolis: University of Minnesota Press, 1955. Page 14.

¹⁶ Philip K. Bock, "Micmac," in Handbook of North American Indians, Volume 15, Northeast. (Bruce G. Trigger, volume ed.) Washington: Smithsonian Institution, 1978. Page 109.

¹⁷ L.S.F. Upton, Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867. Vancouver: University of British Columbia Press, 1979. Page 15.

interdependent system that saw all things, animate and inanimate, in their proper places. This view did not make life simple, far from it; every aspect of existence was highly complex. Fear was ever present: fear of offending spirits, fear of ghosts, fear of death at the whim of an unknown power. The basic offence was to upset the traditional order either by design or mistake, and...taboos served to maintain the balance within nature. The respect shown the spirits of animals ensured that the Micmacs killed only what they needed for food and clothing. Birth control guaranteed that the population did not grow beyond the means available to support it... If men depended on nature, then they depended on each other as part of nature. The need to live harmoniously in small groups placed each individual under a severe code of self-restraint, but there were opportunities for emotional release in the frequent feasts and the excitement of songs and dances. These festivities in turn referred back to the holistic world that encompassed the people. Therein lay their strength: the acceptance of nature as a unity. Therein lay their weakness, for to change that society in any one particular was to undermine the whole.

Change to the Micmac culture came through contact with Europeans. In the Miramichi Valley, contact with whites began slowly, then became overwhelming.

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The first European to encounter the Micmac Indians is believed to have been Jacques Cartier. On his first voyage to North America in 1534, this French explorer sailed around Point Miscou and entered Miramichi Bay. He christened the body of water the "Bay of Boats" in reference to the many Indian canoes that surrounded his ship in greeting.¹⁸

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W.O. Raymond, "The North Shore. Incidents in the Early History of Eastern and Northern New Brunswick," Collections of the New Brunswick Historical Society, No. 4 (1899): 81; Wilson D. Wallis and Ruth Sawtell Wallis, The Micmac Indians of Eastern Canada, p. 10.

European settlement in the Miramichi Valley, however, did not take place for another century, although there was probably contact between these Indians and fishermen and fur trappers before this time. The first Europeans to settle and claim ownership of the Miramichi Valley was the Denys family of Tours, France, sometimes referred to in documents as the Denis family.

Nicholas Denys was born in 1598 of Huguenot parents, and in 1633 he emigrated to Gaspésia. In 1653 he received from the Company of New France a grant of the coast of the Gulf of St. Lawrence, from Casno to Gaspé, with the islands of Cape Breton, St-Jean [later renamed Prince Edward Island], and the Magdalenes. This territory comprised most of what was then known as Acadia. The following year, 1654, Denys was given by the King of France a monopoly over the right to establish fixed fisheries throughout Acadia, and was made Governor and Lieutenant-General, with full powers, over all his vast grant. This domain included the Miramichi River.¹⁹

That year, 1654, Nicolas Denys established himself at Saint Peters on Cape Breton, where he lived until 1669, when his establishment was accidentally burned to the ground. Near financial ruin as a result, he re-established himself at a post at Nepisiguit [now part of New Brunswick], which he appears to have built in 1652. Two years later, in 1671, Nicolas Denys returned to France to arrange for the publication of his book [see footnote 19], leaving as lieutenant to command in his place his son, Richard. Nicolas Denys remained in France until 1685, when he returned to Nepisiguit, and died there in 1688 at the age of ninety years.

Richard Denys was probably born at Saint Peters, on Cape Breton,

¹⁹ For a more extensive biography of Nicolas Denys, see William F. Ganong, "Introduction" to Nicolas Denys, The Description and Natural History of the coasts of North America (Acadia). Republished Toronto: The Champlain Society, 1908.

in 1654, and was appointed by his father to act as his lieutenant at the age of seventeen. Although his father never used the title, Richard Denys referred to himself as Sieur de Fronsac, following the lettres de noblesse given to his father in 1668.

On 18 August 1685, acting on his father's behalf, Richard Denys gave to the Ecclesiastics of the Episcopal Seminary of Foreign Missions, Quebec, better known as the Recollets, grants of three parcels of land, each three leagues square,²⁰ to assist these priests in the propagation of the Christian faith among the Indians. One grant was at Restigouche, another on Cape Breton Island, and the third on the Miramichi River, referred to by the Denys as Rivière Ste-Croix. The grants specified that on each of these three endowments, the Recollets were given:²¹

...the said lands circumstances and dependencies in full ownership from this day forth forever and to make and dispose of them by the Sieurs Ecclesiastics of the said Seminary their successors or assigns as things of their own, belonging to them and according as they may see fit, with the same rights and privileges attached to lands and possessions held by nobility, of fishing, hunting, water or windmills, and to concede the said lands to such persons under terms and conditions such as they may see fit; excepting only the right to trade with the said Indians, which the said Sieur Denys reserves solely to himself throughout the extent of the said lands here granted, as also the privilege of having a storehouse built for the said trade wherever he may see fit...

The deed of sale signing the Miramichi grant over to the Recollets described the location of this endowment as follows:²²

...which three leagues of lands shall be taken half on one side and half on the other of the said River Ste.

²⁰ A league is approximately 3.45 miles.

²¹ W.F. Ganong, ed., "Historical-Geographical Documents Relating to New Brunswick," New Brunswick Historical Society, (1906-1907): 21-23.

²² W.F. Ganong, ed. "Historical-Geographical Documents Relating to New Brunswick," (1906-1907): 24-28.

Croix and bounded as follows; to wit: that on the north side of the said river the three leagues frontage shall commence at the Ruisseau Corneille (Crow Brook), going upwards therefrom into the river called Muminagan, which empties into the said River Ste. Croix, with a league and a half of depth on that side, from a line established north and south which shall run from the border of the said Ruisseau at its entrance; and on the other side of the said river, the three leagues of land frontage shall commence at the same north and south line diametrically measured to that of the said Ruisseau Corneille with the same depth (to the south) of a league and a half on the said line; which depth shall be bounded to the end of the said league and a half (on each side of the said river) by another line running east and west, within the enclosure and limits of which compass lines enter and are comprised the tongue of land which forks the said rivers Muminagan and Ristigouche as they discharge into the said River Ste. Croix, together with the islets which are in the said three leagues of extent along the said river on both sides..

The deed of sale also stipulated that:

...the said Sieurs Ecclesiastics or their assigns shall have every right of fishing not only in the space of the said three leagues, but also through the whole extent of the said river; for it has been agreed that the said Sieur de Fronsac, on his own account and that of his heirs and assigns shall reciprocally have the same right in the said space of three leagues as through all the said river.

According to one historian who has studied this land grant to the Recollet missionaries, the location of the Miramichi tract "is, in its main features at least, unmistakable."²³

The description shows that Ruisseau Corneille, or Crow Brook, can be no other than French Fort Cove, while muminagan is a form of the well-known Micmac name of the Northwest Miramichi, and Ristigouche is a form of the Micmac name of the Miramichi, viz., Listigouchiche. But there is one inconsistency, namely, that if a line be drawn through the mouth of Ruisseau Corneille, north and south (even magnetic), a league and a half each way, and then other lines be drawn at right angles through its end, as the grant plainly requires, the resultant square would lie almost wholly on the north side of the

²³ W.F. Ganong, ed., "Historical-Geographical Documents relating to New Brunswick," (1906-1907): 27-28.

[Miramichi] river; whereas the obvious intention was to have the square astride the river, so to speak. The explanation is sufficiently plain; the river was assumed to run east and west, whereas, in reality, it takes here a great bend to the north. Consequently, the better bounds to assign would be those placing the grant about equally on both sides of the river...even though this must throw the initial line much out of its compass direction.

Ganong published a map with his conjecture of where the Recollet grant was located.²⁴ Based on this map, the present-day location of the Eel Ground Indian Reserve No. 2 was included in the endowment.

As part of his agreement with the Recollets, Richard Denys maintained the right to establish or maintain storehouses within the grant as a place to trade with the Indians. It is probably at this combination storehouse-living quarters, possibly built around 1658, that Denys was living in 1688 when he declared: "The Miramichy is the principal place of my residence."²⁵

He described the settlement as follows:

I have there a fort built of wood with four bastions, where I have eight pieces of canon, two of brass, four-pounders, and two of iron, four-pounders, and four other pieces, of iron, eight-pounders, and good muskets with 12 men resident winter and summer and a clerk who is in command and ten men for the fishery for cod, who go and come there in summer to fish the cod.

In this river there are eighty wigwams of Indians who are more than five hundred persons counting women and children. I have a storehouse from which the Indians and French get their supplies.

There were also three families of settlers, apparently not directly

²⁴ W.F. Ganong, ed., "Historical-Geographical Documents relating to New Brunswick," (1906-1907): 28.

²⁵ Ester Clark Wright, The Miramichi: A Study of the New Brunswick River and of the People Who Settled Along It, p. 10.

connected with Denys' fishing and trading operations, living at the Miramichi settlement.

That the settlement site was an excellent location for fishing and hunting during the seventeenth century is evident from a passage written by Nicolas Denys, Richard's father, concerning the Miramichi:²⁶

...[H]ere collects so great a number of [Passenger] Pigeons that it is incredible. I once remained there eight days towards the feast of Saint Jean [June 24], during which each morning and evening we saw flocks of them passing, and of these the smallest were five to six hundred... If the Pigeons plagued us by their abundance, the Salmon gave us even more trouble. So large a quantity of them enters into this river that at night one is unable to sleep, so great is the noise they make in falling upon the water after having thrown or darted themselves into the air. This comes about because of the trouble they have had in passing over the flats, on account of the paucity of water thereon; afterwards they enjoy themselves at their ease when they meet with places of greater depth.

Ganong has speculated that the site of the Denys' settlement was on the North side of the Miramichi River, near the forks where the Northwest and Southwest branches divide, just opposite the passage at the western end of Beaubear's Island, and across the river from the Recollet mission.²⁷

For reasons which the secondary sources do not make clear, the land grant to the Recollet missionaries on the Miramichi River was returned to the Denys in 1690. Meanwhile, the enormous area granted to Nicolas Denys on the North Shore was being parcelled out by the French government to others, despite the protests from him and his

²⁶ Quoted in Ester Wright Clark, The Miramichi: A Study of the New Brunswick River and of the People Who Settled Along It, p. 12.

²⁷ W.F. Ganong, ed., "Historical-Geographical Documents Relating to New Brunswick," (1906-1907): 29-32.

son. Shortly before Nicolas' death in 1688, his grant was revoked. The government maintained that the Denys had not brought a sufficient number of settlers into the region, one of the conditions for their receiving domain over the enormous tract of land. Their land holding was now confined to those tracts granted or cleared by them.

In April 1687, a government decree was apparently written establishing and defining a seigniory for Nicolas Denys on the Miramichi River. However, Nicolas Denys died before the decree could be confirmed. On 18 April 1690, a second decree was signed by the Intendent of New France establishing and bounding the Miramichi seigniory for Richard Denys. This decree reads in part:²⁸

...IN ACCORD WITH THE SAID DECREE, and the commission obtained thereon the same day addressed to us, by which we are ordered to locate and bound to the Sieur Nicolas Denys and extent of land rated equal to the largest concessions granted in this country, on the conditions therein carried, WE, conformably to the said decree, and having heard the Sieur Richard Denys de Fronsac, son of the said Nicolas and acting for him, HAVE located and bounded the concession of the said Nicolas Denys at fifteen leagues of depth at the place called Miramichy in Acadie, to commence from the Rivière aux Truittes, the same included, one league extending towards the southeast and the other fourteen leagues to the northwest with the points, islands and islets which will be found in the said fifteen leagues of frontage, on condition that he shall clear it, to wit, one-third in three years, to commence from this day, and the remainder in the three following years, in default of which and the said time having expired, he will remain deprived of it, and the said domain will be reunited to the domain of His Majesty to be disposed of according to his will. WE MAKE prohibition to these Denys against exercising any right of trade or fishing in any of the places or localities of the said country whether by sea or by land other than in the fifteen leagues above bounded, and from making any trouble or hindrance either to those who are there or shall settle there under any pretext whatsoever, as also from making or allowing to be made trading with the

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W.F. Ganong, ed., "Historical-Geographical Documents Relating to New Brunswick," (1906-1907): 43-44.

Indians in the woods and the interior of the country on the penalties carried by the regulations, the whole conformably to the decrees of the Council of the King.

The grant of the seigniory was ratified by the King of France on 16 March 1691.

Ganong has also speculated on the location of the Miramichi seigniory, which he describes as follows:²⁹

The Rivière des Truittes (Trout River) is mentioned in no other record and upon no map; I take it to be the Northwest Miramichi in its north-and-south part, above its junction with the Little Southwest, and this formed a natural western limit. The league to the southeast was no doubt the two to three miles of river having that direction below its junction with the Little Southwest. As to the other fourteen leagues, their direction is confused, for while one...document [the ratification signed by the King] reads north, the other [the decree signed by the Intendent] reads northwest, which is not possible without running back upon the course of the first league. I have no doubt the original grant [to Nicolas Denys in 1687] will be found to read north-east, which would make this boundary follow the general course of the Miramichi to end about at Burnt Church. These limits are perfectly natural under the circumstances, as are no others that I can find with the facts we possess. That it extended inland towards Nepisiguit is shown by the fact that the seigniory of Nepisiguit granted about the same time to Jean Gobin [and eventually bought by Richard Denys], was to be partly bounded by it.

Ganong includes a map on where he believes the location of the seigniory was located. Based on this map and on his calculations, Richard Denys' Miramichi seigniory would include the present-day Indian reserves of Indian Point No. 1, Eel Ground No. 2, and Big Hole Tract No. 8. It would also probably include a part of Burnt Church Indian Reserve No. 14.

Richard Denys died in a ship-wreck in 1691, at the age of thirty-seven years. His properties, including his seigniory on the

²⁹ W.F. Ganong, ed., "Historical-Geographical Documents Relating to New Brunswick," (1906-1907): 46.

Miramichi, were inherited by his widow, Françoise Cailteau. In 1694 she married Pierre Rey-Gaillard (Tanguay), by whom she had children and who later inherited Richard Denys' properties. However, the European settlement on the Miramichi during the French regime appears to have been all but abandoned after the death of Denys. In 1724 it was reported that only one French trader was still living there.

The seigniorial land tenure on the Miramichi River was dissolved by law shortly after the British expulsion of the Acadians in 1755. At the time of the British victory of Quebec in 1760, a Mademoiselle Rey-Gaillard believed she still held title to the seigniory. She sold it to a Mr. Bondfield of Quebec. In 1764 he made an attempt to claim the property from the Nova Scotia government, in whose province the Miramichi was then included. However, Bondfield was informed that in 1759 the colony had passed a law extinguishing all such French titles. The property was now Crown land.³⁰

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During the era of French control of Acadia and afterwards until 1760, the Micmac Indians sided with the French in their wars against the British, and worked actively on their behalf. These Indians also developed a strong allegiance to the Roman Catholic religion through the work of the French missionaries. But at no time during the French regime did that European power ever concede that the aboriginal peoples of Canada held any proprietary interest

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W.F. Ganong, ed., "Historical-Geographical Documents Relating to New Brunswick," (1906-1907): 53-54.

in the soil.³¹ Therefore, the French never recognized any native claim to traditional camping grounds on the Miramichi River or its tributaries.

Following the signing of the Treaty of Utrecht in 1713, when Acadia became a British possession, the French continued to use the Micmac Indians in their on-going guerilla campaign against their European rival. The Micmac Indians of the Miramichi River were engaged in this European confrontation.

Aside from the Indians, French-speaking Europeans and a small community of English-speaking whites were living in Acadia. In 1755, the Lieutenant-Governor of Nova Scotia, Colonel Charles Lawrence, ruled that the French-speaking Acadian population was a security threat to the British control of the region. In a move that has become one of the most controversial issues in Canadian history, he ordered the expulsion of the French-speaking population from the territory. Almost three-quarters of the some 10,000 French-speaking Acadians were deported. The others took to the bush or headed towards French-controlled havens for safety. The Governor of New France, the Marquis de Vaudreuil, encouraged this latter group to gather on the St. John River, where Sieur Charles Deschamps de Boishébert was attempting to maintain this area and the districts North of the Bay of Fundy as French territory. When the number of refugees on the St. John grew too large for Boishébert to provide for, Vaudreuil directed him to send them on to the Miramichi. It was estimated that over 3,000 eventually gathered in wretched refugee settlements on the Miramichi.³² Here

³¹ Peter A. Cumming and Neil H. Mickenberg, Native Rights in Canada. Toronto: The Indian-Eskimo Association of Canada, in association with General Publishing Co. Ltd., 1972. Page 80-88.

³² Ester Clark Wright, The Miramichi: A Study of the New Brunswick River and of the People Who Settled Along It,
(continued...)

they settled at different points along the river, including Neguac, Burnt Church, Bay du Vin, French Fort Cove and Canadian Point. Beaubear's Island is a corruption of the French name Boishébert, after whom the island was named and where the largest temporary Acadian refugee encampment was located. This settlement was called Camp d'Espérance, Camp of Hope, an ironic name since some 800 Acadians are believed to have died of starvation and scurvy at this spot.

The war between England and France in North America came to an end in 1760 with the fall of Montreal, but not before the British had first destroyed Acadian and Indian settlements on the Miramichi. In July 1758, Colonel James Murray was sent to destroy enemy settlements on the Gulf of St. Lawrence. Murray reported to General James Wolfe, Commander of the British forces, that he reached Miramichi Bay on 15 September 1758.³³ British marines were sent in boats up the Miramichi, with an artillery sloop for protection, where they destroyed several Indian settlements and Acadian refugee camps. Included among the former was a church at the Micmac settlement of Es-kun-oo-ob-a-dich, referred to by the French as Skinoubondiche. As a result, to this day, this settlement, which eventually was rebuilt, is referred to as Burnt Church.³⁴ Two years later, in 1760, a Commodore Byron of the *Fame* is reported to have destroyed at Beaubear's Point an Acadian town of two hundred houses

³²(...continued)

p. 14-15. See also W.F. Ganong, "A Monograph of the Origins of Settlement in the province of New Brunswick," Transactions of the Royal Society of Canada, Section II, (1904): 118.

³³ W.F. Ganong, ed., "Historical-Geographical Documents Relating to New Brunswick," Collections of the New Brunswick Historical Society, No. 9 (1914): 301-307.

³⁴ W.F. Ganong, "A Monograph of Historic Sites in the Province of New Brunswick," p. 232; W.F. Ganong, ed., "Historical-Geographical Documents Relating to New Brunswick," (1914): 301-307.

and a chapel.³⁵

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With the war between the French and British over in North America, the Micmac Indians, including those on the Miramichi, sought to come to terms with the European victors. There were, according to one source, three tribes of Micmac Indians living along the Miramichi River within present-day Northumberland County at this time:³⁶

The Tabusintac Tribe included the Indians of the Tabusintac and Bartibog rivers, and those of Burnt Church. After Confederation, the descendants of this tribe became the Burnt Church Band. The South West Tribe included the Indians of the South West branch of the Miramichi River, from Barnaby River up to Renous River, and beyond. In 1848, there were forty-four members of this tribe living on the Renous Reserve, but they abandoned this location a few years afterwards and dispersed themselves, principally among the Miramichi Tribe. The Miramichi Tribe included the Indians of the North West and Little South West branches of the Miramichi River. After Confederation, the descendants of this tribe became the Eel Ground and Red Bank bands.

On 25 June 1761, Joseph Shabecholouct (or Shabecholouest), reported to be the Chief of the Miramichi tribe, entered into a Treaty of Peace and Friendship with Governor Jonathan Belcher, "President of His Majesty's Council and Commander in Chief in and over His Majesty's Province of Nova Scotia," at Halifax. This treaty reads

³⁵ Ester Clark Wright, The Miramichi: A Study of the New Brunswick River and of the People Who Settled Along It, p. 19.

³⁶ W.D. Hamilton, The Julian Tribe. Fredericton: The Micmac-Maliseet Institute, University of New Brunswick, 1984. Page 3-4. See also W.D. Hamilton, "The Julian Tribe," in Miramichi Papers. Fredericton: The Micmac-Maliseet Institute, University of New Brunswick, 1987. Page 81

as follows:³⁷

I Joseph Shabecholouct for myself and the Tribe of Miramichi Indians of which I am the Chief Do acknowledge the Jurisdiction and Dominion of His Majesty King George the third over the territories of Nova Scotia or Acadia, and we do make Submission to His Majesty in the most perfect ample and solemn manner.

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

And if any Insult Robbery or Outrage shall happen to be committed by any of my Tribe, Satisfaction & Restitution shall be made to the person or persons Injured.

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

That if any Quarrell or Misunderstanding shall happen betwixt myself and the English, or between them and any of my Tribe neither I nor they shall take any private Satisfaction or Revenge but will apply for Redress according to the Laws established in His Majestys [sic] Dominions.

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

And I do further promise for myself and my Tribe that we will not either directly or indirectly assist any of the Enemies of His most Sacred Majesty King George the third his Heirs or successors, nor hold any manner of Commerce Traffick nor intercourse with them, but on the contrary will as much as may be in our power discover and make known to His Majesty's Governor, any ill design which may

³⁷ Reprinted in W.D. Hamilton and W.A. Spray, Source Materials Relating to the New Brunswick Indian. Fredericton: printed at Centennial Print & Litho Ltd., 1976. Page 36-37.

be formed or contrived against His Majesty's Subjects. And I do further Engage that we will not Traffick, Barter, or Exchange any Commodities in any manner, but with such person or the Managers of such Truckhouses as shall be appointed or established by His Majesty's Governor at Fort Cumberland or elsewhere in Nova Scotia.

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

And all these foregoing Articles and every one of them...

I do promise for myself and in behalf of my Tribe, that we will most strictly keep and observe in the most solemn manner. In Witness whereof I have hereunto put my Mark and Seal at Halifax in Nova Scotia this Twenty-fifth day of June One thousand Seven hundred and Sixty one and in the First year of His Majesty's Reign.

This Treaty of Peace and Friendship, like most others entered into between the British Government and aboriginal groups in the Maritimes in the eighteenth century, made no mention of any recognition of claims to settlement sites or traditional fishing spots. One legal researcher summarized as follows the scope of these treaties in respect to land:³⁸ "These early Maritime treaties do not appear to involve recognition of land entitlement or any lasting material benefits for the Indians, but seem, as their title suggests, simply efforts to maintain tranquillity..."

There was one document, however, issued in 1762 by the government of Nova Scotia [which then included the present territory of New

³⁸ Marie W. LaForest, "Indian Land Administration and Policy in the Maritime Provinces (Nova Scotia and New Brunswick) to 1867." Unpublished manuscript, 1978. Page 1-2. Copy on file at DIAND Library, Ottawa.

Brunswick], which dealt specifically with aboriginal land and fishing rights. Commonly referred to as Belcher's Proclamation, it was written in response to Royal Instructions from England. These instructions were issued on 9 December 1761 and entitled: "Incroachments upon the Possessions and Territories of the Indians in the American colonies." Governor Jonathan Belcher of Nova Scotia issued his Proclamation in reply on 4 May 1762, which reads in part:³⁹

...Wherefore in dutiful Obedience to His Majesty's Royal Orders I do accordingly publish this proclamation in His Majesty's Royal Name, strictly injoining and requiring all Persons whatever, who may either wilfully or inadvertently have seated themselves upon any Lands so reserved to or claimed by the said Indians, without any lawful Authority for doing so, forthwith to remove therefrom. And, Whereas Claims have been laid before me in behalf of the Indians for Fronsac Passage and from there thence to Nartigonneich, and from Nartigonneich to Piktouk, and thence to Tedueck, and thence to Cape Rommentin, from thence to Miramichy, and from thence to Bay Des Chaleurs, and the environs of Canso, from thence to Mushkoodabwet, and so along the coast as the Claims and Possessions of the said Indians, for the more special purpose of hunting, fowling and fishing, I do hereby strictly injoin and caution all persons to avoid all molestation of the said Indians in their said claims, till His Majesty's pleasure in this behalf shall be signified. And if any persons or persons have possessed themselves of any part of the same to the prejudice of the said Indians in their Claims before specified or without lawful Authority, they are hereby required forthwith to remove, as they will otherwise be prosecuted with the utmost Rigour of the Law.

According to one source, for reasons apparently unrelated to the Indians themselves, Belcher's Proclamation of 1762 was annulled.⁴⁰

³⁹ Reprinted in W.D. Hamilton and W.A. Spray, Source Materials Relating to the New Brunswick Indian, p. 37-38.

⁴⁰ Marie W. LaForest, "Indian Land Administration and Policy in the Maritime Provinces (Nova Scotia and New Brunswick) to 1867," p. 5.

However, another source disagrees with this conclusion.⁴¹

Belcher's proclamation was never repealed. It was simply ignored. Its provisions with regard to land were broken from the day they were made as more and more settlers arrived in Nova Scotia. The seemingly large areas assigned to Indians were quickly encroached on since the colonists would not be excluded from the richest fishing grounds in North America. The lands which the Indians used for hunting and trapping were considered to be empty lands by settlers and the complaints of the Indians received no attention.

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As stated above, in 1759 the Nova Scotia government passed a law which provided that no action could be retained in any court in the province for the recovery of lands "by virtue of any right, title, claim, interest or possession of any of the former French inhabitants."⁴² Thus the Miramichi seigniory of Richard Denys became Crown land. In 1765 two claims were made for this land. On 2 July 1765, a 100,000 acre reserve was set aside for Alexander McNutt, but he appears never to have taken up the tract. Almost four months later, on 31 October 1765, a second grant was made by the Nova Scotia government to two Scottish immigrants, William Davidson [née John Godsmen] of Banffshire and Aberdeen and John Cort of Aberdeen. Their purpose in requesting the land was to establish a commercial fishery on the Miramichi River, an occupation Davidson had been engaged in before leaving Scotland. [Cort was a merchant in Scotland before he emigrated.] Among the stipulations set forth by the colonial government was that Davidson

⁴¹ G.P. Gould and A.J. Semple, eds., Our Land: The Maritimes. The Basis of the Indian Claim in the Maritime Provinces of Canada. Fredericton: Saint Annes Point Press, 1980. Page 22.

⁴² Ester Clark Wright, The Miramichi: A Study of the New Brunswick River and of the People Who Settled Along It, p. 13.

and Cort could possess the land and the fishery on the Miramichi "during their occupation of the same and reserving to the Indians their right to the said fishery."⁴³ They were also committed to settling their wilderness tract with "one Protestant person" for every 200 acres.⁴⁴

The land was not owned jointly or divided equally between Davidson and Cort. Davidson received two-thirds of the grant and Cort the remaining third. Davidson's great-great-grandson described as follows the extent of the grant on the Miramichi River:⁴⁵

On October 31st, 1765, Grant Number 38 under the Great Seal of the Province of Nova Scotia was issued to William Davidson and John Cort... The tract was a five-sided block, shaped like a gable-end of a barn, containing 100,000 acres more or less, with allowance for highways, etc.; it extended from the east end of Beaubair's [sic] Island westward up both branches of the river a distance of thirteen miles. It included what is now part of the present Town of Newcastle, part of the Village of South Nelson; on the South West Branch the present villages of Kirks, Chelmsford, Derby, Millerton, Bryenton and Quarryville, and on the North West Branch the present villages of Strathadam, Whitneyville, Boom Road, Sunny Corner, Exmore, Red Bank, and Cassilis, with Williamstown in between the two Branches and Derby Junction at the Point.

A map on file at the National Archives of Canada shows the tract as described by Davidson's great-great-grandson.⁴⁶ Based on this map, the present-day Indian reserves of Indian Point No. 1, Eel

⁴³ W.H. Davidson, An Account of the Life of William Davidson, Otherwise John Godsman of Banffshire and Aberdeenshire in Scotland and Miramichi in British North America. Saint John: Publications of the New Brunswick Museum, Historical Studies No. 6, 1947. Page 15.

⁴⁴ W.D. Hamilton, The Julian Tribe, p. 6.

⁴⁵ W.H. Davidson, An Account of the Life of William Davidson..., p. 15.

⁴⁶ Map no. NMC 93762, on file in the National Map Collection, National Archives of Canada, Ottawa.

Ground No. 2, Red Bank No. 4 and Red Bank No. 7 are probably included within the tract, as well as part of Big Hole Tract No. 8.

The first commercial fishing station established by Davidson and Cort was at The Elm Tree, an estate about twelve miles above Beaubear's Island on the Southwest branch. Operations got underway in 1766, but the two Scottish entrepreneurs soon found out that the seining methods used to net salmon in their native country were unsuitable to the Miramichi. As well, they also discovered that there was no market for freshly caught fish, nor could the fish be shipped in ice back to Scotland. The fish first had to be dressed, then salted and packed in tierces holding about forty-two gallons before they were shipped overseas. Eventually, Davidson secured markets for his product in Britain, the Mediterranean, and the West Indies.

However, Davidson and Cort's eventual fishing methods were not without critics, as is evident from a statement made in 1785 by Benjamin Marston, the first Sheriff of Northumberland County. Although it must be kept in mind that Marston had little respect for Davidson, and at one time referred to him as "...an ignorant, cunning fellow,"⁴⁷ his description of their fishing methods is probably accurate. Marston wrote:⁴⁸

The Salmon Fishery on this river is an object of great importance and worthy [of] the attention of Government. 2000 tierces have been taken in one season as I am informed, besides shad and herring. This year they compute only from 800 to 1000 tierces. Fisheries are uncertain in their annual produce, but the great falling off from what used to be caught in this river when Davidson and Cort first got their grant must be imputed

⁴⁷ Quoted in Ester Clark Wright, The Miramichi: A Study of the New Brunswick river and of the People Who Settled Along It, p. 25.

⁴⁸ W.F. Ganong, ed., "Historical-Geographical Documents Relating to New Brunswick," (1914): 335-336.

to the destructive mode of catching the fish which is by sett [sic] Nets principally. These are so far extended into the river from each shore as in some places to interlock with each and are sett along the banks of the river from the lowest settlement to the upper line of Davidson and Cort's Grant at every proper place to stop the fish. At that line they do worse. There they have a cross net extending quite from one side of the river to the other. The set nets from their extravagant length must indoubtly in the narrow parts of the river turn many shoals of the fish back. But the cross netts [sic], while they are sett, absolutely stop the whole body of them from getting up to their spawning places and must eventually much lessen, if not destroy the breed.

Such destructive fishing methods must undoubtedly have caused concern for the Micmac Indians who frequented or lived along the Miramichi River, especially since the natives depended upon the fishery for food. It may have been for this reason, among others, that the Micmacs used the pretext of the American Revolution in 1775 to attack the Davidson and Cort settlement.

By the time the Revolution broke out, Davidson and Cort had persuaded five families to settle on 200-acre grants along the Miramichi. Relations between these white settlers and the local natives were supposedly friendly, but the advent of fighting in the American colonies and the propaganda work of pro-American provocateurs along the Miramichi turned most of the Micmac Indians against the settlers. As one commentator has written:⁴⁹

Officially, the Micmacs were neutral in the conflict between Britain and the colonies, but their sentiments were still with the French, who were allies of the Americans in the war. Under the influence of emissaries of the Americans, or simply to release pent up grievances against Davidson and Cort's exploitive incursion into the Miramichi River system, the Indians struck out in a variety of ways at the British intruders. In 1775, they burned down buildings, stole cattle, and plundered John Cort's storehouse, which contained 700 moosehides dressed for shipment overseas. By 1777, the troubles had grown to crisis proportions. So much so that in November of that year Davidson decided to abandon the grant

⁴⁹W.D. Hamilton, The Julian Tribe, p. 6

temporarily for the safety of the settlement at Maugerville, on the St. John River. He took with him the twenty or more workmen and servants whom he employed, as well as most of the families whom he and John Cort had settled along the North West and South West branches of the river during the previous twelve years.

However, not all the Micmac Indians along the Miramichi took part in the attacks against the white settlers. Part of the Band known as the Miramichi and later the Julian Tribe [see page 17 above] was reported to have remained friendly with, and even protected, the two white families who decided not to abandon their farms when Davidson and Cort left.

British authorities, however, decided to put down the Micmac uprising on the Miramichi. There are several variations of the story of how the insurrection was put down. According to one, early in the summer of 1779, the H.M.S. Viper, a British sloop of war, appeared off Oak Point on the lower reaches of the river. She had for consort the Lafayette, an American privateer captured by the Viper in the Gulf of St. Lawrence. The captain of the Viper decided to use the Lafayette to subdue the Miramichi Indians. While the Viper lay off the coast, the Lafayette, flying the American flag, was sent up the river. When the Lafayette reached Napan Bay she was boarded by a number of Indians from the northern bank. The crew, pretending to be Americans, treated the Indians to a liberal ration of rum and then invited them to return the next day with their Chiefs. The following day, some thirty to thirty-five Indians returned, where a number were induced into the ship's hold with the promise of rum. When the Indians discovered they had walked into a trap, a fight broke out, but some twelve Miramichi River Chiefs were already caged below deck. The Lafayette then rejoined her consort and, with the Indians as prisoners, sailed for Quebec.⁵⁰

⁵⁰ William C. Gaynor, "In the Days of the Pioneers," New Brunswick Historical Society, (1906-1907): 57-59; see also L.F.S. Upton, Micmac and Colonists..., p. 77.

Another version states that it was the Viper that put down the uprising on the Miramichi, and the Micmac Chief, Caiffe, head of the Miramichi Indians, fled into exile. According to this interpretation, the Captain of the Viper, Augustus Harvey, "severely chastized" the remainder of the Indians before sailing to Quebec with his hostages.⁵¹ He is also reported also to have appointed John Julian [or Julien] as Chief of the Miramichi Indians and to have entered into a peace treaty with Julian before he left with his prisoners.⁵²

No copy of this treaty has been found.⁵³ However, an official of the New Brunswick government reported in 1848 that he had a copy of the treaty in his possession.⁵⁴ Supposedly, Harvey chose John Julian as Chief because this branch of the Julian family, along with the Renew [or Renous] family, protected the white settlers from Indian attack. More than twenty-five years later, Alexander Taylor of Miramichi recalled in a letter to Colonel Edward Winslow:⁵⁵

I was told by my brother-in-law and a sister that this Julian family had done a great deal for Government. Had it not been for them, and a family called Renewes, the other Indians would have murdered every English settler.

⁵¹ M.H. Perley, "The Indians of New Brunswick," 1848; copy on file at the National Archives of Canada, included with Dispatch No. 78, Sir Edmund Head to Earl Grey, CO 188/106. Microfilm B-1213.

⁵² Nineteenth century documents often spell the Julian surname in the French manner, as Julien.

⁵³ B. Dewar, "Indian Reserves, Northumberland County, N.B. Introduction - Early History to 1808," p. 40, note 17.

⁵⁴ M.H. Perley, "The Indians of New Brunswick," p. 213.

⁵⁵ Quoted in W.O. Raymond, "The North Shore...", p. 94.

On 22 September 1779, ten "consequential" Micmac Chiefs from the North Shore region met with Michael Francklin, the Indian Superintendent for Nova Scotia, at Windsor and ratified a peace treaty. Among this delegation were John Julian and his brother [and the tribe's secondary Chief], Francis [or François] Julian. They went to see Francklin to secure the release of the prisoners taken to Quebec, but Francklin insisted they first sign a peace treaty. This document signed by the Indian Chiefs acknowledged their blame for not having prevented the rioting and plundering that had occurred, and they promised to protect British subjects and their property in the future. In return, Francklin presented gifts to the delegates, gave them his assurance that the rights of the Indians would be protected, and promised them that their needs would be supplied by traders in exchange for furs.⁵⁶ All but two of the prisoners, who were held as hostages to secure the peace, were eventually released.

Four years later, on 30 August 1783, Nova Scotia Governor John Parr, partially in return for John Julian family's loyalty, granted a Licence of Occupation to a 20,000 acre tract of land on the Miramichi river. The Licence of Occupation reads as follows:⁵⁷

By His Excellency John Parr &c. Licence is hereby granted to John Julien Chief over the Indians of the River Merimichy & its dependencies, for himself & his Tribe to Occupy during pleasure, a Tract of land Situate lying & being beginning below the point by the [Little South West] River & the North West Branch of the River Merimichy and thence to extend up that North West Branch, twenty miles measuring the several Courses of the river & back on each side the said North West Branch one mile Equidistant from the River containing twenty thousand

⁵⁶ L.F.S. Upton, Micmacs and Colonists..., p. 77-78; W.D. Hamilton, The Julian Tribe, p. 7.

⁵⁷ Copy on file at the Provincial Archives of Nova Scotia, RG 20, Series C, Volume 95, p. 107. A slightly different version is also reprinted in W.D. Hamilton and W.A. Spray, Source Materials Relating to the New Brunswick Indian, p. 59.

acres more or less. Hereby warning all persons whatever not to molest or Interrupt the said John Julian & his said Tribe in the quiet and peaceful possession thereof.

On the same day, 30 August 1783, Governor John Parr also signed a commission officially confirming John Julian as "Chief or Sachem in and over the Indians of the said River of Merimichy and its dependencies..."⁵⁸

The tract of land granted to the Julian Tribe on the Miramichi River includes a portion of the present-day Red Bank Reserve, as well as a portion of Big Hole Tract Reserve, and all or most of Indian Point Reserve. However, as one commentator has reported on the status of this type of grant:⁵⁹

It is important to note...that in no case was the land granted outright. These were merely licenses or tickets of location either confirming the existence of already established settlements or given on the strength of definite promises to engage in agriculture.

The most curious aspect of Governor Parr's grant to the Julian Tribe was that it overlapped part of the Davidson and Cort grant on both the North West branch of the Miramichi and on the Little South West tributary. However, as will be mentioned below, contemporaries of Governor Parr were aware that he on occasion granted the same parcels of land to different parties.

The same year that Parr granted the tract to the Julian Tribe, William Davidson returned to the Miramichi to reclaim his land and resume his enterprises. [John Cort had died during the war years.] It was Davidson's intention to resume the fishery operation on the river, as well as re-establish the fledgling shipbuilding operation

⁵⁸ A copy of the commission is on file at the Public Archives of New Brunswick, MC 61. Microfilm F-9351.

⁵⁹ Marie W. LaForest, "Indian Land Administration and Policy in the Maritime Provinces (Nova Scotia and New Brunswick) to 1867," p. 10.

he had begun just prior to the outbreak of the American Revolution.⁶⁰ He also planned to get into the lumbering business, and to bring in settlers. He began by building houses, barns and stores, a large double saw-mill, and constructed three new sailing vessels and purchased others for his fishery operation. All this was done at a cost of over £10,000. His settlement plans were now methodical. As one commentator has written:⁶¹

Davidson's plans for his revived settlement included the expansion of his fisheries, lumbering and shipbuilding. For this he planned to bring out from the Old Country skilled craftsmen, shipcarpenters, housecarpenters, blacksmiths, salmon fishers, coopers, sawyers and labourers. He would settle them on the land so they could build homes and commence improvements. While they were getting established he would provide work for them in his industries. Then he would repeat the process, bringing out new people as the settlers became established on their farms.

But in 1784, under agitation from the incoming Loyalists who considered Halifax too distant a capital to understand their regional grievances, the colony of Nova Scotia was divided and the separate colony of New Brunswick was formed. The Miramichi was included in this new province. As Davidson and the Julian Tribe were both soon to learn, the new administration at Fredericton were not so eager to honour the excessive grants of land given away earlier by the administrators in Halifax.

In 1785, Davidson was informed by the Provincial Secretary, Jonathan Odell, that proceedings had begun for the escheat of the

⁶⁰ Davidson is believed to have built the first sailing vessel on the river, the 300-ton schooner The Miramichi, constructed in 1773 at a shipyard on the North side of the South West Miramichi River, a few miles above the tip of Beaubear's Point. See Louise Manny, Ships of the Miramichi: A History of Shipbuilding on the Miramichi River, New Brunswick, Canada, 1773-1919. Saint John: The New Brunswick Museum, 1960. Page 10.

⁶¹ Louise Manny, Ships of the Miramichi..., p. 11.

1765 grant. It was charged before a Grand Jury Inquiry that neither Davidson nor Cort had fulfilled their obligation concerning the establishment of settlers on the tract. Davidson strenuously opposed escheat of the grant, presenting memorials to the Governor in Council in 1785 and 1786.⁶² When it appeared that the Grand Jury was going to reject his plea, Davidson put forward proposals that he be granted certain lands and privileges on the Miramichi. Most of his proposals were found to be acceptable, and on 7 June 1786 a grant was issued to him of five tracts and forty-one farm lots containing a total of 14,540 acres. This grant was not a solid block of land, as was the 1765 grant, but was composed of scattered parcels extending up both sides of both branches of the Miramichi River. One of his five tracts was Elm Tree, a 4,600 acre-parcel on the Southwest branch where his house was located. Included with this tract was the following privilege:⁶³

That he [Davidson] shall have the Right of the salmon and other Fisheries [sic] confirmed to him by a new Grant to be occupied [sic] and Injoyed [sic] in the same manner as he has Injoyed it for 20 years last past and that he may improve the same as he may think for his advantage.

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During the escheat proceedings, the Julian Tribe laid claim to the lands licensed to them by Governor Parr in 1783. They began in 1785 by attempting to exact payment from Davidson's tenants for hay cut on the wild meadows inside their line.⁶⁴ They also wrote a memorial to the Governor of New Brunswick, dated 29 July 1785, which reads

⁶² Copies of these memorials are re-printed in W.F. Ganong, ed., "Historical-Geographical Documents Relating to New Brunswick," (1914): 309-328.

⁶³ W.F. Ganong, ed., "Historical-Geographical Documents Relating to New Brunswick," (1914): 324.

⁶⁴ W.D. Hamilton, The Julian Tribe, p. 9.

as follows:⁶⁵

...[W]e your memorialists Humbly Beg Leave to acquaint [sic] your Excellency, that we obtained a Licence of a Tract of Land on the Northwest Branch of the Merimisshee, and Request of your Honnors to Confirm the Same, we also Suplicate [sic] your Honnors to Grant us our Town plot and Gardens which we and our Fathers have Cultivated. Mr. William Davidson obtained a Grant of this River in the year 1763 [sic], and Included all our [possessions?], and now as [?] Inhabitants, which is Depriving us of our living we Suplicate your Honor to put a [end?] to Such Elagal proceedings by Confirming it to us, as it has been ours Since our fore Fathers came to this River.

The memorial was signed by John Julian.

The Executive Council of New Brunswick ordered Benjamin Marston, Sheriff of Northumberland County as well as Deputy Surrogate and Deputy Surveyor of the Woods, to report on the Indian claim. His report, dated 29 August 1785, reads as follows:⁶⁶

State of the Indian Claims within Davidson & Cort's Grant

By virtue of a Licence of Occupation from Governor Parr in 1783, they claim a Tract of Country up the North West Branch extending one mile from the River on each side & running with the River Twenty miles. It begins at a Creek which falls into the River from the West, little more than one mile below a considerable Branch called in Meechant's Plan the S. West River. Six miles & a half of this Tract is within the Grant aforesaid - measuring by the course of the River,

Also a piece of cleared Ground on the N. West Branch about six miles below the abovementioned tract containing 4, 5, or 6 acres only -- one Bonamy I am informed has sett down on this Piece. The Indians used to plant it. Also a small piece of about one acre on the S. West on the South side below Davidson's house. This they use as

⁶⁵ Copy on file at the Public Archives of New Brunswick, RG 10, RS 108, "Land Petitions" [John Julian]. Microfilm F-1031.

⁶⁶ Copy on file at the Public Archives of New Brunswick, RG 10, RS 105, File 1, Letter 2. Microfilm F-7893.

a place for encamping.⁶⁷ These are all the places which they claim within the Grant.

Earlier, on 4 August 1785, Marston had written to Jonathan Odell, Provincial Secretary, and included the following concerning the demands by the Julian Tribe:⁶⁸

The two Indian chiefs, John and Francis Julian have been with me about some Lands in this quarter to which they claim exclusive right. They have a grant or rather a license of occupation on behalf of their Tribe for 20,000 acres given them by Governor Parr in 1783. It begins up the N. West Branch at a point mentioned in the License, extends one mile from each side of the river into the woods and runs twenty miles in length with the river upwards. A great part of this land is in Davidson and Cort's grant. The Indian Chiefs supposing they have a right to do so, demand pay of D. and C. tenants for hay which they cut from some meadows clearly within their line and which are also within the Indian License.

I have told the Chiefs that these meadows were given away a great while ago by the Governor of Halifax to D. and Cort, but this to a Savage is a very strange thing. That one Governor in Halifax should give away land which another Governor before him had already given away to another man. But a little acquaintance with Governor Parr would have informed him that His Excellency often did so by land which he had himself already given away to another. Finally I acquainted them that probably the King would take back D. and Cort's land for their not having done the work upon it which they promised to do and probably His Excellency [Thomas] Carleton [of New Brunswick] would confirm all their grant to them which was unoccupied by D. and Cort's tenants with this expectation. They seemed satisfied. But as there are some valuable meadows within that part of their License which falls within D. and Cort's Line and which are not located to any one, I think they ought to be reserved for the English. The Indians can never want them and to have them reserved by some stipulation will prevent much contention and ill humor.

The Indian Chief tells me they want the hay for they do

⁶⁷ As will be discussed below, this might be a reference to the present-day Renous Indian Reserve No. 12.

⁶⁸ Re-printed in W.F. Ganong, ed., "Historical-Geographical Documents Relating to New Brunswick," (1914): 336-337.

not receive any blankets, jackets etc., from Halifax as usual, but are told there that they must make the English [tenants] pay for their hay, wood, etc., which they cut from the Indian Lands. How true, I do not pretend to know.

One historical writer has stated that the Julian brothers were so eager to have the License confirmed that they informed Marston they would be willing to accept half the amount of land originally granted the tribe by Governor Parr.⁶⁹ Whether this is true or not, it seems to have had little bearing on the events of 1786. When that year the Davidson and Cort grant of 1765 was considerably reduced, the New Brunswick government did not confirm the Julians' Licence of Occupation.

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As the 1780s came to a close, more and more white settlers began to take up land along the banks of the Miramichi River, all with the approval of the New Brunswick government. Little consideration by the colonial authorities appears to have been given to the claims of the Indians, as first the Loyalist refugees, then other immigrants from Great Britain, Ireland and British North America laid claim to the most valuable land along the waterway.

In an apparent move to maintain at least a portion of his tribe's traditional territory, John Julian applied for and received a Licence of Occupation for 3,033 acres on the Northwest branch of the Miramichi River in 1789. This Licence constitutes the original

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W.D. Hamilton makes this claim in two separate accounts. In his "Indian Lands in New Brunswick: The Case of the Little South West Reserve," Acadiensis, Volume XII, No. 2 (Spring 1984): 8, Hamilton states that Marston told Odell this fact in his letter of 4 August 1785. No such statement is made by Marston in this letter. In Hamilton's The Julian Tribe, p. 9, he repeats the statement without indicating any source.

title documents to the present-day Eel Ground Indian Reserve No. 2. On 9 January 1789, New Brunswick's Surveyor General, George Sproule, signed the following document describing the Licence:⁷⁰

For John Julian Chief of the Miramichi Indians and his Tribe

A Tract of Land Situate lying and being within the Parish of Newcastle and County of Northumberland and abutted and bounded as follows, to wit, beginning at a marked white Birch tree standing on the Northerly shore of the Northwest branch of the Miramichi River opposite the lower or Easterly end of Beobears Point, the said tree being on the upper or Southwesterly corner of the Lot Number three in the Grant to William Davidson, Esq., thence running by the Magnet along the Westerly line of the said lot No. 3 and along its prolongation North 22.3 West until it meets the Prolongation of the Easterly line of Lot No. 4 in the Grant aforesaid, thence along the said prolongation and Easterly line of the said lot No. 4 South thirteen Degrees and 30 minutes West until it meets the northerly shore of the NW branch aforesaid at a marked white birch tree at the Southeasterly corner of the said lot No. 4, thence along the said Northerly shore of the said NW branch down stream to the first bounds - containing in the whole three thousand and thirty three acres more or less, with the usual allowance of ten percent for roads and waste...

The next day, 10 January 1789, the Lieutenant Governor signed a document confirming the Licence of Occupation. A rough draft of this document, probably written by Sproule, reads:⁷¹

Licence is hereby given to John Julian, Chief of the

⁷⁰ Copy on file at the Public Archives of New Brunswick, RG 10, RS 108, "Land Petitions" [John Julian]. Microfilm F-1031.

See also the survey map, signed Surveyor General George Sproule, showing the 3033 acre-tract given to John Julian and his tribe at Eel Ground; copy on file at the Public Archives of New Brunswick, MC 61, "John Julian Documents (1805-1867)." Microfilm F-9351.

⁷¹ An unsigned copy is on file at the Public Archives of New Brunswick, RG 10, RS 108, "Land Petitions" [John Julian]. Microfilm F-1031. The plan, mentioned in the document as being annexed to the Licence, is not included with this rough draft.

Miramichi Indians, and his tribe, to possess and occupy, during pleasure, a certain tract of land situate lying and being -&c- and having such shape form and marks as appear by the Survey [?] made under the directions of the Surveyor General of the said Province of New Brunswick of which Survey the plan hereunto annexed is a representation, and all persons are hereby strictly forbidden to interrupt or molest the said John Julian and his tribe in the peaceable possession and occupancy hereby given of the said tract of 3033 acres of land.

According to one source, this tract at Eel Ground probably included the four- to six-acre parcel claimed by the Indians in Marston's reports to Odell [see above, p. 32-33]. However, the grant was not part of the area covered by Governor Parr's 1783 Licence of Occupation.⁷²

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In 1790, the Imperial government issued a decree banning all British North American colonies from granting free land. The rationale for this order, which was supposed to be temporary, was so that London could work out a policy through which Crown land could be used to redeem a portion of the heavy expenses incurred by the settlement of Loyalists and disbanded soldiers following the American Revolution. It was also meant to dissuade timber speculators from acquiring land without paying appropriate revenue to the Crown. Although the colonies of Upper and Lower Canada ignored the decree, the Lieutenant Governor of New Brunswick apparently felt compelled to obey the instruction in its entirety.⁷³ The decree was kept in force for twelve years.

⁷² B. Dewar, "Indian Reserves, Northumberland County, N.B. Introduction - Early History to 1808," p. 19.

⁷³ W.S. MacNutt, The Atlantic Provinces: The Emergence of Colonial Society, 1712-1857. Toronto: McClelland and Stewart, 1965. Page 109-110.

The immediate effect of the decree on the Micmac Indians along the Miramichi River was that they were unable to petition for Licences of Occupation or for confirmation of lands they thought rightfully theirs. As well, because white settlers could not acquire legal title to land, some began squatting along the Miramichi River, including on land claimed by Indians. From 1790 until 1802, land matters remained in the state of flux in New Brunswick.

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During this period, the Imperial government was more concerned with the war England was again engaged in with France, and had all but forgotten the land problems it had created in New Brunswick. The war broke out in 1793, and in New Brunswick produced a new problem for colonial authorities -- the spectre of an Indian uprising.

It was believed among the white population that the Micmac Indians were still sympathetic, if not outright loyal, to the French cause, and would rise up against the English if encouraged by pro-French provocateurs from the United States. To offset such a calamity, the New Brunswick government decided in 1794 to secure the services of a Roman Catholic priest from the Gaspé to help woo Indian allegiance to the British cause. Justifying the expense to London, Lieutenant Governor Thomas Carleton revealed his government's cynical attitude towards New Brunswick's natives. He wrote:⁷⁴

I have hitherto, not without some embarrassment, avoided the incurring of any public expense on account of the savages in this Province but in the present posture of affairs it is certainly requisite to guard against their disaffection.

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Quoted in B. Dewar, "Indian Reserves, Northumberland County, N.B. Introduction - Early History to 1808," p. 22.

Carleton's policy apparently paid off, for the Micmac Indians remained loyal to the British cause, even during the War of 1812.

According to Miramichi Indian legend, 1794 was also the year the British government entered into a treaty with the Julian Tribe. This treaty, varied versions of which have appeared over the years, supposedly gave to the tribe a tract of land on the Little South West River and on the North West branch of the Miramichi. The treaty was supposedly signed on 17 June 1794. On 3 April 1931, Newcastle's North Shore Leader printed the following story concerning this treaty:⁷⁵

The following copy of the Treaty made with the Micmac Indians of the Miramichi and the representatives of King George III, on June 17th, 1794, may be of interest to some of our readers. This was translated from the treaty, written in Micmac, which is in the possession of Peter Julian, aged 80, of Eelground [sic], whose father, John Julian, signed the treaty in 1794.

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

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

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

Then the Indian King, John Julian with his brother Francis Julian begged His Majesty to grant them a portion of land for their own use and for the future generations. His Majesty granted their request. A distance of six miles was granted from Little South West on both sides and six miles at North West on both sides of the rivers.

⁷⁵ Microfilm copies of the North Shore Leader are on file at the Harriet Irving Library, University of New Brunswick, Fredericton.

Then His Majesty promised King John Julian "Henceforth I will provide for you and for the future generation so long as the sun rises and the river flows."

According to the newspaper article, the treaty was signed by "King John Julian," and by "King George III per Governor Wm. Milan."

Two other versions of this alleged treaty are on file at the Public Archives of New Brunswick, included in a dossier titled "John Julian Documents (1805-1867)."⁷⁶ One refers to William Milan as the Master of a ship called Brunswick, the other refers to him as the master of a ship called New Brunswick. Both versions are written in English but are very difficult to read as brittle sections of the paper broke off before they were microfilmed.⁷⁷

In 1977, a researcher for the Department of Indian and Northern Affairs concluded the following about this treaty:⁷⁸

The authenticity of the original document or at least the accuracy of the translation is suspect on several grounds. There has never been a Governor William Milan in New Brunswick, Nova Scotia or Quebec. Moreover, the British Admiralty records contain no reference to a William Milan commanding a British naval vessel in the region around 1794. No official copy of a 1794 treaty with the Miramichi Indians has been located and no reference has been located to such a treaty in the Colonial Office Papers, the New Brunswick Executive

⁷⁶ Public Archives of New Brunswick, MC 61. Microfilm F-9351. It is uncertain why these dates are ascribed to a file titled "John Julian Documents" since John Julian died around 1805.

⁷⁷ In 1895, during a dispute between the Red Bank Band and the Eel Ground Band over ownership of the Big Hole Tract Reserve, the Red Bank Band produced a hand-written copy of this document. This version, whose authenticity is to be doubted, states that the treaty was between William Milan and Barnaby Julian, the son of Francis Julian; copy on file at the National Archives of Canada, RG 10, Volume 2522, File 107,222-2. Microfilm C-11233.

⁷⁸ B. Dewar, "Indian Reserves, Northumberland County, N.B. Introduction - Early History to 1808," p. 22-26.

Council Papers or any of the other contemporaneous sources consulted.

The land description given in the treaty version that appeared in the North Shore Leader is vague. However, if this is in fact a translation of a treaty, it would appear to constitute the first complete grant of the present Red Bank Indian Reserves, as well as other lands along the North West Miramichi.

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By the 1790s, the white settlers along the Miramichi were becoming concerned about the decrease in salmon stocks due to the overfishing by non-resident "interlopers". In January 1790, the Grand Jury of the Court of Quarter Sessions considered:⁷⁹

the very great damage which the Prominent Settlers on the River Miramichi sustain in the Salmon fishery, arising from numbers of Interlopers every year coming into the River and Bay for the purpose of fishing. As those interlopers are well supply'd with every apparatus for fishing, and by stretching their Nets an enormous length in to the River, must greatly scatter and disturb the course of the fish; Tho at the same time said interlopers do not bring a single article with them for the use or benefit of the different settlers.

No concern was mentioned about the fishing methods of local white settlers.

When the discontent of the Grand Jury fell on apparent deaf ears, another warning was issued nine months later, this time feigning a concern for the Miramichi Indians. In September 1790, the apprehension was voiced about idle people "from the neighbouring province" [possibly a reference to Maine] who went up the branches of the Miramichi after the fishing season was over on the lower

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Quoted in Mary Peck, "This Is The Law: On the Miramichi in 1790," The Atlantic Advocate, Volume 66, No. 11 (July 1976): 26

part of the river, caught the fish which were the Indians' sustenance, and also "disturbed the fish from spawning" by using nets.

By 1792, an act regulating the fisheries had been drawn up, although local commercial fishermen were unhappy with some of the restrictions imposed. By 1795, overseers of fisheries were appointed in each district, including the Miramichi. Three years later, in March 1798, the Court of General Sessions of the Peace outlined the regulations and duties of these overseers. These included the regulation that the overseers had to be appointed and qualified by the first day of April of each year; their duties now stipulated that they must "lay off" the low water marks in their districts by 10 May.

The overseers were also cautioned to be vigilant about overfishing. This was spurred by a complaint by "Ephriam Betts and other settlers on the South West Branch above the Elm tree" that many settlers from the lower part of the river followed the fish with strings of nets which they set up in the river and used in other ways to catch salmon and other fish.⁸⁰

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In 1801, Britain and France concluded a temporary peace treaty that was to last only until the onslaught of the Napoleonic wars. With peace came the lifting of the restraining order against colonial land grants, and white settlers again began to demand property along the Miramichi River. As well, the squatters who had occupied land without legal recognition began to petition for legitimate grants. It became necessary, therefore, for colonial authorities

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Mary Peck, "This Is The Law: On the Miramichi in 1790," p. 26.

to come to some accommodation with the Miramichi River Indians.

An early problem encountered between these Indians and whites that was eventually to spark the government into action erupted in 1801 when a settler named Duffy Gillis [also referred to as Gillace, Gillas, Gillice, etc.] stretched a net across the Little South West Miramichi River, at its junction with the North West branch, at a spot traditionally used by the Indians as a burying ground: This site was known locally as Indian Town.⁸¹ Gillis had taken possession of the land in 1792 and had it surveyed.⁸² He formally applied for the land in 1801. Apparently, Gillis wanted the land, which was of little agricultural value, simply because it was a convenient spot to block the upward ascent of salmon and other fish.

Francis Julian, John Julian's brother and the secondary or sub-Chief of the tribe, was, from 1801 onward, also Chief of the Band in the area that would eventually be known as Red Bank.⁸³ Indian Town was located within the Red Bank territory. Francis Julian apparently began his protest action against Gillis' machinations

⁸¹ See the 1790 plan by Surveyor Arthur Nicholson showing location of "Indian Town"; copy on file at the Harriet Irving Library, University of New Brunswick, MG H 54, letter no. 2. Microfilm EA 1, No. 106. [This plan, along with other letters and certificates dealing with New Brunswick Indians, is in the Harriet Irving Library, part of a collection known as the "Beaverbrook Collection." A microfilm copy of the Beaverbrook Collection is also on file at the National Archives of Canada, MG 9, A 14. Microfilm M-8026.]

⁸² See map made by Surveyor Arthur Nicholson on 4 March 1792; copy on file at the Harriet Irving Library, University of New Brunswick, MG H 54, letter no. 3. Microfilm EA 1, No. 106.

⁸³ W.D. Hamilton, The Julian Tribe, p. 11.

the year he became Chief of Red Bank.⁸⁴ On 20 July 1801 a letter, probably written by the Provincial Secretary, informed Gillis:⁸⁵

It has been represented by Francis Julien, the Chief of the Mickmack Indians, that the Lot applied for by you and surveyed by Mr. Nicholson on the little Southwest Branch of the River Miramichi in the year 1792 includes in the front a certain Point called Old Indian Town, where a number of the Indians have been formerly buried. That the lot is not fit for either tillage or Pasture, and that your only use of it is to set a Net across this branch of the River, by which you injur the Indians who are settled on that Stream, and some of whom have made considerable improvements as Planters in the District. I am therefore to notify you of this representation in order that you may either peacefully relinquish that part at least of the lot which is claimed by the Indians and discontinue the setting of the Cross Nett as above stated, or else shew cause without loss of time to His Excellency in Council why the lot should not be granted to the Indians.

Several of Gillis' neighbours petitioned the government on his behalf, claiming the land was "fit for cultivation." As well, they maintained that:⁸⁶

Neither is the cross nett that they [the Indians] speak of by no means within the River they call theirs; but on the contrary, we find it to be the mian [sic] Branch and no way detrimental to the Indians or any way contrary to the law. [T]heir settlement is about a mile & half up the river from this aforesaid lot and no way infringed upon by this settlement of Gillis's...

⁸⁴ See letter no. 11, dated 9 July 1801, from Alex. Taylor regarding complaints by Francis Julian; copy on file at the Harriet Irving Library, University of New Brunswick, MG H 54. Microfilm EA 1, No. 106.

⁸⁵ An unsigned copy of this letter is on file at the harriet Irving Library, University of New Brunswick, MG H 54, letter no. 12. Microfilm EA 1, No. 106.

⁸⁶ See letter from James Walsh et al to [Provincial Secretary?], August 1801; copy on file at the Harriet Irving Library, University of New Brunswick, MG H 54, letter 13. Microfilm EA 1, No. 106.

Gillis also wrote the Provincial Secretary that if the land, which he "owned these many years past," were to be taken away from him, then the government should compensate him.⁸⁷

Because of the conflicting reports, Provincial Secretary Odell had Northumberland County magistrates investigate the dispute.⁸⁸ Then, early 1802, the Executive Council of New Brunswick heard the complaint of Francis Julian. They were told:⁸⁹

...that the said Duffie [sic] Gillis has made no improvement on the lot, except putting up a small log hut, which has never been covered nor inhabited; and that the only use he has made of the lot is to stretch a net from its most projecting point to an opposite sand-bar in the river, which intercepts the course of the Fish in such a manner as intirely [sic] to prevent them from running up into the said Branch, to the great injury of the said Indian Tribe; and this complaint appearing to be well founded.

On 5 February 1802, the Council responded:⁹⁰

It is ordered that the said lot, applied for and surveyed as abovementioned, be reserved for the use of the said Indian Tribe -- and all persons whom it may concern are to take due notice hereof and govern themselves accordingly; as a writ of Intrusion will [?] against any

⁸⁷ See letter from Gillis to Hon. J. Odell, 12 August 1801; copy on file at the Harriet Irving Library, University of New Brunswick, MG H 54, letter 15. Microfilm EA 1, No. 106.

⁸⁸ See letters 22, 23, 24 and 25 in the Harriet Irving Library, University of New Brunswick, MG H 54. Microfilm EA 1, No. 106.

⁸⁹ See Records of the Committee on Land (Journals of the Proceedings on Land) at the Public Archives of New Brunswick, RG 2, RS 568, p. 31. Microfilm F-506; see also New Brunswick Executive Council. Draft Minutes. 1799-1804, at National Archives of Canada, MG 9, A 1, Volume 2, p. 1005-1006. Microfilm M-1382.

⁹⁰ See Records of the Committee on Land (Journals of the Proceedings on Land), 5 February 1802; copy on file at the Public Archives of New Brunswick, RG 2, RS 568, p. 31. Microfilm F-506.

person who shall be found trespassing on the said lot so reserved.

The lot referred to in this Executive Council decision is now part of Red Bank Indian Reserve No. 4.⁹¹

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The Duffy Gillis affair apparently convinced the New Brunswick government of the need to have the land claims of the Indians living along the Miramichi located, surveyed and licensed. This began in 1802 with the granting of a Licence of Occupation to the Tabusintac River district Indians to occupy 240 acres at Burnt Church Point, and 1400 acres on the North side of Burnt Church River, on Miramichi Bay.⁹² This area is known today as Burnt Church Indian Reserve No. 14. Another 9,035 acres was also granted these Indians on Tabusintac River in 1802.⁹³ This reserve is known today

⁹¹ B. Dewar, "Indian Reserves, Northumberland County, N.B. Introduction - Early History to 1808," p. 28-29.

⁹² An 1838 "Schedule of Indian Reserves in New Brunswick" states that the Licence of Occupation for the Burnt Church Reserve was issued on 18 February 1802. The Schedule is printed in Journal of the House of Assembly of the Province of New Brunswick for the period 28 December 1837 to 9 March 1838, appendix 12. Fredericton: John Simpson, 1838.

This Licence of Occupation is also reported in M.H. Perley's 1848 report titled: "The Indians of New Brunswick." A copy of this report is included in Dispatch 78, Colonial Office Papers, Sir Edmund Head to Earl Grey, 17 August 1848, p. 213; copy on file at the National Archives of Canada, CO 188/106. Microfilm B-1213.

⁹³ The 1838 "Schedule of Indian Reserves in New Brunswick" states that the Licence of Occupation was granted on 18 February 1802. The Schedule is printed in the Journal of the House of Assembly of the Province of New Brunswick for the period 28 December 1837 to 9 March 1838, appendix 12.

as Tabusintac Indian Reserve No. 9. No copies of these two Licenses of Occupation now exist.

Two years later, in 1804, when Captain Dugald Campbell performed the first extensive survey on the Miramichi River in nearly twenty years, he set off the limits of the Indian claims further up the river. One of his survey maps survives, titled: "Plan of the Little Southwest branch of Mirimichi River with Locations of Land Surveyed thereon according to Instructions from Geo. Sproule Esq. Surveyor General by Dugald Campbell Surveyor." This map shows the "[l]ands claimed by the Tribe of Indians of which Francois Julien is the head."⁹⁴ The land shown on this map that was set aside for the Indians, according to one source, was a 10,000 acre-block, roughly five miles square.⁹⁵ This block would eventually be referred to as the Little Southwest Indian Reserve or the Red Bank Indian Reserve, and today known as Red Bank Indian Reserve No. 4 and Red Bank Indian Reserve No. 7.

The block overlapped the original Parr grant of 1783 only at the confluence of the Little Southwest Miramichi and Northwest Miramichi Rivers. On that part of Campbell's map that shows the land claimed by Francis Julian, an "Indian village & improvements" are indicated on the North side of the Little Southwest Miramichi, immediately East of the Ox Bow Meadow [which he terms "Indian Meadow" on the plan.]⁹⁶ Campbell has indicated on his map that the

⁹⁴ Copy of plan is on file at the New Brunswick Department of Natural Resources, Crown Lands (Surveys), Plan N1/13.

⁹⁵ W.D. Hamilton, The Julian Tribe, p. 13.

⁹⁶ W.D. Hamilton claims that this village was not [the original] Red Bank but a "temporary dislocation of the village." He continues that:

...the Ox Bow meadow, on the south side of the river, the most fertile agricultural plot on the reserve, was not officially part of it in 1804. It had been granted, possibly
(continued...)

"head of the tide" is above this village on the Little Southwest Miramichi River. This would mean that the force of tide in 1804 was felt at least to the curvature of the river at the Ox Bow Meadow.

On 27 September 1804, a survey certificate for the Little Southwest tract reserved for Francis Julian and his tribe was issued. On 10 September 1805, an order was issued by the Surveyor General reserving this tract to "Francis Julian and the Indians of the Little South West River," pending confirmation of the allotment by the Executive Council. Both the survey certificate and the Surveyor General's order were entered into the Northumberland County records.⁹⁷

The following year, more land was set aside for the Miramichi River Indians. On 5 March 1805, a Licence of Occupation was granted to John Julian and his Tribe. This Licence reads:⁹⁸

⁹⁶(...continued)

inadvertently, to John Stuart, one of Davidson's settlers, but, in 1808, it was restored to the Indians by an agreement between the province and Stuart's heirs.

See W.D. Hamilton, "Indian Lands in New Brunswick: The Case of the Little South West Reserve," p. 9.

Details of the negotiations between the Stewarts [or Stuarts] and Francis Julian for the Ox Bow Meadow are given below.

⁹⁷ This information is culled from W.D. Hamilton, The Julian Tribe, p. 13; and from B. Dewar, "Indian Reserves, Northumberland County, N.B. Introduction - Early History to 1808," p. 30.

⁹⁸ Copy on file at the Public Archives of New Brunswick, MC 61, "John Julian Documents 91805-1867)." Microfilm F-9351. See also Records of the Central Executive, Journal of the Proceedings on Land, 5 March 1805, RG 2, RS 568. Microfilm F-506; and the New Brunswick Executive Council, Draft Minutes, 5 March 1805, p. 1119. Copy on file at the National Archives of Canada, MG 9, A1, Volume 3. Microfilm M-1382.

By The Honorable Gabriel G. Ludlow Esq.
President of His Majesty's Council and
Commander in Chief of the Province of
New Brunswick, &c &c &c

LICENCE OF OCCUPATION is hereby given to John Julien for himself and the Micmac Tribe of Indians to occupy and possess during pleasure, the several lots and tracts of Land on the northwest branch of the Miramichi River, surveyed for them by Dugald Campbell Esquire, in the month of September last, and of this Licence all persons whom it may concern will take due notice and govern themselves accordingly.

The Licence was signed "By the President's Command" by Provincial Secretary Jonathan Odell.

Dugald Campbell's survey notes and maps for these tracts have yet to be located. However, according to a New Brunswick government report, issued in 1848, this Licence of Occupation covered 750 acres at Indian Point, and 8,700 acres at Big Hole Tract.⁹⁹

The following year, on 13 July 1806, Francis Julian signed an affidavit stating that, should he die, his tract of land on the Little Southwest Miramichi River [Red Bank] was to pass to his sons, Mitchell and Barnaby Julian. According to one source:¹⁰⁰

This affidavit is the earliest public record of unrelenting efforts made by Francis Julian and his sons over a period of at least 40 years to acquire and assert personal ownership rights to the Little South West Reserve. In doing so, they were forcing a distinction between John Julian's family, who befriended the English during the Revolutionary War years, and the Micmac population in general, which did not, and they were contending that the land grant made by virtue of the Parr Licence was a personal reward to John Julian and his

⁹⁹ M.H. Perley, "The Indians of New Brunswick," p. 213.

¹⁰⁰ W.D. Hamilton, "Indian Lands in New Brunswick: The Case of the Little South West Reserve," p. 9-10. Hamilton claims that this affidavit is on file at the Northumberland County Registry Office, Newcastle. Volume 7, p. 155.

family, rather than a benefit bestowed upon the tribe, or band, as a whole.

On 28 February 1807, New Brunswick's Executive Council confirmed Dugald Campbell's survey of allotments on the Little Southwest Miramichi. They also confirmed that same day Campbell's survey of the Northwest Miramichi and the Big Sevogle, "comprehending a reserve of five miles for the Indians commencing at Wild Cat Brook."¹⁰¹ This Executive Council decision confirmed John Julian's Licence of Occupation of 1805 for 8,700 acres at Big Hole Tract.

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Part of the Ox Bow Meadow, referred to by Dugald Campbell on his survey plan of the Red Bank Indian Reserve as "Indian meadow," was included in Lot 11 granted to William Davidson. Lot 11 included both sides of the Little Southwest Miramichi River. Davidson had sold this lot to a settler named John Stewart [or Stuart], but the Indians claimed part of this meadow on the South side of the river as theirs [see above, page 46]. John Stewart died in 1805, and his sons took possession of the Ox Bow sometime before 1808.

Francis Julian, Chief of the Red Bank Band, complained to the provincial government of what he believed was the Stewarts encroachment on his land. In response, Provincial Secretary Jonathan Odell wrote the Stewarts on 9 August 1808 that:¹⁰²

...it is the intention of Government as soon as may be conveniently practicable, to send a fit person over, to inspect the premises, and upon his report to make the

¹⁰¹ See New Brunswick Executive Council, Draft Minutes, 28 February 1807. Copy on file at the National Archives of Canada, MG 9, A 1, Volume 3, p. 1189-1191. Microfilm M-1382.

¹⁰² Odell to Stewart, 9 August 1808; copy on file at the Harriet Irving Library, University of New Brunswick, MG H 54, letter 33. Microfilm EA 1, No. 106.

best arrangement that the case may admit, both with respect to your claims and theirs.

In the meantime, Odell warned the Stewarts against "any interference with any part of the said meadow Land" claimed by the Indians.

Odell sent his son, Deputy Surveyor William F. Odell, to inspect the Ox Bow Meadow. The younger Odell arrived at Red Bank on 5 September 1808 and began his survey the next day. In a report to the Surveyor General, dated 16 September 1808, William Odell described his measurements of the meadow as follows:¹⁰³

I began at the lower corner of Stewart's Lot No. 11. I measured on the lower line till I came to the little S.W. I then measured the breadth of the Lot at right angles at that place, the ground being there intirely [sic] open & clear. I then finished the lower line and run out the rear line, to a sufficient extent after which I went on the upper line at the offset above mentioned and measured on till it intersected the rear line. The shape of the river at this place appears to be correctly drawn on the plan [Campbell's survey map], but I found the distance from the front corner to the little S.W. to be about 10 chains more than the projection and the lower corner of the Lot to fall to the southward of the river as represented by the red line which I have drawn on the plan. There must however be some incorrectness in the measurement from the unevenness [sic] of the ground over which the chain was carried.

The next day he visited the Red Bank Indians, seeking assistance in surveying elsewhere on their land grant. The Indians refused, but said "that if they could obtain the large meadow they would be satisfied and would relinquish their pretensions to any other."

Before he left for Fredericton, William Odell convened a meeting of representatives from all the Miramichi Indians at the Court House in Newcastle. Here he

¹⁰³ Odell to G. Sproule, 16 September 1808; copy on file at the Harriet Irving Library, University of New Brunswick, MG H 54, letter 34. Microfilm EA 1, No. 106.

pointed out to them upon the plans the boundaries of the several Tracts allotted to them and informed them that these Tracts would be secured to them by Government and that they must not claim or expect anything more with which they expressed themselves satisfied.

These tracts included Burnt Church, Tabusintac, Eel Ground, Indian Point and Red Bank Reserves. He made a list with the Indians' help of those natives who were to have rights to the various reserves. The Indians in turn are reported by Odell to have expressed the following wish:

The Tract at Church Point & the Tract opposite being for the use of the Church...they wish these Tracts not to be granted to any in particular, but kept for the use of the Church. They also wish Eel Ground & the Public Landing & the reserved Point on Tabasintack to be reserved in like manner for the use of all the Indians.

As for the Ox Bow Meadow, Odell apparently recommended that the Stewarts be given alternative land on the Northwest Miramichi. On 24 September 1808, the Executive Council ordered:¹⁰⁴

that the lot on the east side of the northwest River formerly occupied by Thomas Cartwright be granted to the Sons of the late John Stewart upon condition of their conveying to the crown, for the use of the Indians, so much of the Lot No. 11 on the west side of the northwest River as lies on the south side of the little Southwest River and comprises a part of the meadow in question.

That same day, 24 September 1808, the Executive Council also ordered:¹⁰⁵

that Licences of Occupation be given to the Indians agreeably to the said Report [of William Odell] for the Tracts on the northwest, the Little Southwest and the Tabasintack above [Cowassaget?] Brook, and that the Tract at Church Point, the Tract opposite thereto, the public

¹⁰⁴ See the Records of the Committee on Land, (Journals of the Proceedings on Land), p. 3; copy on file at the Public Archives of New Brunswick, RG 2, RS 568. Microfilm F-506.

¹⁰⁵ See the Records of the Committee on Land, (Journals of the Proceedings on Land), p. 3; copy on file at the Public Archives of New Brunswick, RG 2, RS 568. Microfilm F-506.

landing, and the Point allotted for them on the lower part of the River Tabasintack, together with the Eelground [sic] on the northwest be reserved for the use of the Indians of the County of Northumberland in general.

One other order was passed by the Executive Council on 24 September 1808 that dealt with land grants to the Miramichi Indians. A Pierre Julian requested and was allotted 200 acres "at the point between the River Sevogle and the North West branch of the Miramichi."¹⁰⁶ This allotment was at the confluence of the Big Sevogle and the Northwest Miramichi Rivers, facing the Big Hole Tract Reserve. An undated map, on file at the Public Archives of New Brunswick, shows this particular allotment.¹⁰⁷ A notation on the map reads: "Allotted to Pierre Julien with [island?] in front." In the 1840s, this land was known as the Sevogle Meadows.¹⁰⁸ Today, the meadow is known as Oldfields Point, and the island is known as Oldfields Island.

With the exception of a Licence of Occupation for a fifty-acre grant to Andrew Julian Nicholas on the Bartibog River in 1811,¹⁰⁹ the 1808 orders by the Executive Council of New Brunswick essentially mark the end of the provincial government's reserve-

¹⁰⁶ This quotation from the Executive Council Minute copied from W.D. Hamilton, The Julian Tribe, p. 15. See also B. Dewar, "Indian Reserves, Northumberland County, N.B. Introduction - Early History to 1808," p. 36.

¹⁰⁷ Public Archives of New Brunswick, MC 61, "John Julian Documents (1805-1867)." Microfilm F-9351.

¹⁰⁸ See the report by M.H. Perley, 18 December 1841, reprinted in Journal of the House of Assembly of the Province of New Brunswick from the Nineteenth Day of January, to the Fourth Day of April, Being the Sixth Session of the Twelfth General Assembly. Fredericton: John Simpson, 1842. Page cxii.

¹⁰⁹ New Brunswick Executive Council. Draft Minutes 1809-1811; copy on file at the National Archives of Canada, MG 9, A 1, Volume 3, page 1365. Microfilm M-1382.

establishing process in Northumberland County.¹¹⁰ These were the government's final concession to Indian land claims along the Miramichi River. With these land grants, the Miramichi Indians held Licences to more acres of land and more blocks of land than any other Indian tribe in the province.

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John Julian died around 1805 and was succeeded as Chief of the Northwest Miramichi and "King" of the Julian Tribe by his son Andrew.¹¹¹ It was during Andrew Julian's tenure that the practice of selling and leasing Indian land on the Miramichi to white settlers and lumber speculators became rampant.

¹¹⁰ One other reserve existed in Northumberland County, but no Licence of Occupation has yet been found for it. The Renous Reserve, on the south bank of the Southwest Miramichi, approximately one-half mile upstream from the confluence of the Renous River, had traditionally been an Indian encampment. A vague reference to the settlement was made by Benjamin Marston, Sheriff of Northumberland County, in 1785 in his report on the "State of Indian Claims within Davidson and Cort's Grant" [see above, pages 31-32]. In 1828, Surveyor Beverly Jouett showed the location of the reserve in his plan of "Parish of Blackville, County of Northumberland." No acreage for this reserve was given by Jouett. See copies of Jouett's plan on file at the Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources Canada, Ottawa. Plan numbers 2529, 4835, T2529 and fieldbook F.B. 30472.

¹¹¹ On 23 November 1807, the Lieutenant-Governor commissioned Andrew Julian as "Chief of the Tribe of Micmac Indians in the District of Miramichi...and all and every of the said Indians of the Micmac Tribe are hereby required to obey him as their Chief." See copy of commission, on file at the Harriet Irving Library, University of New Brunswick, MG H 54, letter 32. Microfilm EA 1, No. 106.

Andrew Julian did not originate this practice. In 1805, Francis Julian testified in Court that as early as 1793, the Miramichi Indians had been selling land to whites on the Eel Ground Reserve.¹¹² A second parcel on the same reserve is reported to have been sold in 1799.¹¹³ But it was under Andrew Julian's tutelage that the traffic in Indian land for both profit and to pay off debts became excessive.

The tribe as a whole did not benefit from these transactions; the traffic in land at Eel Ground was for the benefit of Andrew Julian and three of his brothers alone. By 1815, several lots had been sold off, mostly to timber speculators.¹¹⁴ This, combined with the Chief's personal lifestyle, led to an attempted revolt against the leadership of Andrew Julian.

In 1815, a petition was signed by most of the Micmac Chiefs of New Brunswick, including Francis Julian of Red Bank, appealing for the removal of Andrew Julian as the principal Chief. Addressed to the Lieutenant Governor, the plea reads in part:¹¹⁵

Your memorialists sheweth that Andrew Julian, Chief of the northwest district, is a man totally unqualified for the situation he holds under government. He is a palpable

¹¹² See statement by Francis Julian that a lot of land on the North side of the Northwest Miramichi had been sold to Thomas Pike for £5. The land was then part of the Eel Ground Reserve. This lot was later sold to a G. McKay. Statement on file at the Public Archives of New Brunswick, RG 10, RS 105, File 1, letter 7. Microfilm F-8874.

¹¹³ See W.D. Hamilton, The Julian Tribe, p. 16.

¹¹⁴ See the reprint of an 1813 land sale deed to lumberman Donald McKay for a block of land on the westerly side of the reserve, now known as McKay Cove, in W.D. Hamilton and W.A. Spray, Source Materials Relating to the New Brunswick Indian, p. 72-73.

¹¹⁵ Copy of the petition is on file at the Public Archives of New Brunswick, RG 3, RS 557/A. Microfilm F-8873.

drunkard, and by the bad example he gives our unfortunate nation, it is going headlong to distruction [sic].

No action was taken by the Lieutenant Governor on this petition, and Andrew Julian refused to abdicate his post. In fact, Andrew Julian remained Chief for another twenty-one years.

When the petition to have Andrew Julian removed was ignored, the Indians made a representation to the Executive Council specifically concerning the Chief's sale of reserve lands. On 20 October 1815, the Executive Council ruled:¹¹⁶

No sale or exchange of the Lands reserved for the use of the Indians will be allowed of and any Persons committing a Trespass on any of those Lands will be prosecuted by the Attorney general.

However, while this apparently admonished the Chief and his family from selling more land, it did not expressly forbid them from leasing land to whites. From the 1820s to the 1840s, Andrew Julian and his family at Eel Ground sold leases to white homesteaders and lumbermen. This practice was also taken up at this time by Francis Julian and his immediate family at Red Bank. Most of these leases were duly registered by the white leaseholder in the Northumberland County Registry Office and became, in all but name, deeds. The properties, once leased and registered, were freely conveyable without further involvement of the Indians. Rental payments were made to the Julians, but the leaseholders paid county taxes on buildings and other improvements in the same way that freeholders did.¹¹⁷ Whether for profit or to pay off debts, the selling of leases by the Julian Chiefs had become a lucrative occupation along

¹¹⁶ New Brunswick Executive Council. Draft Minutes; copy on file at the National Archives of Canada, MG 9, A 1, Volume 4, page 1778. Microfilm M-1383. A reprint of the Executive Council Minute is published in W.D. Hamilton and W.A. Spray, Source Materials Relating to the New Brunswick Indians, p. 73.

¹¹⁷ W.D. Hamilton, "'Indian Lands in New Brunswick: The Case of the Little South West Reserve,'" p. 13-14.

the Miramichi River.

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The desire by whites for the Indian lands along the Miramichi River from the early decades of the nineteenth century can be traced directly to political events in Europe. The Anglo-French peace treaty of 1801 terminated with the outbreak of war with Napoleonic France in 1803. Three years later, in 1806, Napoleon instituted a "Continental Blockade" in Europe to restrict British access to timber from the Baltic region. Great Britain depended on timber for her naval construction, as well as her developing industrialization program. As a result of the blockade, domestic timber prices shot up some 300 percent in two years, and Britain's powerful naval force was put in jeopardy.

To counteract the Continental Blockade on timber, Britain turned to her overseas colonies as the supplier to the mother country. The Imperial government introduced tariffs on imported foreign wood while establishing a protected market for colonial producers. British North America benefited directly from this move, as the statistics on timber exports prove. On average, 9000 loads of Canadian timber entered Britain annually between 1802 and 1805; in 1807 the total was 27,000 loads; two years later it had reached 90,000 loads; and the exports peaked in 1846 at 750,000 loads as Great Britain returned to a free-trade policy.¹¹⁸

The Saint John-Miramichi Valleys, and the St. Lawrence-Ottawa Valleys, were the two principal benefactors of Great Britain's move

¹¹⁸

Graeme Wynn, "Timber Trade History," in The Canadian Encyclopedia, Volume IV. Edmonton: Hurtig Publishers, 1988. Page 2160-2161.

towards a colonial preferential market.¹¹⁹ In New Brunswick, the Miramichi River Valley was the first to benefit, until, as will be explained below, disaster struck in 1825.

According to one commentator:¹²⁰

The valley of the Miramichi...held the reputation of offering the best opportunities for those who were searching for the great stands of pine timber that were becoming so much more elusive. In 1819, of the 1,520 British vessels engaged in the North American timber trade 297 loaded on the Miramichi. In these years, during the shipping season, the Miramichi anchorages were crowded with 100 to 130 square-rigged vessels, and in 1824 they surpassed Saint John as a port of export for timber.

A contemporary of this period has written:¹²¹

One hundred and forty-one thousand three hundred and eighty-four tons of timber were shipped at the port of Miramichi in 1824. Rafts are taken down this river with the greatest safety to the shipping, which load at different places from the mouth of the river up to Fraser's Island.

The economic and social transformation brought about as a result of the timber trade, and by the influx of immigrants following the end of the Napoleonic Wars in 1814, had a great effect on the Miramichi Valley. Until the turn of the century, the inhabitants of this district were relatively few, mainly Indians and a few farmers, fishermen and Loyalist traders. Most of the whites were concentrated at the estuary of the river. But with the advent of

¹¹⁹ See Graeme Wynn, Timber Colony: A Historical Geography of Early Nineteenth Century New Brunswick. Toronto: University of Toronto Press, 1981.

¹²⁰ W.S. MacNutt, New Brunswick. A History: 1784-1867. Toronto: Macmillan of Canada, 1963. Page 179.

¹²¹ Sketches of New Brunswick; containing an account of the first settlement of the province... by an inhabitant of the province. St. John: Chubb & Sears, 1825; reprinted as History of New Brunswick by Peter Fisher... St. John: under the auspices of the New Brunswick Historical Society, 1921. Page 39.

the timber trade, whites began to pour into the valley. As one historian has written:¹²²

...the timber-producing potentialities of the valley had been well known since the days of William Davidson, the first English-speaking settler. Now, to join the few fishermen and Loyalist traders of the estuary, came a host of Scottish bosses and skilled labourers, Irish drifters from Newfoundland, farmers from Prince Edward Island looking for work in the winter season, all eager to capitalize on the quick earnings of the timber trade. The forests seemed illimitable and the Miramichi became dedicated to the timber economy. As at St. Andrews, Saint John, and almost everywhere in Nova Scotia, ship-building developed as a satellite, though important, industry. To a greater extent than any other region of the Atlantic Provinces, the Miramichi was to ring with the chop of the broad-axe and the shriek of the sawmills.

As whites moved into the district, more and more pressure was placed on the Indians of the Miramichi to lease their lands to white lumbermen and homesteaders.

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A tragedy struck the Miramichi Valley in 1825 when a fire swept across thousands of acres of forest, destroying villages and leaving scores dead in its path. Few were left untouched by this catastrophic event, and even today the fire remains as an important juncture in the Valley's history.¹²³

According to contemporaries, the summer of 1825 had been unusually warm and remarkably dry. Scarcely any rain had fallen. Fires throughout the early autumn had broken out North, West and South

¹²² W.S. MacNutt, The Atlantic Provinces: The Emergence of Colonial Society, 1712-1857. Toronto: McClelland and Stewart, 1965. Page 139.

¹²³ See, for example, Mildred H. MacKnight, "The Miramichi: 1825-1848." Unpublished B.A. thesis (History), Mount Allison University, 1951.

of the Valley, but few along the Miramichi anticipated any danger. As one eyewitness, Robert Cooney, has written:¹²⁴

These fires...being rather ordinary circumstances, as burning the trees and roots is the common system of clearing land, no danger was anticipated...

By 6 October 1825, the fire was in the Valley. Cooney reported that at different intervals of this day, fitful blazes and flashes were observed to issue from different parts of the woods, particularly up the north west, at the rear of Newcastle, in the vicinity of Douglastown and Moorfields; and along the banks of the Bartibog. Many also heard the crackling of fallen trees and shrivelled branches; while a horse rumbling noise, not unlike the rushing of distant thunder, and divided by pauses, like the intermittent discharges of artillery, was distinct and audible.

The fire swept through the Valley over the next few days. An estimated 160 people lost their lives and eight thousand square miles of forest were destroyed.¹²⁵ Overnight, the prosperous town of Newcastle - a settlement of almost 1,000 people - was reduced to a smoking ruin. Only twelve of the town's 260 buildings were saved. Only six of Douglastown's seventy buildings remained standing. In several places the fire crossed the river and burned areas in Napan and other settlements. Cooney estimated the net loss of property at £192,273.¹²⁶

Although it did not destroy the Valley's lumber industry, the Miramichi fire of 1825 dealt it a severe setback. Never again in the nineteenth century would the Miramichi be the province's

¹²⁴ Robert Cooney, A Compendious History of the Northern Part of the Province of New Brunswick... Halifax: 1832, quoted in Ester Clark Wright, The Miramichi: A Study of the New Brunswick River and of the People Who Settled Along It, p. 35-40.

¹²⁵ W.S. MacNutt, The Atlantic Provinces: The Emergence of Colonial Society, 1712-1857, p. 159.

¹²⁶ Quoted in Mildred H. MacKnight, "The Miramichi: 1825-1848," p. 6.

largest exporter of wood. For the native population, however, the fire had disastrous economic results. Like most of the white population, the Indians were only marginal farmers, depending on hunting, fishing, and the occasional employment in the forests and sawmills for their existence. The fire curtailed the lumber industry, and from this period on most employment was relegated to the whites. As well, the fire destroyed much of the animal habitat of the Miramichi Valley, eliminating for decades a source of nourishment and income the Indians had depended on. Poverty and destitution, always present within the Indian communities of the Miramichi, now became rampant.

An interesting phenomenon, however, is how the Indian population regard the Miramichi fire of 1825 in their history. To the natives, the fire has taken on a mythological legend with strong biblical overtones. In the 1950s, two American ethnographers interviewed the Miramichi Indians and were told several variations of this same story:¹²⁷

The Miramichi fire...burned seven inches into the ground - the ground itself was burned into ashes to a depth of seven inches. That shows for certain that the fire must have come from below. Not one Indian was burned; nearly all the English people and their property were burned and destroyed. When the fire came to the wigwams of the Indians, it went around them, and did not burn them. That was queer - very, very strange. It must have been a punishment on the whites for their treatment of the Indians. There is no other explanation.

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Indebtedness to the whites, especially lumbermen, had plagued the Indian population of the Miramichi River since the turn of the

¹²⁷

Wilson D. Wallis and Ruth Sawtell Wallis, The Micmac Indians of Eastern Canada, p. 476-477.

nineteenth century, and at one point in 1822 six members of the Red Bank Band, including Chief Francis Julian's two sons, Barnaby and Mitchell, owed an incredible £676.6.8.¹²⁸ That year the Band had been forced to sell their oxen and their hay to make payments, and their crop of potatoes and other vegetables was subject to seizure at harvest time. Only government intervention, which forced the creditors to scale down their demands to £150 and accept payment over three years, saved the Indians from starvation.¹²⁹

By the 1830s, with the disastrous ramifications of the Miramichi fire still in play, the Indians were again in debt, and one of their chief creditors, lumberman Richard McLaughlin, who was also a Deputy Commissioner of Crown Lands, suggested that the Indians were willing to sell most of the Red Bank and Eel Ground Reserves. In a letter to Thomas Baillie, Commissioner of Crown Lands, dated 6 August 1832, McLaughlin wrote:¹³⁰

I beg leave to inform you that Barnaby Julien Chief of the Little South West Indians and Denny Julien Chief of the Indians of the North West Miramichi Rivers, have stated to me that they are desirous of relinquishing the reserves made by His Majesty's Council for the Indians of their Tribes with the exception of a lot for each family to reside upon, provided the land sold and the produce of the sales placed in a fund for support of the sick, aged and infirm Indians belonging to their Tribes; the [sic] also informed me that the Indians of Burnt Church River were willing to make the same arrangement.

¹²⁸ See correspondence between Attorney General Wetmore and the Indians' creditors, on file at the National Archives of Canada, MG 9, A 1, Volume 40, page 245-254; copy of above also on file at the Land Entitlement Section, Lands, Revenues and Trusts, DIAND, Ottawa, in casefile under "Eel Ground - Historical Papers."

¹²⁹ W.D. Hamilton, The Julian Tribe, p. 18.

¹³⁰ Copy on file at the Harriet Irving Library, University of New Brunswick, MG H 54, letter no. 54. Microfilm EA 1, No. 106. The Denny Julien mentioned in the letter was Denis Julian, son of the late Chief John Julian.

Two weeks later, on 20 August 1832, McLaughlin held a meeting with the Miramichi Indians at Red Bank where, he later reported to Crown Lands Commissioner Baillie, he "made known to them by an interpreter your views respecting the arrangement of their lands..."¹³¹ The Indians, according to McLaughlin, "seemed fully satisfied" with the proposal.

Three days later, on 23 August 1832, the three Julian Chiefs, Barnaby, Mitchell and Denis, met with McLaughlin at Newcastle where they delivered a list of names of those Miramichi Indians "whom they consider to be each entitled to a lot of land and none other." McLaughlin informed Baillie "that this arrangement seems to meet the approbation of the public and in my opinion will bring a considerable sum of money." He concluded by stating that "[a]s soon as your instructions for the survey of the Indian land arrives we will be ready to attend to it."¹³²

The proposal to sell most of the Red Bank and Eel Ground Reserves was not acted upon by the New Brunswick government. No correspondence has yet been found to determine why the proposition was apparently rejected. However, as a result of this refusal to proceed, Barnaby and Mitchell Julian, the acting co-Chiefs of Red Bank until 1836 when Barnaby assumed sole control,¹³³ negotiated a

¹³¹ Copy of an extract from the report, dated 25 August 1832, on file at the Harriet Irving Library, University of New Brunswick, MG H 54, letter no. 58. Microfilm EA 1, No. 106.

¹³² A copy of the list of names of those Indians considered by the Chiefs to be entitled to lots on the reserves are on file at the Harriet Irving Library, University of New Brunswick, MG H 54, letter 54. Microfilm EA 1, No. 106.

¹³³ See documents relating to Barnaby Julian's appointment as Chief of both the Red Bank Band and the Miramichi Micmac Indians, on file at the Harriet Irving Library, University of New Brunswick, MG H 54, letters 61 and 62. Microfilm EA 1, No. 106.

score of leases with non-natives to alleviate their personal debts. Throughout the remainder of the 1830s and the 1840s, a large portion of the Red Bank Reserve and the Indian Point Reserve were leased to whites.¹³⁴ This decision by the Indians, as one commentator has written, was a fateful one.¹³⁵

It influenced the creation of adverse legislation and policies at the provincial level, and it led ultimately to the partial break-up of the Miramichi reserves. The Julians' authority to lease reserve land was questionable in law, but the land was leased (and sometimes sold) by them anyway, with impunity.

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From the time of the creation of the province of New Brunswick, no government agency was responsible for maintaining contact with the Indians. Correspondence concerning Indians was simply channelled through the Provincial Secretary's office. Unpaid Indian Commissioners had been appointed in each district on an ad hoc basis, but their job was simply to assist the Indians to adapt to the whiteman's ways.

In 1825, the newly-appointed Lieutenant Governor, Sir Howard Douglas, was enough moved by the poverty of the New Brunswick Indians to persuade the local government to spend up to £60 a year out of the colony's casual revenues on their behalf. But this money could be used only to buy farm seed and tools to encourage

¹³⁴ See undated plan of the Indian Point Reserve, titled "Map of a section of land on the North West Miramichi showing granted lots and a 100 acre lot granted to Indians," that shows the leased sections of the reserve. Copy on file at the Public Archives of New Brunswick, MC 300, MS 43/82.

¹³⁵ W.D. Hamilton, The Julian Tribe, p. 19.

agriculture.¹³⁶

By 1838, little progress had been made in amelioration of the native people's poverty. That year, the Colonial Office in London ordered the Lieutenant Governor of New Brunswick to report "on the State of any of the Aboriginal Inhabitants who may still exist in the Province."¹³⁷ This order was forwarded to the Indian Commissioners, whose replies were forwarded to England.

On the Miramichi River, it was reported that there were between 400 and 450 Indians living in abject poverty. The Provincial Secretary was told:¹³⁸

The present condition of the Indians of this County in a pecuniary point of view is far from good; most of them are extremely indigent; they live altogether from hand to mouth. This arises in part from the hunting in this part of the Country, having since the great fire of 1825 been indifferent, in part from the manufacture of Timber in which they were at one time engaged, having fallen almost entirely into the hands of the white Inhabitants, from them being so much better qualified to [?] it on, but mainly from that indolent and inactive disposition so natural to these people, preventing them from turning their attention to the cultivation of the land of which they have had every opportunity, had they been disposed to engage in such pursuits. Their main dependence for support is by fishing in the small rivers and branches; by killing wild fowl and wild animals of [?] kinds which they find in the woods by hunting; by occasionally working for the Whites and by begging...

In 1838, for the first time, a schedule of Indian reserves listing reserved lands was published. It was reported that 61,293 acres in

¹³⁶ L.F.S. Upton, Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867, p. 101.

¹³⁷ Quoted in L.F.S. Upton, Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867, p. 103.

¹³⁸ Copy of report on the Miramichi on file at the National Archives of Canada, CO 188/64, p. 152-157. Microfilm B-16.

the whole province had been set aside for natives, of which 33,158 acres were in Northumberland County. The schedule for Northumberland County reads:¹³⁹

10,000 acres on both sides of the Little South West, at the confluence with the North West Miramichi, 13th August, 1783; 3,033 acres on the north side of the North West Miramichi, commencing opposite the lower end of Boebear's point, and running up; 10th January 1789; for John Julian and the Miramichi Tribe of Indians.

8,700 acres on the north east side of the North West Miramichi, opposite the Sevogle Streams; 750 acres on the north side of the North West Miramichi, opposite the Little South West; 5th March 1805; for John Julian and the Micmac Tribe of Indians.

240 acres, Burnt Church Point, Miramichi Bay; 1,400 acres on the north side Burnt Church, above Point au Moreau, Miramichi Bay; 9,035 acres on the Tabusintac River, from Cowaseget's Creek, up five miles, and back from each side 1½ miles, including 10 acres at M`Gra's Point, and 25 acres at Ferry Point; 18th February, 1802; for Indian natives inhabiting the Tabusintac District.

No mention was made of the Renous Reserve.

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In 1841 a new Lieutenant Governor was appointed to New Brunswick, Sir William Colebrooke, and, for the first time in the province's history, "something approaching an Indian policy" was developed.¹⁴⁰ Colebrooke chose as his advisor on Indian matters Moses Henry Perley, a Saint John lawyer, entrepreneur and naturalist. Perley had had contact with Indians on the Saint John River since his

¹³⁹ See "Schedule of Indian Reserves in New Brunswick," in Journal of the House of Assembly of the Province of New Brunswick for the period 28 December 1837 to 9 March 1838, appendix 12. Fredericton: John Simpson, 1838. Page 170.

¹⁴⁰ L.F.S. Upton, Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867, p. 104.

youth, and one historian has implied that his natural sympathy to their plight was heightened by the fact that in 1822 Perley accidentally killed an Indian while target shooting.¹⁴¹

Perley was appointed by Colebrooke to visit New Brunswick Indians and report back on their condition.¹⁴² To all he carried the same basic message. The government wished to make the reserve lands benefit the Indians, to improve their condition by forming them into settlements with secure title, and to educate the young not only in academic subjects but also in farming and other trades.

Perley spent August and September 1841 with the Micmac Indians of the Miramichi. In a series of reports beginning on 11 December 1841,¹⁴³ Perley stated that he began his tour of the district at the Renous village, where 101 people were living. "The Micmacs of this Settlement stated to me that with a little assistance they could make a very comfortable subsistence by fishing and tilling the land," he wrote.

On 27 August 1841, Perley arrived at Newcastle, where he was met "by all the Chiefs and a number of other Indians, who expressed the greatest joy at my coming." A meeting was arranged for the following day at the Eel Ground Reserve, where he explained the object of his mission to a well-attended assembly. He estimated

¹⁴¹ L.S.F. Upton, "Perley, Moses Henry," Dictionary of Canadian Biography, Volume IX. Toronto: University of Toronto Press, 1976. Page 628.

¹⁴² See letter from Alfred Reade, Colebrooke's secretary, to Perley, 23 June 1841; copy on file at the Public Archives of New Brunswick, RG 3, RS 557/A. Microfilm F-8873.

¹⁴³ See "Extracts from Mr. Perley's Report on the Micmacs," in Journal of the House of Assembly of the Province of New Brunswick from the Nineteenth Day of January, to the Fourth Day of April... Fredericton: John Simpson, 1842. Page xcvi-cx.

that 108 people lived at Eel Ground.

The men here chiefly employ themselves in getting lathwood, bark for tanning, treenails, and timber. Some work as Coopers, and make very good articles. The women make a variety of baskets, brooms and boxes for sale, and they sew very neatly. Upon the whole, this may be considered an industrious Settlement. In the winter they obtain from the River (through the ice) many bass, and great quantities of fine eels, of which they are exceedingly fond; whence the Settlement has its names.

Two days later, on 30 August 1841, Perley proceeded up the Northwest Miramichi to Red Bank Reserve. He estimated that fifty people resided on this reserve, under the leadership of Barnaby Julian. His opinion of this Chief's personal use of the reserve land was very critical.

Barnaby Julien assumed the right of selling and leasing the greater part of the Reserve of 10,000 acres on the Little South West, and I regret to state, that from the best information I could obtain, he has since then received nearly two thousand pounds in money and goods from various persons, as consideration for deeds and leases, and for rents. His rent roll this year amounts to a very considerable sum; yet I found him so embarrassed in his pecuniary affairs, that he dare not come into Newcastle, save on Sunday, for fear of being arrested by the Sheriff. His own family have alone benefitted by the money which came into his hands, none of the other Indians receiving the smallest portion.

Because of this misconduct, Perley continued, the Micmac Indians had deposed Barnaby Julian as "King" or principal Chief of the Miramichi Indians the month earlier. [Barnaby Julian retained his position as Chief of Red Bank, with jurisdiction over Indian Point and Big Hole Tract Reserves.] However, the reserves and Indians under his jurisdiction had already been affected.

The Indians at this Settlement did not appear to be in a very flourishing condition, nor yet very industrious. Those on the North West [Indian Point Reserve] were so crowded upon by Squatters, that they had only a few acres left for their own occupation. This, with the misconduct of Barnaby Julien, has rendered what ought to have been one of the best settlements in the Province, one of the poorest.

From Red Bank, Perley continued on to the Burnt Church Reserves at the mouth of Miramichi Bay. Here he found a population of 201 people.

The Reserve at Burnt Church Point contains 240 acres; the land is perfectly level, and is bounded to the Northward by a small River, on the North side of which there is another Reserve of 1400 acres, all in the state of wilderness. The small river furnishes Oysters, Lobsters, Sea Trout and Eels in abundance; in front of the Point large quantities of Salmon and Bass are caught annually, and there are plenty of water fowl... In the winter season this Settlement is entirely deserted, the inhabitants removing to the Tabusintac and other places, where they gain a subsistence by lumbering, and spearing Eels through the ice.

From Burnt Church, Perley proceeded to the Tabusintac Reserve, but found that no Indians resided there during the summer months.

Perley concluded this part of his report with the following general observation on the plight of the natives in mid-nineteenth century New Brunswick:

The Indians of this Province are at present in an anomalous condition; they are among us, yet not of us; and it seems neither wise nor just to allow in our midst another race, to remain permanently inferior, a burden and misery to themselves, and a barrier to the general progress of the whole community.

He made the following recommendations for the amelioration of the Indians' plight:

The first step towards the real improvement of the Indians is to gain them over from a wandering to a settled life, and to form them into compact Settlements, with a due portion of land for their cultivation and support...

The next great object to be attained would be the establishment of Schools, affording elementary instruction not only in the common branches of education but in the rudiments of Agriculture and Mechanics...

The situations in which to form Settlements of the Indians ought to be carefully selected, as it has been found in Canada, that location is a matter of very

considerable importance in effecting permanent improvement, for a variety of reasons. The Indian should not be placed in a situation where he could not follow the sports of the field, as he cannot be expected all at once to change the whole habits of his life, and on the instant, give up hunting, fishing and fowling, which he has always followed without restriction, and to which he is ardently attached...

On the Miramichi, Perley recommended Burnt Church Point and the Eel Ground Reserves as the sites for "compact settlements."

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A week later, on 18 December 1841, Perley forwarded the second part of his report on the Micmac Indians of New Brunswick. This section described the lands which they inhabited. For Northumberland County, he wrote:¹⁴⁴

The Eel Ground

The first Tract which I visited was the Reserve on the North West Miramichi at Oxford's Brook, called by the Indians "the Eel Ground." This Tract is triangular in shape, with an extensive water front, and extends back Northerly, gradually diminishing to a point... It is estimated to contain 3033 acres, from which all the valuable timber has been stripped long since. Finding that there were a number of trespassers upon it, I visited their various houses and farms...and at each place gave notice to quit, at the same time leaving copies of His Excellency's Proclamations relative to trespassers on Indian Lands.

The Reserve at Indian Point

The next Reserve which I visited is on the North side of the North West Miramichi, at the head of the tide, about 13 miles from Newcastle. It is also triangular in shape, with a very long front on the River, and contains by estimation 750 acres; it is called Indian Point or Indian Town. The land is of very good quality, rising moderately and regularly from the water, and from its position at

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Reprinted in Journal of the House of Assembly of the Province of New Brunswick, from the Nineteenth Day of January to the Fourth Day of April, p. cx-cxiv.

the head of the tide is of considerable value, and a very desirable situation for settlers. Possessing such advantages, it is not at all surprising that it has been pounced upon by Squatters, by whom it is almost exclusively occupied, the Indians having only three acres in front, which are under strong picket fence, to prevent further encroachment...

Reserve on the Little South West Miramichi

This tract contains by estimation 10,000 acres, the whole of which is good land and very favourably situated. It is unequally divided by the Little South West, the smaller portion being on the North side of the river, the larger portion to the southward. The latter portion is again subdivided by the highway which leads from the North West Miramichi up to the head of the Little South West...

This is the tract over which Barnaby Julien has for some years past exercised sole control, selling and leasing nearly the whole of it, and squandering the money, as stated in the first part of this Report. There are a great number of persons on this Reserve, under lease, and paying rent regularly, who have made extensive and valuable improvements. They have in general conceived that if theirs was not a legal title, yet still it gave them a good and equitable claim upon the Government, and that any improvements they might make would be secured to them...

Red Bank

The Reserve commences at Red Bank, at the mouth of the Little South West. It is a high bank of red sand and loam (whence its name) round which the Little South West sweeps into the North West Miramichi with considerable rapidity. The rise and fall of tide at "Red Bank" is from three to five feet, and the North West is navigable to the Point for vessels of considerable burthen. On gaining the top of the Bank we found a very pretty flat or plateau, on which stands the premises of Barnaby Julien, and a neat little Chapel, quite new and almost completely finished. A part of the plateau was in grain and potatoes, belonging to Barnaby; the rest was a waste, on which were the wigwams of the few other Indian residents at this very pretty spot.

Barnaby expressed much anxiety to have this place secured to himself and his family, but it is by far too valuable for that. Its admirable position and manifest advantages point it out most clearly as a highly favourable situation for a Town or Village, which at the confluence

of two extensive Rivers, and at the head of the tide, would seem to be clearly needed, and by all means advisable...

Reserve on the North West Miramichi

...This tract commences a short distance above Wild Cat Brook, having a front on the River of about four and a half miles, and extending back from three to four miles. It contains by estimation eight thousand seven hundred acres. Much of this tract is "burnt land," it having been swept over by the Great Fire of October, 1825, which not only destroyed all the vegetable matter on the surface, but actually calcined the sand and gravel to such an extent as to leave the land almost incapable of bearing any thing but blueberries. The greater portion of the lower part of this Reserve presents a most barren and desolate appearance; on the upper part there is some growing timber, and there the soil is of very fair quality.

The Sevogle Meadows

Opposite the Reserve upon the North West, at the mouth of the Great Sevogle, there are two small Islands, and a tract of Meadow Land of about 60 acres. Some years since this Meadow and the Islands were allotted to a branch of the Julien Tribe, who were furnished with a plan of the same by the Commissioner of Crown Lands, on which such allotment was stated.

Reserves at Burnt Church Point

...The reserve at the Point, containing 240 acres, is in the exclusive occupation of the Indians. The other reserve on the North side of Burnt Church River, containing 1400 acres, is in a wilderness state; the growth appeared rather small, consisting chiefly of trees of the fir tribe. The cleared land adjoining the reserve looked very well and appeared to produce good crops. There are no trespassers on this reserve, but to prevent disputes the boundaries ought to be defined, for which purpose a survey is needed.

Reserve on Tabusintac River

The great Reserve on this River commences about seven miles from the mouth of the Harbour and extends five miles up stream, on both sides, with a breadth of three miles, thus forming an oblong of five miles by three miles; it contains by estimation nine thousand acres. The greater portion of this reserve appears by the plan

to be on the North side of the river. It is all very fine land; the soil is in general heavier than what is usually found on this coast, and is admirable for tillage. The tide flows for some distance above the upper line of the reserve, every part of which is therefore accessible from the sea for all fishing vessels and small craft, which can enter from the Gulf into the harbour of Tabusintac. It is much to be regretted that so fine a tract of land, stretching along the tideway, possessing two River fronts, should so long have been allowed to remain in a state of wilderness, forming a complete barrier to the settlement of the county about it... The land on the Tabusintac is generally of very good quality,...yet there is not a single settler upon it, although there are few Rivers in the Province which offer greater advantages or hold out stronger inducements to Settlers...

No mention was made by Perley in this second part of his report about a reserve having been set aside for the Renous settlement.

Historians tend to be mildly critical of Perley's efforts of 1841, pointing out that his reports reflect the Victorian bias of a whiteman. As one academic has stated:¹⁴⁵

Perley's recommendations were, not too surprisingly, in line with the policy that had been worked out for the Indians of the Canadas in the previous decade: assimilation by way of "civilization" through agriculture -- and at no extra cost to the taxpayer... Perley was a white man of his time, more sympathetic than most, but still encumbered with those presuppositions he had taken with him from his earliest visits to the Indians. For example, he fully realized that the Indian hunt was an integral and eternal part of life, yet he often referred to it as though it was a self-indulgent sporting activity that should be dispensed with in favour of work. But, of course, Perley was writing for other white men, not for Indians.

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In May 1842, the Executive Council of the New Brunswick government,

¹⁴⁵ L.S.F. Upton, Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867, p. 105-106.

while considering Perley's report, decided that the white occupants of Indian lands should be given the chance to legalise their position. An advertisement was placed in the Royal Gazette on 18 May and 24 May 1842 offering to lease those portions of Indian lands occupied by squatters. The advertisement informed readers that all applicants must pay for all survey costs.¹⁴⁶

However, this policy was soon abandoned when it became obvious most white squatters on Indian lands would probably not take out leases [as Perley had predicted in his report], and were definitely not willing to pay the cost of the survey for a leasehold. As well, although the Executive Council wanted to lease the Indian lands to whites, the House of Assembly favoured outright land sales.

In February 1843, a select government committee was appointed to study the illegal occupation of Indian reserves. Their report, dated 21 March and 29 March 1843, recommended that land not used by the Indians be put up for purchase. After noting that squatters performed valuable services to progress, the committee recommended that such land as was not required for Indian villages be sold in fifty and one hundred-acre farm lots, and that leasehold arrangements should be restricted to meadow lands for grazing. Lots were to be offered for sale at upset prices, and payments could be made over five years. The money accruing from the sales and leases would go into an Indian fund account bearing interest at six percent, with the interest appropriated annually for the benefit of the Indians. Indian villages were to be laid out in town, pasture and wood lots, and those natives wishing to own their own land within the village could be given non-transferable location tickets. If an Indian consistently improved his land, he might one

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A copy of the advertisement is reprinted in W.D. Hamilton and W.A. Spray, Source Materials Relating to the New Brunswick Indian, p. 114.

day expect to own it freehold.¹⁴⁷

Work soon began by the select committee on legislation to enact their recommendations. Although Moses Perley was consulted and his report and recommendations noted, the bill [7 Vict., c. 47] virtually ignored his work. Titled "An Act to Regulate the Management and Disposal of the Indian Reserves in this Province," the bill was passed on 13 April 1844 and proclaimed five months later.¹⁴⁸ It contained none of Perley's recommendations for schools, medical attention for the Indians, or religious instruction. The act was included in the province's Revised Statutes of 1854,¹⁴⁹ and remained in effect until the federal government took over Indian affairs after Confederation.

The preamble set the tone for the act. It reads:

Whereas the extensive Tracts of valuable Land reserved for the Indians in various parts of this Province tend greatly to retard the settlement of the Country, while large portions of them are not, in their present neglected state, productive of any benefit to the people, for whose use they were reserved...

To turn these reserves into an asset, the act recommended the surveying of the Indian lands "to distinguish the improved from the unimproved lands..., and the green forests from the burnt lands, and the lands fit for settlement from those unfit for that purpose..." Once classified, the land, under commissioners

¹⁴⁷ Culled from L.F.S. Upton, Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867, p. 107.

¹⁴⁸ Acts of the General Assembly of Her Majesty's Province of New Brunswick passed in the year 1844. Fredericton: John Simpson, 1844. Page 147-149. A copy of the Act is reprinted in W.D. Hamilton and W.A. Spray, Source Materials Relating to the New Brunswick Indian, p. 114-116.

¹⁴⁹ See "Title XIII. Of Indian Reserves. Chapter 85," in The Revised Statutes of New Brunswick. Fredericton: J. Simpson, 1854. Page 214-216.

appointed by the act, could be sold or leased at auction. The commissioners were to be paid five percent of all money received by their disposal of Indian land. The remainder of the money was to be "applied to the exclusive benefit of the Indians," especially for the relief of the aged and infirm, and for provision of seed and agricultural implements. The act concluded by appropriating an advance of £150 from the Treasury to carry out the surveys.

Perley opposed the bill, which he described as being "of very objectionable character."¹⁵⁰ But his objections were brushed aside by the government. A committee of the Executive Council reported on 25 July 1844:¹⁵¹

It would appear to the Committee that the principal objections urged by Mr. Perley against the Indian Bill are founded on an erroneous idea that its provisions require the Government to make sale of the Indian Reserves and that thus the different Tribes would be deprived of their Hunting grounds and others Settlements but partially formed by them. Such are not the provisions, nor is it to be supposed that any Government would avail themselves of the power of sale to an extent injurious to the Indians.

As for leaving out of the legislation any mention of schooling or religious instruction, the committee wrote that "[i]t was not thought necessary to encumber the Bill with these details..."

Commissioners of Indians Lands were hired, according to the act, to supervise:¹⁵²

the survey and sale [of the reserves], or such part or parts thereof as may from time to time be directed by the Lieutenant Governor to be sold under the provisions

¹⁵⁰ Quoted in W.D. Hamilton, The Julian Tribe, p. 28.

¹⁵¹ Copy of report reprinted in W.D. Hamilton and W.A. Spray, Source Materials Relating to the New Brunswick Indian, p. 119.

¹⁵² Section III of "An Act to Regulate the Management and Disposal of the Indian Reserves in this Province," 7 Victoria, Ch. 47.

of this Act, and also to look after the interest of the Indians generally of the Counties in which such Reserves are situate, and to prevent trespassing thereon.

In a "Memorandum for Instructions to Commissioners of Indian Lands," they were told by Lieutenant Governor Colebrooke:¹⁵³

...the Commissioners will in the first place visit the reserves in their respective districts and having ascertained the extent to which the Lands are in the occupation of persons who have attended thereon without authority from the Government and with or without consent of the Indians to cause the several tracts so occupied to be duly surveyed and the boundaries defined... The Commissioners are also to cause to be surveyed and allotted out the portions of the reserved lands required for the occupation and settlement of the Indians a report of which survey to be also made previous to the allotments being confirmed to the Indians occupying them.

The Commissioners' first task were to determine how much of the Indian reserves should be given to the Indians, at a rate of up to fifty acres per head of family. Each head of family was to receive a location ticket immediately, and after ten years' continuous occupancy he would be eligible for a free grant of his lot. Only with the free grant would the Indian be able to alienate his land.¹⁵⁴

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¹⁵³ Copy of the "Memorandum" reprinted in W.A. Hamilton and W.A. Spray, Source Materials Relating to the New Brunswick Indian, p. 118; the original memorandum, according to this source, is on file at the Public Archives of New Brunswick, Lieutenant Governor Colebrooke's Letter Book, 18 May 1841-4 April 1848, p. 228-229.

¹⁵⁴ L.F.S. Upton, Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867, p. 108. See also Section X of "An Act to Regulate the Management and Disposal of the Indian Reserves in this Province."

The Commissioner appointed for the Miramichi district was William Salter. Moses Perley, despite his criticism of the legislation, also accepted an appointment to be a Commissioner to "act in conjunction" with the district Commissioners. He had hoped this would give him an overall supervisory control of the local Commissioners, but this was not the case.¹⁵⁵

Surveying on the Miramichi River, undertaken by Deputy Surveyor David Sadler, began during the summer of 1845. Indian Point Reserve appears to have been the first, surveyed during June and July 1845 into fifteen lots.¹⁵⁶ All of these except Lot 13 was intended for sale to their non-Indian occupants. According to Sadler's notes, Lot 13, on the bank of the Northwest Miramichi River, was "[o]ccupied by the Indians. Contains 10½ acres[;] has been mostly improved[;] has 3 wigwams built on it."

In September 1845, the Indians requested more land be reserved for them on the Indian Point Reserve. In 1847, the Executive Council ordered that a triangular portion at the back of the reserve be surveyed out of the white settlers allotments to be retained by the Indians as a woodlot. This triangular piece of property was designated as Lot 16.¹⁵⁷ In 1899, Lot 13 was surrendered by the

¹⁵⁵ L.S.F. Upton, Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867, p. 108.

¹⁵⁶ Copies of the survey plan are on file at Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources Canada, Ottawa; see plan numbers 4833 and T 186. A copy of the survey plan, along with Sadler's survey notes, is on file at the Department of Natural Resources, Crown Lands (Surveys), Fredericton; see plan number 1/31.

¹⁵⁷ See B. Dewar, "Indian Point Indian Reserve No. 1, Northumberland County, N.B." Unpublished manuscript; copy on file at Lands Directorate, Lands, Revenues and Trusts, DIAND, Ottawa.

Indians.¹⁵⁸ All that remains of the Indian Point Indian Reserve today is the landlocked Lot 16.

As the 1845 surveys were taking place, and Commissioner Salter was examining the remainder of the Reserves on the Miramichi, some of the Indian leaders were becoming concerned that they were being ignored in the process. On 8 July 1845, a memorandum from the Provincial Secretary's Office stated the following:¹⁵⁹

Louis Julian Junior (Son of the Chief) [sic; Louis Julian's father was Chief Dennis Julian] wishes an order from His Excellency to the effect that he shall have a portion of the upper reserve on the North West Miramichi [probably Big Hole Tract], and the whole of the reserve opposite Beaubairs Island [Eel Ground] set apart for the exclusive use and occupation of his Tribe. He makes no objections to the improvements of the settlers on the reserves being fully protected.

He has seen Mr. Salter the Commissioner who is going on with the survey apparently in the spirit of the Act of Assembly but without paying all the attention to Julians['] wishes which he wants.

In the same memorandum, it was pointed out that Chief "John Garrish" [sic; the Chief's name was John Ginnish] of Burnt Church asked for the exclusive use of the Burnt Church and Tabusintac Reserves.

In August 1845, surveying began on the Eel Ground Reserve and on the Red Bank Reserve. The Eel Ground Reserve survey, performed by

¹⁵⁸ See the Reserve General Register for the Indian Point Reserve, at the Lands Directorate, Lands, Revenues and Trusts, DIAND, Ottawa. See also documents on file at the National Archives of Canada, RG10, Volume 2522, File 107,222-2. Microfilm C-11233.

¹⁵⁹ A handwritten transcription of the memorandum, with no signature or indication who the recipient was, is on file at the Public Archives of New Brunswick, RG 1, RS 345/J9. Microfilm F-8872.

David Sadler, was completed in August.¹⁶⁰ Sadler divided the lower portion of the reserve along the banks of North West Miramichi River into thirteen lots. The upper portion was apparently not surveyed. Nine of the lots are designated as being occupied by non-Indians, while another lot, on both sides of Oxford Cove, is listed as "Mill Tract." These ten lots were sold by the province between 1848 and 1853.¹⁶¹

On a copy of the survey plan, a calculation is shown that the lower portion of the Eel Ground Reserve is approximately 2,225 acres, and the upper portion is approximately 1,560 acres. This would total approximately 3,785 acres. The Licence of Occupation issued to Chief John Julian and his tribe on 10 January 1789 was for 3,033 acres.¹⁶² Following the sale of the ten lots by the province, according to the Reserve General Register of the Department of Indian and Northern Affairs, the acreage of the reserve was and remains 2,651 acres.

In August 1845, Deputy Surveyor David Sadler also began the survey

¹⁶⁰ See Sadler's survey plan, copies on file at the Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources Canada, Ottawa; plan number 4819. [There are three copies of the plan listed under 4819.] No field notes for this survey are on file.

¹⁶¹ See the Reserve General Register for the Eel Ground Reserve, Lands Directorate, Lands, Revenues and Trusts, DIAND, Ottawa.

¹⁶² Beside this calculation is a set of initials that appear to be "SB". Samuel Bray was the officer in charge of Indian lands in the Department of Indian Affairs when that department was formed following Confederation. If the initials are indeed those of Samuel Bray, then the Reserve General Register in the Lands Directorate, Lands, Revenues and Trusts, DIAND, is incorrect when it states that the additional 752 acres was included by the "amended...Plan of Resurvey, 4819 of 1845." Bray could only have unilaterally added the extra acres to the reserve after Confederation.

of the Red Bank Reserve. He apparently began on the South side of the Little South West Miramichi, on what is today known as Red Bank Indian Reserve No. 4.¹⁶³ There were twenty-nine non-Indian who controlled land on the reserve. According to his survey plan, he had not completed the work by September 1845 when he stopped the survey. He completed the work two years later in September 1847.

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According to one source, the apparent reason the survey was halted in 1845 was because of a reluctance on the part of the Lieutenant Governor to implement the sales provision of the 1844 legislation. Therefore, the Executive Council decided to defer all proposed land sales with the exception of land along the Madawaska River.¹⁶⁴ However, the Provincial Secretary informed William Salter on 16 September 1845 that there was no adequate funds to complete the surveys of the reserves as prescribed in the legislation.¹⁶⁵

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See survey plan and field notes titled "Parish of North Esk. County of Northumberland. Plan and survey of part of the Tract of Land Reserved for the Julian Tribe of Indians situate on the South Side of the Little South West River, a branch of the main North West Branch of Miramichi River"; copy on file at the Department of Natural Resources, Crown Lands (Surveys), Fredericton. Plan No. 10/31. See also survey plan 4843 on file at Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources Canada, Ottawa.

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National Archives of Canada, MG 9, A 1, Volume 12, New Brunswick Executive Council, 27 August 1845; quoted in B. Dewar, "Red Bank Indian Reserves Nos. 4 and 7." Unpublished manuscript; copy on file at the Lands Directorate, Lands, Revenues and Trusts, DIAND, Ottawa, page 13.

¹⁶⁵

See letter from John S. Saunders to William Salter, 16 September 1845; copy on file at the Public Archives of New Brunswick, RG 3, RS 557/B. Microfilm F-8873.

Meanwhile, on 27 September 1845, Moses Perley and William Salter met with a delegation of nine leaders from the North West Miramichi Bands so these natives might "state what quantity of land they wish for their exclusive use on the North West and in what places."¹⁶⁶ Only one delegate appears to have represented the Red Bank Band. Nicholas Julian [Chief John Julian's son and Andrew Julian's brother], listed in the Minutes of the meeting as the "Grand Chief of the Indians of the North West Miramichi," spoke for the Tribe. The following was the land which he requested:

Eel Ground

From Donald McKays lower line down to Robert Jacksons line (including the lot occupied by Crocker) and all the vacant land in the rear -- also Oxford cove and the Mill tract.

Indian Point

From Charles Doolans line up to the line of land occupied by Dominicus Hanson to include now in possessions [sic] of Charles Doolan William Stewart Peter Hyland and mary Duffy and the land now occupied by the Indians.

Big Hole Tract

Three thousand acres to be reserved for the Indians -- one thousand above the Peabody grant and two thousand acres below to extend to the rear line of the Reserved [sic].

Little South West

From Cuppages line at the Red Bank upstream to the Ox Bow including the land now in possession [sic] o [sic] Samuel Payne as lately surveyed by Mr. Sadler.

All the remaining land on the North West and Little South West Miramichi to be at the disposal of the Government and all monies arising therefrom to be equally divided among all the Indians of the North West Miramichi.

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Quoted from the Minutes of Proceedings of the Council; on file at the Public Archives of New Brunswick, RG 3, RS 557/A. Microfilm F-8873.

The sole representative from the Red Bank Band is reported to have been a minor Chief.¹⁶⁷ None of the major Red Bank leaders were present at this council when a large portion of their lands were put "at the disposal of the government."

Five days later, on 2 October 1845, Moses Perley held a council with the Indians at the Burnt Church Point Reserve. Twenty-two Indians were listed in the assembly. William Salter, having been injured in an accident, did not attend. Here too, the Indians were "requested to state how much of the land at Burnt Church Point and Tabusintac they wished reserved for the exclusive use of the Burnt Church Tribe." The council replied that they wished all the land that composed the two Burnt Church Reserves "as given to them by King George when the French were driven away." They also declared that they wished all the Tabusintac Reserve, "except one mile and a half from the head down stream on both sides..." As well:

The Council require that the money received for the grass on Tabusintac Marshes be paid over to the Burnt Church Indians to buy hay for their Cattle this winter. [T]he fishery money at Tabusintac to be collected and expended in provisions for the Indians at next [feast of] St. Anns [26 July]¹⁶⁸ according to custom.

¹⁶⁷ See W.D. Hamilton, The Julian Tribe, p. 28.

¹⁶⁸ The feast of St. Ann is the central point of the Micmac year. Historically, this is the date that the Miramichi River Indians met in council at the Burnt Church Reserve to discuss tribal business, solemnize marriages, elect Chiefs and Captains, etc. One source, however, states that the gathering had a much deeper meaning: The feast day of their patron saint, St. Ann, became the central point of their year. Its regular observance was an act of multiple defiance, for it commemorated their ties with the French rather than the British; with Catholicism rather than protestantism; with tribal rather than colonial government. The Micmacs retained a focal point that was clearly outside settler society and so kept the past alive.

The Indians also asked that a message be sent to Queen Victoria informing her that "they are very desirous to have farms and horses and that it is their hope, she will help to settle them on their land."

On 15 October 1845, Perley sent a separate report to the Provincial Secretary, J.S. Saunders, on his visit to Northumberland County. He told the Provincial Secretary that he saw no objection to the to the Indians' demands for the Eel Ground Reserve, "except as to Oxford's Cove and the Mill tract, of which they can make no good use, and which are too valuable to remain unoccupied."¹⁶⁹ He wrote that he had no objection to the land claims of the Burnt Church Indians. He apparently also agreed to an additional lot designated for the Indians on the Indian Point Reserve [see above, page 78].

However, for the Red Bank Reserve, Perley recommended that the Licence of Occupation be rescinded by the government because of what he perceived as the continuing abuses of Barnaby Julian and his immediate family. Perley wrote:

I have to state that Barnaby Julian and two other Juliens [sic] claim the whole 10,000 acres [of the Red Bank Reserve] as their sole property, and exercise exclusive jurisdiction over it. Nearly the whole of the Reserve has been leased by these Juliens, such leases or conveyances to remain in force so long as the Indian title shall continue. Notwithstanding the notice I gave to all parties in 1841, Barnaby Julien has continued to sue and distrain [sic] for rents, and his tenants being unable to dispute his title, have been compelled to pay him, by legal process. These Juliens refused to acknowledge that the Crown had any claim to the Reserve, or that any Indian could demand or expect a share of the rents.

¹⁶⁸ (...continued)

See L.F.S. Upton, Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867, p. xiv.

¹⁶⁹ Copy of report on file at the Public Archives of New Brunswick, RG 3, RS 557/B. Microfilm F-8873.

Saunders replied on 26 November 1845 that "[a] Proclamation revoking the lease to the Julians is in course of preparation."¹⁷⁰ However, no Proclamation was ever issued. Four days later, on 1 December 1845, Perley again wrote the Provincial Secretary, further recommending that the Licenses of Occupation to the Eel Ground, Big Hole Tract, and Indian Point Reserves also be revoked so as to "facilitate a Settlement with the numerous [white] occupants of these lands..."¹⁷¹ As for the Burnt Church and Tabusintac Reserves, Perley wrote that he never actually ever saw their Licenses of Occupation, but he saw no reason to revoke them.

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Perley's reason for requesting that the Licenses of Eel Ground, Big Hole Tract and Indian Point Reserves be revoked, according to one source, was so that Section X of the 1844 Indian land legislation could be implemented.¹⁷² [Section X called for villages or town plots to be laid out, with these villages being sub-divided into individual allotments of not more than fifty acres each.] Perley wanted the remaining revoked lands sold and the proceeds to be placed into an Indian fund, with the Bands receiving a guaranteed annuity.

However, Perley still objected to the legislation as a whole, and on 14 February 1846 he wrote a scathing critique of the policy to

¹⁷⁰ Copy on file at the Public Archives of New Brunswick, RG 3, RS 557/B. Microfilm F-8873.

¹⁷¹ Copy on file at the Public Archives of New Brunswick, RG 3, RS 557/B. Microfilm F-8873.

¹⁷² W.D. Hamilton and W.A. Spray, Source Materials Relating to the New Brunswick Indian, p. 117.

Provincial Secretary Saunders.¹⁷³ He began by stating that little had done under the act to rid the reserves of white squatters, and there was little hope that anything would be done. Since no squatter could be ejected, there was no reason for him to legalize his position. "The Squatters are dissatisfied, reckless and troublesome, the Indians are not much better, and matters will thus continue until a settlement of existing difficulties takes place." Thus, no money had been collected to create an Indian fund.

Perley recommended that the 1844 legislation be rescinded. He wrote:

From a careful consideration of the whole subject, I have arrived at the conclusion that a full and final settlement of all the difficulties which embarrass the affairs of the Indians can only be effected by entering into negotiation with the different tribes to relinquish all the Reserves in the Province, except such of them, or such portions, as they now actually occupy, or other portions they might wish to retain for future occupation, and in lieu of the land to be given up, to grant the Indians an annuity, as has been done in Canada, in proportion to the extent and value of the land surrendered.

He believed that through the granting of an annuity, a guaranteed fund would be available "for the improvement of the moral, social and physical conditions of the Indians," with money available to entice them into "such measures as would lead to their permanent settlement on the locations they may select." These suggestions were not acted upon by the New Brunswick government.

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Copy on file at the Provincial Archives of New Brunswick, RG 3, RS 557/A. Microfilm F-8873. A copy is also reprinted in W.A. Hamilton and W.A. Spray, Source Material Relating to the New Brunswick Indian, p. 119-120.

In the fall of 1846, the Miramichi River Indian Chiefs, led by Barnaby Julian of the Red Bank Reserve, attempted to have all the Indian lands on the North West Miramichi brought under their personal control. This ploy to block the rest of the Band members from benefiting from the lands brought a stinging criticism from Moses Perley. The Chiefs had apparently petitioned the provincial government for this control, and in October 1846 Barnaby Julian's son, Bernard, met with Moses Perley at the government's request. In a report to Provincial Secretary Saunders, dated 27 October 1846, Perley wrote:¹⁷⁴

Bernard Julien is authorized by the Chiefs of the Micmac Indians to apply to the Executive [Council] for an order to place the Indian Reserves on the North West Miramichi under the Sole control of the Chiefs in order as they allege to prevent other Indians from trespassing thereon. Bernard Julien is also anxious to prevent certain Indians who have applied for land at the Eel Ground from obtaining such lands.¹⁷⁵

This attempt on the part of the Chiefs to obtain the entire control of the lands mentioned, evidently for their individual benefit, is really monstrous, and in order to prevent this, and put an end to the litigation which has arisen in Northumberland from the unsettled state of these Reserves, I would recommend that the licenses to the Julien Tribes on the North West and Little South West Miramichi should at once be cancelled by Proclamation. I had the honor of recommending this measure last year, and that recommendation was approved and urged by the Crown Officers to whom it was referred. The adoption of this measure now, would lead to a Settlement of the vexed question of Indian Affairs generally, which it is highly desirable should be brought to a speedy close, as well for the sake of the Indians, as for the interest of the Province generally.

¹⁷⁴ Copy on file at the New Brunswick Museum, NBHS Papers, Folder 6, No. 9; reprinted in W.D. Hamilton and W.A. Spray, Source Materials Relating to the New Brunswick Indian, p. 121.

¹⁷⁵ See letter from Surveyor General Thomas Baillie to Lieutenant Governor Colebrooke, 23 October 1846; copy on file at the Public Archives of New Brunswick, RG 1, RS 345/J14. Microfilm F-8872.

The request by the Chiefs was not granted, but neither was Perley's request for a Proclamation revoking the Licenses of Occupation. Instead, under pressure from the House of Assembly,¹⁷⁶ the government decided to start auctioning off the Indian lands, beginning with the surveyed lots at Eel Ground and at Indian Point. This sale, advertised in the Royal Gazette of 16 June 1847, took place on 18 August 1847.¹⁷⁷

Prior to the sale, Surveyor General Thomas Baillie assessed the needs of the Miramichi Indians, based on information received from Indian Land Commissioner William Salter. In two reports, one dated 6 May 1847¹⁷⁸ and the other dated 10 May 1847,¹⁷⁹ Baillie wrote that the Eel Ground Indians only needed 606 of their 3,033 acres; those at Indian Point only needed 115 of their 750 acres; those at Red Bank only needed 1,400 of their 10,000 acres; and those at Burnt Church should be given all their 1,640 acres but should be allowed only 535 of the 9,035 acres at Tabusintac. He also noted that the forty acres on the South West Miramichi River above the Renous River [Renous Indian Reserve No. 12] "should be held as a camping ground."

¹⁷⁶ See "Extract from Report of Committee of the house of Assembly, made 12th April, 1847"; copy on file at the Public Archives of New Brunswick, RG 3, RS 557/A. Microfilm F-8873.

¹⁷⁷ A copy of this and other advertisements in the Royal Gazette concerning Indian land sales on the Miramichi are on file at the Provincial Archives of New Brunswick, RG 1, RS 345/J19. Microfilm F-8872.

¹⁷⁸ Copy on file at the Public Archives of New Brunswick, RG 1, RS 345/J21. Microfilm F-8872. A copy is also on file in RG 2, RS 578, #430. Microfilm F-8873.

¹⁷⁹ Copy on file at the Public Archives of New Brunswick, RG 10, RS 105. Microfilm F-8875.

In September 1847, Deputy Surveyor Sadler completed his 1845 survey of the Red Bank Reserve. This included the North side of the Little South West Miramichi and several of the islands in the river [known today as Red Bank Indian Reserve No. 7].¹⁸⁰ The plan shows that twenty-five lots were occupied by non-Indian residents, one lot was vacant, and one of the surveyed lots was occupied by Bernard Julian. According to a notation on the plan, the Executive Council ordered on 15 October 1847 that the island at the mouth of the Little South West Miramichi [today known as Indian Island], including that part occupied by a non-Indian and designated by Surveyor Sadler as Lot No. 27, continue to be reserved for the Indians.¹⁸¹ The remaining lots occupied by non-Indians, on both sides of the river, were to be put up for auction.

An advertisement was placed in the Royal Gazette by Surveyor General Thomas Baillie offering fifty-one lots totalling 6,000 acres on the Red Bank Reserve for auction. Reaction to the proposed sale by the Indian Chiefs of the Miramichi River was immediate. On 1 October 1847, a petition was sent to Lieutenant Governor Colebrooke stating that Nicholas Julian, "Chief of Eel ground and all his Indians," John Ginnish, "Chief of Burnt Church Point and all Indians of that place," and Barnaby Julian, "Chief of Red

¹⁸⁰ See survey plan and field notes titled "Parish of North Esk. County of Northumberland. Plan and Survey of part of the Tract of Land Reserved for Julian Tribe of Indians situate on the North Side of the Little South West, a branch of the North West Branch of Miramichi River"; copy on file at the Department of Natural Resources, Crown Lands (Surveys), Fredericton. Plan 14/31. Copy also on file at Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources Canada, Ottawa. Field Book F.B. 31898. See also survey plans 4847, also on file at Energy, Mines and Resources Canada, Ottawa.

¹⁸¹ See also note accompanying petition from Chief Barnaby Julian regarding fishing rights on the Little South West Miramichi; copy on file at the Public Archives of New Brunswick, RG 10, RS 105, file 2, letter 37. Microfilm F- 8875.

Bank," all opposed the Red Bank sale. The petition reads:¹⁸²

That We Barnaby Julian and Tribe have made extensive clearances on Little Southwest [Red Bank].

That the allotment was given to his Grandfather John Julian (for his loyalty and services to the British Crown. That all the Julian family have unequivocally remained faithful and loyal. That Barnaby Julian in leasing part of the allotment has promoted the settlement and the tenants in most cases are perfectly satisfied to [?] the Same as they covenanted with Barnaby Julian. viz. That Barnaby Julian and those of his Tribe and family claim the Rights and privileges of other British Subjects namely the right of possession.

The petition concludes by stating that the three principal Indian Chiefs of the Miramichi believe the government should leave the reserve to the Julians "as it was given to them by His Majesty King George the Third as they are Aborigines of this Land and Born on this Ground."

Many of the white settlers on the reserve also opposed the auction. In a petition to the Lieutenant Governor, thirty-two claimed that their lots had been appraised too high, and that they had already paid considerable sums to the Julians.¹⁸³

In January 1848, the Indians again petitioned the Lieutenant Governor. On 19 January, the Burnt Church Reserve Indians pleaded "that you the Representative of their Great [Majesty] the Queen will never consent to break their location or abridge their privileges in any manner whatever."¹⁸⁴ Twelve days later, on 31 January, Barnaby Julian and twenty-three other "heirs & descendants of John Julian" petitioned "to hold said land as before granted

¹⁸² Copy on file at the Public Archives of New Brunswick, RG 10, RS 108 (Land Petitions). Microfilm F-4255.

¹⁸³ B. Dewar, "Red Bank Indian Reserves Nos. 4 and 7," p. 14.

¹⁸⁴ Copy on file at the Public Archives of New Brunswick, RG 10, RS 105. Microfilm F-8875.

with all privileges and immunity..." In return, they promised that they "will not ask any help or support from government but live and cultivate our lands as loyal and dutiful subjects."¹⁸⁵

The petitions did not stop the sale of the Indian reserves on the Miramichi, but they did delay implementation of the government's sales plan. However, in October 1848, the Commissioners for Colonial Lands, in London, concurred with the new Lieutenant Governor, Sir Edmund Head, that all the unoccupied Indian lands should be sold.¹⁸⁶ New sales regulations were issued in July 1849 and the sales proceeded.

Also in September 1847, Deputy Surveyor Sadler surveyed the Big Hole Tract Indian Reserve. Apparently eight non-Indians were then living on the reserve, and Sadler surveyed their lots.¹⁸⁷ [At a later date, the names of other non-Indians who had purchased lots on the reserve were added to the survey plan.] The property allotted to Pierre Julian opposite the Big Hole Tract at the mouth of the Big Sevogle River was designated by Sadler as now belonging to Henry Oldfield

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On 12 September 1849, an auction sale of fifty-one Red Bank Reserve lots and seven Big Hole Tract Reserve lots was held at Newcastle. Of the Red Bank lots, only eighteen were purchased at this sale. On 30 January 1850, another auction sale was held at Newcastle but only eight more lots were sold. Of these twenty-six lots sold,

¹⁸⁵ Copy of petition on file at the Public Archives of New Brunswick, RG 10, RS 105. Microfilm F-8875.

¹⁸⁶ W.D. Hamilton, The Julian Tribe, p. 29.

¹⁸⁷ See survey plan 4801 on file at the Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources Canada, Ottawa.

several were bought on instalment and never paid for. Some of the white settlers on the reserves abandoned their claims rather than pay again for land they had previously purchased from the Julians. Most, however, simply remained without purchasing the land from the government, and no action was taken or even contemplated by provincial authorities.¹⁸⁸ Of the Big Hole Tract lots, only five were sold prior to Confederation.¹⁸⁹

Moses Perley had warned the New Brunswick government that just such a predicament would evolve, to the detriment of the Indians. In his last bid to influence policy, Perley wrote to the outgoing Lieutenant Governor Colebrooke on 3 April 1848.¹⁹⁰ Writing, as he claimed, "[o]n behalf of the Indians of New Brunswick," he argued that as long as the emphasis remained on selling Indian lands to accelerate white settlement, no worthwhile amounts of money would be raised.

The primary and ostensible object of the Legislature and the government was to raise a fund from the sales of Indian land, out of which permanent provision could be made for the Indians. But while immense tracts of land are at the disposal of the Crown, to be sold on credit, at a very low price, with the view of promoting the settlement of the country, and not with the intention of raising a revenue, the Indian lands cannot be sold advantageously. If, under such circumstances, sales of the Indian reserves are now made, the Indians will be deprived of their lands without the slightest benefit, and nothing will remain, either for the improvement of their present condition, or as a provision for the future.

¹⁸⁸ B. Dewar, "Red Bank Indian Reserves Nos. 4 and 7," p. 15-17; and W.D. Hamilton, The Julian Tribe, p. 29-31.

¹⁸⁹ B. Dewar, "Big Hole Tract Indian Reserve No. 8, Northumberland County, New Brunswick"; copy on file at the Lands Directorate, Lands, Revenues and Trusts, DIAND, Ottawa. Page 5.

¹⁹⁰ Copy of letter on file at the Provincial Archives of New Brunswick, RG 3, RS 557/A. Microfilm F-8874. See also another version of this letter in RG 1, RS 345/J22. Microfilm F-8872.

He again argued that the government should either lease the lands on a long-term basis, or legislate an annuity for the Indians as compensation for the low prices realized from the sales.

Perley's government career as spokesperson for New Brunswick Indians came to an end in 1848. Lieutenant Governor Head informed the Colonial Office in London that Perley would no longer be employed by the government in Indian affairs. Head charged that Perley had exceeded his office by publicly criticizing the government's Indian policy.¹⁹¹

Meanwhile, the land situation on the various reserves remained in a flux. Squatters occupied some land without paying any money; some whites had bought auctioned land but had not made all the payments; some whites claimed that they owned land bought directly from the Julians; and some whites owned land that had been purchased from the government. Shortly after Confederation, the provincial government was relieved to simply turn its records and account books over to the federal government. The Department of Indian Affairs and its successors grappled with the problem until the 1970s when the last of the whites living on reserve lands were bought out.

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Overseers of Fisheries had been appointed on the Miramichi River as early as 1795, and their job was to enforce the regulations enacted by the county magistrates. Some of the early English-

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L.F.S. Upton, "Perley, Moses," The Canadian Encyclopedia, p. 629. See also letter from J.S. Saunders to M.H. Perley, 8 July 1848, reprinted in W.D. Hamilton and W.A. Spray, Source Material Relating to the New Brunswick Indian, p. 125.

speaking settlers on the river had depended on the fishery for their livelihood, and, as was discussed above, men such as William Davidson, Duffy Gillis and others thought nothing of stretching their nets as far across the river as possible to trap the upward migration of fish. In March 1840, the Northumberland magistrates attempted to stop this destructive practice on the upper reaches of the river. They ordered:¹⁹²

No net or seine be allowed to be swept drawn or used for the purpose of catching or taking fish in any part of the River Little South West or any Branch thereof above red bank point (so called) and that no net be set in any part of the said little south west or its branches shall extend more than one third part across such stream or branch.

The order, however, was not always obeyed. Eight years later, on 21 June 1848, Chief Barnaby Julian of the Red Bank Reserve petitioned the Lieutenant Governor, Sir Edmund Head, as follows:¹⁹³

...a allotment was granted to our fathers by King George third on the mouth of the [Little South West] river as a reserve for Indian fishery. Now there are persons from other parts on the ground with drag nets & seines destroying the fish on the spawning ground, so that we are excluded from the privilege allowed us by our most gracious Sovereign.

The reference to "persons from other parts on the ground," according to a notation on a piece of paper now accompanying the petition, was to Eleslia [or Elisha] Godfrey who occupied part of an island, designated as Lot No. 27 by Deputy Surveyor David Sadler, in the mouth of the Little South West Miramichi [Indian Island]. On 15 October 1847, the Executive Council had ordered that this lot "not be sold but to continue to be reserved for the Indians." [See above, page 88.] Apparently, Godfrey had not vacated

¹⁹² Quoted in Doreen Menzies Arbuckle, The North West Miramichi: A History of the Locality... Ottawa: Printed by Westboro Printers Ltd., 1978. Page 46-47.

¹⁹³ Copy of petition on file at the Public Archives of New Brunswick, RG 10, RS 105, File 2, letter 37. Microfilm F-8875.

the island and continued to use it as a base for his fishing operations.

The Miramichi Indians, however, were not above selling what they then perceived were their fishing rights, especially at a time when poverty and destitution were rampant in their communities. In 1843, for example, the Burnt Church Indians leased to William Loggie "all the privelidge [sic] of fishing in front of the indian land from their Easterly line to their West line bounded by said Wm. Loggie's lot..."¹⁹⁴ The lease was for a term of five years, for which Loggie paid an annual rent of £10, half in cash and half in goods. The lease gave Loggie the option to renew the contract for another five years if he wished.

In 1892, the Red Bank Band, through the Department of Indian Affairs, likewise entered into a contract with a white entrepreneur, leasing to David R.C. Brown the exclusive right to establish a fishing station for five years at Big Hole Tract. The rental payment was for \$150 per year.¹⁹⁵

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Following Confederation, fishing on the Miramichi River was thought by many to fall exclusively under federal jurisdiction, administered by the Department of Marine and Fisheries. W.H. Venning, the Inspector of Fisheries for New Brunswick, optimistically reported in 1868 that now fishing could only improve on the river, especially with the introduction of the new Fisheries Act that year. However, there were still problems. In his annual

¹⁹⁴ Copy of lease on file at the Public Archives of New Brunswick, RG 3, RS 557/A. Microfilm F-8873.

¹⁹⁵ See Order in Council 1491 of 25 May 1892; copy on file at the National Archives of Canada, RG 2/1, 25 May 1892.

report to the Minister, Venning wrote:¹⁹⁶

Considering the very few salmon that now frequent the Tabusintac, the Big and Little Bartibog and Burnt Church Rivers, and the persistent poaching out of season with net and spear, that bids fair to exterminate these and the few salmon which still resort to the Big Sevogle, on the North-west branch, and on the Renous River on the South-west, I would respectfully urge that all these rivers and their tributary streams be set apart for three years, under Section 15 of the Fisheries Act, for the natural propagation of the species. This measure is absolutely necessary to prevent these once fine salmon rivers from being entirely destroyed, and if adopted will, I have no doubt, effectually save them as prolific nurseries for the main river.

An Order in Council was issued setting apart the Tabusintac, Big and Little Bartibog, Burnt Church, Big Sevogle and Renous Rivers for natural propagation.¹⁹⁷ The Department of Marine and Fisheries also decided in 1867 to support the introduction of a hatchery on the Miramichi to artificially increase the hatching of salmon on the river. However, this private-enterprise operation caused considerable consternation among many residents along the Miramichi, who at one point apparently threatened to destroy the concern. According to Inspector Venning:¹⁹⁸

An establishment for the artificial hatching of salmon was last year erected by Messrs. Stone and Goodfellow at North Esk on the northwest branch of the Miramichi, and permission to take spawn and milt from the parent fish, was granted them on condition that one half of the young produced should be turned alive and healthy into the

¹⁹⁶ "Report of W.H. Venning, Esquire, Inspector of Fisheries, New Brunswick & Nova Scotia for 1868," in Annual Report of the Department of Marine and Fisheries, for the year 1868. Ottawa: Printed by Hunter, Rose & Co., 1869. Page 19.

¹⁹⁷ See "Report of W.H. Venning, Esq., Inspector of Fisheries, New Brunswick and Nova Scotia, for 1869," in Annual Report of the department of Marine and Fisheries, for the year ending 30th June, 1869. Ottawa: I.B. Taylor, 1870. Page 77.

¹⁹⁸ See "Report of W.H. Venning, Esquire, Inspector of Fisheries, New Brunswick & Nova Scotia for 1868," p. 19.

river, the other half to be their property. It is a matter of great regret that the high-handed proceedings, and obstinate persistence in disobedience to the directions of the fishery officer, of the local partner, Mr. Goodfellow, raised a strong prejudice among the inhabitants, and very seriously interfered with the success of the experiment. Instead of being guided by his written instructions, this gentleman undertook to set the overseer at defiance, and to conduct his operations in a very irregular manner. The consequences were likely to be serious - for those interested in the fisheries of the river, threatened the demolition of the premises, and I was obliged to direct the overseer to enforce the provisions of the Fisheries Act, which suspended operations at the very time most favorable for procuring milt and ova.

Although Venning shut down the operation, he recommended that the Department of Marine and Fisheries establish their own hatchery on the river. This they did in the early 1870s at the mouth of Stewart Brook, about six miles West of Newcastle. By the end of the decade, this hatchery was releasing 600,000 young salmon annually into the various streams.¹⁹⁹

But another problem, besides overfishing and poaching, that was to negate much of the enhancement program in the nineteenth century was pollution. The most serious cause of water pollution during this period in New Brunswick was sawdust. As one commentator has written:²⁰⁰

Through most of the nineteenth century, government officials carried on a continuing struggle to clear the waterways and save fishstocks. With alternating kicks and caresses, they moved the millowners to dispose of their edgings and wastes. But sawdust was a more difficult problem. Of all the refuse of the sawmills, sawdust was the most troublesome to destroy. It was also the most dangerous to living things. Much like the toxic chemicals of today, sawdust was the stuff of death. Where

¹⁹⁹ Doreen Menzies Arbuckle, The North West Miramichi: A History of the Locality..., p. 50.

²⁰⁰ Gilbert Allardyce, "The Vexed Question of Sawdust': River Pollution in Nineteenth Century New Brunswick," Dalhousie Review, Volume LII, Page 177-178.

it collected, the process of nature stopped.

In 1871, the Department of Marine and Fisheries appointed a Commission to study the effects of sawdust pollution on hindering the navigability of waterways. The Honourable William Muirhead of Miramichi submitted a paper to the Commission explaining its effects on that river. A precis of his submission was included in the Commission's report:²⁰¹

That some of the steam mills have been in the habit, for years, of depositing, and still continue to deposit, a greater part of the saw-dust made by them in the River, as well as bark, slabs, and edgings...

That all the water-mills on the main river, as well as on its branches, deposit the most of their refuse matter in the streams, which has had the effect of filling up all small harbours, curves and creeks on the river, which is easily perceived by comparing them with what they were like a few years ago.

That at one time the bed of the river, or at least along the shores and creeks, was composed of sand and gravel, but now is chiefly refuse matter from sawdust.

Muirhead went on to explain how this sawdust pollution destroyed the fish habitat of the Miramichi River, but the Commission did not print this portion of his submission. ["...[A]s this subject is not embraced within our commission we do feel called upon to take any further notice of it," they wrote.]

Muirhead concluded by stating that if not attended to in time, the sawdust problem "will destroy our fisheries altogether, as well as interfere seriously with the navigation of our rivers." He strongly recommended that mill owners caught polluting rivers be imprisoned.

In 1873, the federal government enacted legislation (36 Victoria,

²⁰¹ "Report on the Commission Appointed to Enquire into the Condition of Navigable Streams," in Annual Report of the Department of Marine and Fisheries for the Year Ending the 30th June, 1872. Ottawa: I.B. Taylor, 1873. Page 11-12.

Chapter 65) outlawing the dumping of sawdust in navigable rivers. In 1886, another law was enacted (49 Victoria, Chapter 36) that disallowed polluting a navigable river or other river "which flows into any navigable water..."

Pollution, however, was to continue to plague the Miramichi River despite the legislation. In 1897, for example, Peter Mitchell, the first Minister of Marine and Fisheries, wrote to the sitting Minister, Sir Lewis H. Davis, complaining that two pulp manufacturing mills at Chatham, on the Miramichi, were apparently dumping toxic waste into the river, destroying the fishing above that point. Two years later, the chemicals were still being dumped.²⁰²

The Indians of the Miramichi were among those who were affected by the decline in the fish stocks. In 1887, for example, the Indian Superintendent for the North Eastern Superintendency, Charles Sargeant, wrote in his annual report to the Superintendent General of Indian Affairs that the Eel Ground inhabitants earned a considerable portion of their winter income from fishing for bass:²⁰³

They work out a good deal, and in the winter season realize considerable by the fishing of bass, which they catch in large scoop-nets at night, and for which they get from 8 to 12 cents per pound from collectors who buy them on the ice. The bass are sent frozen to the American markets and there sold at a high price.

²⁰² See correspondence on file at the National Archives of Canada, RG 23, Volume 319, File 2662. Microfilm T-4004.

²⁰³ Annual Report of the Department of Indian Affairs for the Year Ended 31st December, 1887. Ottawa: Printed by Maclean, Roger & Co., 1888. Page 36.

Two years later, in November 1889, Sargeant reported to the Superintendent General the decline of this source of income:²⁰⁴

The disappearance of bass has hurt these Indians very much, as bass fishing was their great means of support in the winter season.

By 1894, however, bass were again being caught in the Miramichi River. In July of that year, Indian Agent William D. Carter informed the Superintendent General that some Indians at Eel Ground were again engaged in bass fishing.²⁰⁵ However, pollution and overfishing had seriously depleted the bass stocks in this river.

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Immediately following Confederation, the Department of Marine and Fisheries assumed exclusive control over the fishery on all the Miramichi River. Sixteen years later, however, the Judicial Committee of the Privy Council, then Canada's highest court of law, ruled that the inland fishery was under the jurisdiction of the provincial government. One result of this judicial decision was that New Brunswick decided thereafter to withhold riparian rights.

This battle over who controlled the fishery was the result of a decision by two men to challenge the power of the new federal government. James Steadman and Edgar Hanson purposely put themselves in a position where they would be charged under the Fisheries Act. They saw an overlap in jurisdiction between the two levels of government, and believed the federal government had overstepped their bounds.

²⁰⁴ Annual Report of the Department of Indian Affairs for the Year Ended 31st December 1889. Ottawa: Printed by Brown Chamberlain, 1890. Page 174.

²⁰⁵ Annual Report of the Department of Indian Affairs for the Year Ended 30th June 1894. Ottawa: Printed by S.E. Dawson, 1895. Page 35.

The overlap came in the area of riparian rights. From the time of the creation of New Brunswick in 1784 until 1883, grants of land made by the province had carried with them riparian rights on any waters involved. One large holder of such land was the New Brunswick and Nova Scotia Land Company, which had been granted land and water frontage on the Southwest Miramichi.

When Canada was created in 1867, the first Minister of Marine and Fisheries was Peter Mitchell, born at Newcastle on the Miramichi. He was an aggressive minister, and a strong supporter of federal jurisdiction, a philosophy he held even as premier of New Brunswick in 1866. James Steadman, on the other hand, was an anti-Confederationist and a supporter of provincial rights.

Immediately after Confederation, Mitchell granted a ten-year lease for commercial fishing on the Southwest Miramichi from its source to a point a few miles above Boiestown to Christian A. Robinson of Saint John. The lease reaped the federal government a revenue of \$50 per year.

Steadman realized that the riparian rights included in the provincial grants to the New Brunswick and Nova Scotia Land Company conflicted with the lease issued by the Department of Marine and Fisheries to Robinson. He went to the land company and received permission from them to fish opposite their property with a rod and line. With him on this fishing expedition was his friend, Edgar Hanson.

After catching several salmon and grilse, Steadman and Hanson were ordered off the river by one of Robinson's wardens. The two men refused to leave, and the warden seized their catch and tackle. They were charged with violating the Fisheries Act, convicted, and fined. Steadman brought counter charges against the warden for

alleged assault and got a conviction with a fine of \$100.

Robinson appealed the conviction against the warden. In 1876, the majority judgement of the Supreme Court of New Brunswick agreed that "the defendants had broken and entered a fishing station and had caught, hooked and carried away divers quantities of salmon."²⁰⁶ The judgement agreed that the federal government had the power to make the lease with Robinson.

A dissenting opinion was that of Mr. Justice Charles Fisher. He argued:²⁰⁷

I have arrived at the conclusion that it was not the intention of the British North America Act of 1867 to give the Parliament of Canada any greater power than had been previously exercised by the separate Legislatures of the Provinces - that is, the general powers for the regulation and protection of the fisheries; that any lease granted by the minister of marine and fisheries in fresh water rivers which are not the property of the Dominion is illegal.

When Steadman and Hanson's appeal reached the Supreme Court in 1879, the judges adopted the line of reasoning of Justice Fisher. And when the case was finally appealed to the Judicial Committee of the Privy Council in London in 1883, they too sided with Steadman and Hanson, arguing along the same lines as Justice Fisher.²⁰⁸

²⁰⁶ Quoted in Fred H. Phillips, "Miramichi Splash Heard in London," The Atlantic Advocate, Volume 67, No. 1 (September 1976): 28.

²⁰⁷ Quoted in Fred H. Phillips, "Miramichi Splash Heard in London," p. 29.

²⁰⁸ Although the Judicial Committee of the Privy Council ruled in 1883 that inland waters in the province were under the proprietary jurisdiction of the New Brunswick government, the Department of Fisheries and Oceans maintains jurisdiction to manage the inland fishery for conservation purposes.

As a result of the Privy Council decision, the New Brunswick government enacted legislation the following year to maintain future riparian rights under provincial control. Under An Act to provide for the Survey, Reservation and Protection of Lumber Lands, it was decreed:²⁰⁹

In all grants hereafter to be made of Crown lands adjacent to the following Rivers and Streams: - Nepisiguit River, Jacquet River, Upsalquitch River, Quatawamkedgwick River, Restigouche River, Charloe River, Patapedia River, Middle River, Little River, Tattagouche River, Big Tracadie River, Tabucintac River, Dungarvon River, Renous River, Northwest Miramichi River and Branches, Kouchibouguac River, Kouchibouguacis River, Richibucto River, Green River and Branches, Tobique River and Branches, and all such other rivers, lakes and streams as the Governor in Council may hereafter declare by Proclamation in the Royal gazette, -- there shall be reserved to the Crown a strip or portion of land, four rods in width from the banks of the streams or lakes on each side thereof, and the riparian ownership of the said streams shall remain wholly vested in the Crown; provided always, that the owner or occupier of any lot abutting upon said strip of land shall have a right of way across the same to and from the said river or stream.

Four rods mentioned in the legislation is equal to one chain or sixty-six feet. In 1927, the provincial government increased the reservation to three chains or 198 feet.²¹⁰ In 1973, the reservation was designated as being sixty metres from the banks of any stream or lake.²¹¹

²⁰⁹ "An Act to provide for the Survey, Reservation and Protection of Lumber Lands," S.N.B. 1884, c. 7, s.4; quoted in Richard H. Bartlett, Aboriginal Water Rights in Canada: A Study of Aboriginal Title to Water and Indian Water Rights. Calgary: Canadian Institute of Resources Law, University of Calgary, 1986. Page 144.

²¹⁰ "The Crown Lands Act," R.S.N.B. 1927, c. 30, s. 62; quoted in Richard H. Bartlett, Aboriginal Water Rights in Canada..., p. 144.

²¹¹ "Crown Lands Act," R.S.N.B. 1973, c. C-38, s. 61(1); quoted in Richard H. Bartlett, Aboriginal Water Rights in Canada..., p. 145.

The attempt by the province in 1884 to maintain a riparian interest, according to one source, had little bearing on the riparian rights of most Indian reserves in New Brunswick. According to Richard Bartlett:²¹²

The late date of the [riparian] reservation, after almost all the [Indian] reserves had been set apart, suggests that the reservation is of little significance in New Brunswick. It would appear that the only reserves with respect to which it might apply are the additions to Richibucto and to French Village, and the reserve at Oromocto. Those reserves were established by private purchase by the federal government. If the vendor's title was not subject to such reservation, then nor would be the Indians'.

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Under Section 91 (24) of the British North America Act of 1867, "Indians and lands reserved for Indians" fell under the jurisdiction of the federal government. The Secretary of State requested of the New Brunswick government a list of Indian reserves in the province to be transferred, and on 2 December 1867 a schedule of "Indian Lands in New Brunswick" was compiled by the provincial Crown Lands Department.²¹³ The schedule noted that a total of 58,652 acres had been set aside for the Indians in all of New Brunswick, of which 3,235.5 acres "have been sold to 'White' settlers, but are not yet granted." In Northumberland County, the following reserves had been set aside, according to the schedule:

Situation	Acres
Both Sides Little S. West River [Red Bank]	8124

²¹² Richard H. Bartlett, Aboriginal Water Rights in Canada..., p. 145.

²¹³ Copy on file at the Public Archives of New Brunswick, RG 10, RS 105. Microfilm F-8875.

At Oxford Cove, North West River [Eel Ground]	2682
At the Big Hole, North West River	8188
Opposite Red Bank, North West River [Indian Point]	135
Burnt Church Point	240
North of Burnt Church River	1400
On Both Sides Tabucintac River	8308
South West Miramichi above Renous	40

It should be noted the difference in acreage between this schedule and the Licences of Occupation and Minutes of Council issued earlier by the provincial government for several of the reserves. For example, the Julian Tribe received a Licence of Occupation in 1789 for Eel Ground amounting to 3,033 acres; a Minute of Council in 1808 confirmed this Licence. A Licence of Occupation was supposedly issued in 1802 setting aside 9,035 acres on the Tabucintac River; this too was confirmed in 1808. In 1805, a tract believed to comprise 10,000 acres was set aside at Red Bank by the Surveyor General for Francis Julian and his Tribe; the reserve was confirmed by a Minute of Council in 1808. And finally, a Licence of Occupation was issued in 1805 which supposedly included an 8,700 acre block at Big Hole and a 750 acre tract at Indian Point; these too were confirmed by the Minute of Council of 1808.

No Licence of Occupation or Minute of Council was ever issued for a forty-acre reserve on the Southwest Miramichi above Renous River. However, the province included this campground, today known as Renous Indian Reserve No. 12, on their transfer schedule.²¹⁴

²¹⁴ Although the Renous Reserve was originally thought to contain forty acres, a 1964 survey indicated that it was only 24.6 acres. This survey, by W.D. McLellan, was the first legal survey of the reserve. See copy of his survey plan, on file at Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources Canada, Ottawa. Plan No. 52301.

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The two principal Indian reserves on the Miramichi River, Red Bank and Eel Ground, both suffered from a lack of leadership for almost the remainder of the nineteenth century. At Red Bank, Barnaby Julian died in 1854, and no one apparently took his place for ten years. In 1864, Francis Barnaby Julian, Barnaby Julian's son, was proposed by Indian Commissioner William Salter to replace his father. He presumably took the job, although no commission can be found formally appointing him, for he was listed a Chief at the time of Confederation. Little else, including when he died, is known of him.²¹⁵

Francis Barnaby Julian had two sons, Sock Francis and Peter Francis. Sock Francis, who never used the name Julian but sometimes used the alias Francis Sock, succeed his father. He was Chief in 1877 when Indian Superintendent Charles Sargeant, in a letter dated 11 June 1877 to the Deputy Superintendent of Indian Affairs, wrote: "...he has made himself obnoxious to his own band, so much so that they have repeatedly urged me to try and have him displaced..."²¹⁶

²¹⁴(...continued)

The inhabitants of this reserve, totalling 101 in 1841 when Moses Perley visited, at one time had their own Chief, but were always closely linked to the Eel Ground Reserve. By 1860, the reserve had been abandoned by the Indians, who had apparently moved to Eel Ground. See B. Dewar, "Renous Indian Reserve No. 12, Northumberland County, N.B."; unpublished manuscript, copy on file at the Lands Directorate, Lands, Revenues and Trusts, DIAND, Ottawa.

²¹⁵ W.D. Hamilton, The Julian Tribe, p. 33.

²¹⁶ Copy of letter on file at the National Archives of Canada, RG 10, Volume 2003, File 7535. Microfilm C-11132.

Sargeant reported that he "persuaded them to be quiet for a while..."

Sock Francis was replaced as Chief by his brother, Peter Francis, sometime before the 1881 census. However, according to one source, Peter Francis was not recognized by most of the Band members.²¹⁷ He died in the winter of 1893-1894.

Meanwhile, at the Eel Ground Reserve, the position of Chief was confirmed by the Department of Indian Affairs to John N. Julian, the son of Chief Nicholas Julian, in 1871. He had held the position unofficially since his father's death around 1861. By 1877, there was a demand among a faction on the reserve to have John N. Julian removed as Chief. It was charged in a petition to the Department of Indian Affairs that he had "become quite feeble and partially blind and other wise incapable of holding the Chiefship any longer."²¹⁸ John N. Julian was not removed as Chief; he died in office in the spring of 1888. He was the last of the hereditary Chiefs of the Eel Ground Band.

Thomas Barnaby was the first elected Chief of Eel Ground, chosen by the Band on 26 July 1888. Although his mandate was for three years, the Department of Indian Affairs did not hold another election for the position until 1894. By then two opposing political factions had evolved on the reserve, one under Lemuel Renou which campaigned for the removal of Chief Thomas Barnaby, and the other under Peter N. Julian, son of former Chief John N. Julian, which supported Barnaby.

²¹⁷ W.D. Hamilton, The Julian Tribe, p. 33.

²¹⁸ Copy of petition on file at the National Archives of Canada, RG 10, Volume 2003, File 7535. Microfilm C-11132.

Relations between the two factions were strained in the months leading up to the election, as is evident from a letter written by Peter N. Julian to the Deputy Superintendent General of Indian Affairs on 27 March 1894.²¹⁹ In the letter, Julian accused Renou of wanting the Chieftainship:

[so] [t]hat the Lands which the Indians consider theirs be taken from the Whites who may occupy them. It is supposed that this is to be effected by force as it appears to be the only means at the disposal of the faction.

Julian accused Renou of stirring up the Band with accounts "...about the way in which they are robbed and cheated by the White people."

Although the Julian faction professed to support Thomas Barnaby, Peter N. Julian told the Deputy Superintendent that he felt "fully convinced that he [Peter N. Julian] is the proper person to be Chief of the Eel Ground Band... Many white people feel the same." He then listed his place in the lineal descent of the hereditary Julian Chiefs of the Band, apparently as his principal qualification for the job.

Despite the strained relations between the two factions, it is believed that Peter N. Julian and Lemuel Renou entered into a pact just prior to the April 1894 election.²²⁰ Peter N. Julian ran against Thomas Barnaby in the contest, with the support of Renou and his faction. When Julian won, he immediately appointed Renou as his second or sub-Chief.

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²¹⁹ Copy of the letter is on file at the National Archives of Canada, RG 10, Volume 2517, File 106,689. Microfilm C-11233.

²²⁰ W.D. Hamilton, The Julian Tribe, p. 38.

It was under the Chieftainship of Peter N. Julian that the Eel Ground Band began to demand a say over the land traditionally held by the Red Bank Band. In a master stroke of political intrigue, the Eel Ground Band during this period acquired ownership over half of the Big Hole Tract Reserve, formerly controlled exclusively by the Red Bank Indians.

The events leading to the division of the Big Hole Tract transpired early in the mandate of Peter N. Julian. They began with the Department of Indian Affairs trying to resolve the land ownership question on reserve land along the Miramichi River.

The status of the Indian lands leased by whites from the Julian families, especially at Indian Point, Big Hole Tract and Red Bank, were as perplexing to the federal government as they had been to the provincial government. To clarify the situation, the Department of Indian Affairs sent Indian Agent William D. Carter blank surrender forms on 30 August 1894, with instructions that he was to persuade the Red Bank Indians to surrender those lands which had long since passed out of the Indians' possession.²²¹

Peter N. Julian immediately reacted against this proposal. In a letter to the "Minister of Indian Affairs," dated 1 September 1894, he informed Ottawa that King George III had given the Red Bank lands to his ancestors, and "I will not allow my lands to be sold without my consent..."²²² He was told by Ottawa that the sale money

²²¹ Copy of the letter on file at the National Archives of Canada, RG 10, Volume 2522, File 107,222-2. Microfilm C-11233.

²²² Copy of letter on file at the National Archives of Canada, RG 10, Volume 2522, File 107,222-2. Microfilm C-11233.

would be "for the benefit of your band."²²³ The Red Bank Band also wrote Ottawa, protesting against the proposed surrender. They too were informed by Ottawa that funds from the sale would be "for the benefit of your band."²²⁴

The Red Bank Indians were, at this point, without a Chief, although a Band member named John Dominick [or Dominic] tried to act as their spokesman. The Department of Indian Affairs rejected his leadership claim, stating he did not have the support of the Band.²²⁵ He was also accused by the Department of instigating opposition within the Band to the surrender of the leased lands. However, the Band was united in their reaction to Peter N. Julian's interference in the business of their reserve. Ottawa was informed of this fact by Indian Agent Carter on 20 September 1894.²²⁶ As one source has stated:²²⁷

Carter took statements from several Indians and non-Indians concerning the historical relationship between the two bands, but the department was not about to acknowledge the autonomy of an unorganized little band of Indians who were objecting to going through the formality of surrendering land which they had lost sixty years previously.

²²³ See letter from Deputy Superintendent General to Peter Jullian [sic], dated 5 September 1894; copy on file at the National Archives of Canada, RG 10, Volume 2522, File 107,222-2. Microfilm C-11233.

²²⁴ See letter from Deputy Superintendent General, dated 8 September 1894; copy on file at the National Archives of Canada, Volume 2522, File 107,222-2. Microfilm C-11233.

²²⁵ This was apparently true, for when an election for Chief at Red Bank was finally held in 1896, only two votes were cast for Dominick, one being his own. See W.D. Hamilton, The Julian Tribe, p. 44.

²²⁶ Copy of Carter's letter is on file at the National Archives of Canada, RG 10, Volume 2522, File 107,222-2. Microfilm C-11233.

²²⁷ W.D. Hamilton, The Julian Tribe, p. 39.

In mid-November 1894, Peter N. Julian and Lemuel Renou went to Ottawa to discuss land matters with the Department of Indian Affairs. The two Eel Ground Chiefs were willing to surrender the leased land on the Red Bank Reserves. The Deputy Superintendent General then informed Indian Agent Carter on 16 November that the Department was disposed to accept the Eel Ground Chiefs' historic claim to Big Hole Tract and Indian Point Reserves, especially since this Band had less per capita land than the Red Bank Band. [The Red Bank Band was estimated to have 115 acres per capita compared with eighty-eight acres per capita for the Eel Ground Band²²⁸]. Carter was told:

[The Chiefs'] claim that the Big Hole Reserve and the Indian Point Reserve properly belong to the Eel Ground Band and as evidence of their claim they produced a Licence of Occupation...dated the 5th day of March 1805... They make no claim to the lands occupied by the Red Bank Indians[,] and the Chief himself stated that he had no desire to interfere in their affairs and he is quite willing that they should be recognized as a separate Band.

Although technically correct in stating that the Licence of Occupation of 1805 gave to "John Julien for himself and the Micmac Tribe of Indians" the lands at Indian Point and Big Hole Tract, Chief Peter N. Julian must have known that from the days of Francis Julian, the Red Bank Julians had claimed and controlled the Big Hole Tract and Indian Point Reserves. As one commentator has

²²⁸ This calculation was based on the assumption that the Red Bank Reserve was approximately 6,100 acres. The Red Bank population was listed as 53. Eel Ground Reserve was estimated to be 3,785 acres. When the Big Hole Tract, estimated to be 8,660 acres, and the Indian Point Reserve, estimated to be 750 acres, were added to the Eel Ground Reserve, the total acreage was 13,195. The Eel Ground population was listed as 149. [The forty-acre Renous Reserve, which the Eel Ground Band also controlled, was not taken into consideration in the calculation.] See letter from Deputy Superintendent General to William Carter, 16 November 1894; copy on file at the National Archives of Canada, RG 10, Volume 2522, File 107,222-2. Microfilm C-11233.

stated:

What Peter really wanted for the Eel Ground Band was the huge Big Hole tract at Sevogle, so he laid claim to it and most of the other lands besides -- and then displayed a gentlemanly willingness to bargain some of these lands away. Whether Ottawa officials realized the shameless audacity of his ploy or not, they indicated an immediate interest in his proposition.

Indian Agent Carter's reaction to the proposal worked out in Ottawa was mixed. He called the decision to support Peter N. Julian's claim to the two disputed reserves "fair and equitable," but this was because he believed the Eel Ground Band to be 'land poor'. At the same time, though, he warned the Deputy Superintendent General on 21 November 1894 that "[t]he Red Bank band will no doubt feel very sore and do some vigorous 'kicking'."²²⁹

On 10 December 1894, forty-two male members of the Eel Ground Band signed a petition stating they were willing to surrender the leased lands at Big Hole and Indian Point to the government. Indian Agent Carter advised Ottawa on 15 December 1894 that before the surrender was officially taken, it should be submitted to a joint meeting of both the Red Bank and Eel Ground Bands.

Carter repeated his concern to his superiors regarding the right of the Red Bank Band to claim exclusive ownership of the Big Hole and Indian Point Reserves. On 13 March 1895, he informed Ottawa that upon inquiry and reflection he concluded that the Red Bank Band had always been considered separate from the Eel Ground Band, and that they alone were considered the owners of the two disputed reserves. He also recommended that the Red Bank Band be allowed to elect their own Chief, as had been requested again by John

²²⁹ Letter on file at the National Archives of Canada, RG 10, Volume 2522, File 107,222-2. Microfilm C-11233.

Dominick.²³⁰ However, Carter still believed that the policy to give control of the two reserves to Eel Ground was fair simply because this latter Band had less land per capita than the Red Bank Band.

On 18 March 1895, the Department of Indian Affairs sent Carter surrender documents and ordered him "to be good enough to obtain [the consent] from the Indians owning the Big Hole, Indian Point, and Red Bank Indian Reserves in accordance with the provisions of the 39th Section of the Indian Act."²³¹ That same day the Deputy Superintendent General sent him a separate letter concerning his recommendation that the Red Bank Band be allowed to elect a Chief. The letter reads:²³²

...the Department does not feel disposed at present to give effect to your recommendation; but as soon as the Indians consent to give a Surrender which has been asked for of the lands occupied by Whites on the Red Bank Reserve and when a proper apportionment of the other lands between the two Bands is completed, the question of recognizing the Red Bank Indians as a separate Band, and allowing them to have a chief of their own will be considered.

A similar letter was also sent to John Dominick that same day. When Dominick replied a week later that "I at present do not feel to come to consent to dispose any of these lands in that manner...",²³³ the Deputy Superintendent General responded that the election of

²³⁰ See letter from Carter to the Deputy Superintendent General, dated 13 March 1895; copy on file at the National Archives of Canada, RG 10, Volume 2603, File 121,698-2. Microfilm C-11247.

²³¹ Copy on file at the National Archives of Canada, RG 10, Volume 2522, File 107,222-2. Microfilm C-11233.

²³² Deputy Superintendent General to William Carter, 18 March 1895; copy on file at the national Archives of Canada, RG 10, Volume 2603, File 121,698-2. Microfilm C-11247.

²³³ John Dominick to Deputy Superintendent General, 25 March 1895; copy on file at the National Archives of Canada, RG 10, Volume 2603, File 121,698-2. Microfilm C-11247.

a Chief for his Band depended on "the land matters in which the Indians of Eel Ground and those of Red bank are jointly interested, are settled."²³⁴

Were the Department to take any steps to dispossess the white men, who for many years have been living on the lands referred to, of their holdings, the Indians would be put to very heavy expense and in the end the proceedings might result in failure. The Department has therefore, after a careful consideration of all the facts, arrived at the conclusion that it would be wise to allow the whitemen to remain unmolested, provided they pay for the lands they occupy; but before we can compel them to pay, we must have a surrender from a majority of the indians interested in the lands.

The Red Bank Band, he concluded, should "cheerfully give the surrender" so as not to give "endless trouble to the Department and entail serious loss on the Indians themselves." As one commentator has noted:²³⁵

This may not have seemed like blackmail in the context of the events of 1895, but it is difficult to see it otherwise in retrospect.

On 10 April 1895, Indian Agent Carter held a meeting at the Eel Ground Reserve to discuss the surrender. Male members over the age of twenty-one from both Bands were invited to attend. Of the some seventy eligible voters from both groups, only about thirty-five attended. Of these, only two were from the Red Bank Band.

According to Carter's report to the Deputy Superintendent General two days later, the two Red Bank men attended to "protest against the Eel Ground band having anything to do or say concerning the

²³⁴ Deputy Superintendent to John Dimick [sic], 3 April 1895; copy on file at the National Archives of Canada, RG 10, Volume 2603, File 121,698-2. Microfilm C-11247.

²³⁵ W.D. Hamilton, The Julian Tribe, p. 40.

Big Hole, Red Bank and Indian Point Reserves..."²³⁶ Immediately after lodging their complaint, the two Red Bank men left the assembly. Nevertheless, a vote was taken. Twenty-three signed in favour of a surrender, the remainder refused.

The surrender document, later published, begins as follows:²³⁷

Know all Men by these Presents, THAT WE, the undersigned Chief and Principal men of The Indians owning Big Hole, Indian Point and Red Bank Reserves resident on our Reserves aforesaid...

The document was signed by Peter N. Julian, Lemuel Renou and twenty-one Eel Ground members. It was witnessed by William Carter. The surrender was for nine lots on Red Bank Indian Reserve No. 4, seven lots on Red Bank Indian Reserve No. 7, thirteen lots at Big Hole Tract, and all but two lots at Indian Point Reserve.

On 12 April 1895, John Dominick wrote to Ottawa, informing the Department of Indian Affairs that "...my Band would not go to [Eel Ground] for a meeting then but if there be one hear [sic] held according to law every man will attend."²³⁸ This message was forwarded to Indian Agent Carter, who was instructed on 18 April 1895 to submit surrender documents to an assembly at Red Bank.

Almost two months later, on 6 June 1895, Carter went to Red Bank to negotiate a surrender. In his report filed two days later, he told the Deputy Superintendent General that "I had great difficulty

²³⁶ Copy of report on file at the National Archives of Canada, RG 10, Volume 2522, File 107,222-2. Microfilm C-11233.

²³⁷ Canada. Indian Treaties and Surrenders, Vol. III, From No. 281 to No. 483. Ottawa: Printed by C.H. Parmelee, 1912. Page 156-158.

²³⁸ Copy on file at the National Archives of Canada, RG 10, Volume 2522, File 107,222-2. Microfilm 11233.

in inducing these Indians to sign these documents..."²³⁹ There were nineteen eligible voters. Fourteen signed the surrender on the condition, Carter stated, "that the Big Hole Reserve was declared to belong to them and not to the Eel Ground Band." This proviso was included in the surrender document.

The Department of Indian Affairs was not pleased with the condition that the Red Bank Indians had stuck into the surrender. On 13 June 1895, the Deputy Superintendent General returned the surrender documents to Carter with the directive:²⁴⁰

that the emendation made therein be struck out and the Surrender re-acknowledged. You will observe that by the change made the very reverse of what the Department desired has been effected.

As before advised it was the intention of the Department to obtain a similar Surrender from both Bands and afterwards deal with the distribution or division of the Reserves according to the facts submitted.

On 2 July 1895, Indian Agent Carter re-submitted the surrender documents to Ottawa without the offending clause. The dates on the surrender documents had not been changed despite the re-acknowledgement. Like the Eel Ground documents, the Red Band surrender papers were later published.²⁴¹

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Once the surrender had been accepted, it became imperative on the Department of Indian Affairs to determine how to divide the

²³⁹ Copy of report on file at the National Archives of Canada, RG 10, Volume 2522, File 107,222-2. Microfilm C-11233.

²⁴⁰ Copy on file at the National Archives of Canada, RG 10, Volume 2522, File 107,222-2. Microfilm C-11233.

²⁴¹ Canada. Indian Treaties and Surrenders, p. 158-160.

disputed reserves. Money would soon be collected from the white leaseholders, and the bureaucrats in Ottawa had to decide how this revenue would be divided among the two Indian Bands. A search of documents both in Ottawa and in Fredericton was undertaken in 1895 to determine exactly who owned the reserves, but nothing substantive was found. Then on 11 March 1896, the Department of Indian Affairs called together the two Bands to finally decide the matter.

The Department of Indian Affairs was represented by George L. Chitty, their Inspector of Timber, and Indian Agent William Carter. Over fifty Indians from both Bands attended the meeting at the Eel Ground School House. Chitty ironically told the group that the Department of Indian Affairs "did not wish to compel them in any way in this matter," but he encouraged them to act "as brothers" to work out an amicable solution. But when both Bands again claimed exclusive ownership of the disputed reserves, Chitty imposed a solution on them.²⁴²

I then proposed as a settlement that the Big Hole Reserve should be divided between them by a line drawn from the "Big Hole" to the rear boundary of the Reserve parallel to the northern boundary, the northerly part to belong to the Red Bank Band and the southerly part to the Eel Ground Band.

He also "proposed" that the Indian Point Reserve should belong to the Red Bank Band. Chitty told Ottawa that after discussing these proposals, the Indians agreed to the solution.

On 29 June 1896, Order in Council 2133 was passed, confirming the division of the Big Hole Tract Reserve between the Red Bank and

²⁴² See Chitty's report to the Deputy Superintendent General, dated 28 March 1896; copy on file at the National Archives of Canada, RG 10, Volume 2522, File 107,222-2. Microfilm C-11233.

Eel Ground Bands, and the ownership of the Indian Point Reserve.²⁴³ Two years later, on 13, 14 and 15 December 1898, Deputy Surveyor Daniel McMillan established the permanent line of division between the northern and southern portion of the reserve.²⁴⁴

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Although all the reserves dealt with to this point in this report are in Northumberland County, one other reserve in neighbouring Gloucester County must now be taken into account. Pokemouche Indian Reserve No. 13, as it is known today, is relative to this report for two reasons. First, like the Tabusintac Reserve, Pokemouche now is under the control of the Burnt Church Band. Second, although not in Northumberland County, the Pokemouche River flows into the Gulf of St. Lawrence above Miramichi Bay.

The Pokemouche Reserve lies on the South side of the North branch of the Pokemouche River, roughly seven to ten miles upstream from the mouth. The first schedule of Indian lands for New Brunswick, compiled in 1838, listed the reserve as being 2,600 acres. Today, the reserve is listed as being 374 acres [151.4 hectares] in size.²⁴⁵

Until nearly the mid-nineteenth century, the Micmac Indians who frequented the Pokemouche River area were nomadic, maintaining a

²⁴³ Copy on file at the National Archives of Canada, RG 2/1, 29 June 1896.

²⁴⁴ Copy of survey plan on file at Surveys and Mapping, Legal Surveys Division, Energy, Mines and Resources Canada, Ottawa. Plan Nos. 4807 and 4802.

²⁴⁵ Canada. Schedule of Indian Bands, Reserves and Settlements... Ottawa: Indian Affairs and Northern Development, 1987. Page 7.

lifestyle of hunting and fishing that was very similar to their forefathers²⁴⁶. However, in 1810, Chief Jean Baptist Pomaville and sixteen other Indians had requested an allotment from the government for half a league of land on each side of the Waganchitch [or Waganchitzh] Creek to protect their eeling ground and ensure land for camping and logging. A 4,000 acre reserve lying on both sides of the river extending upstream for two miles at the site requested was granted by the Executive Council on 28 December 1810. However, eight months later, an area of 2,600 acres was surveyed on the South side of the North branch of the Pokemouche River only, extending about three miles along the river from Waganchitch Brook to Muddy Brook. It is speculated that the original Executive Order must have been revised before the survey was undertaken.

When Indian Commissioner Moses Perley visited the reserve on 10 September 1841, he reported that he was received "with much firing and great demonstrations of joy" by the 75 Indians then living at Pokemouche. He described their lifestyle as follows:²⁴⁷

The Micmacs here subsist during the summer season altogether by fishing and fowling; during the winter they obtain employment in the woods as lumbermen. They do not cultivate the soil, or live in houses, but wander about from place to place in pursuit of game, of which this part of the coast, being very thinly settled, affords great abundance and variety.

Some of the Micmacs here speak a little French, but very few of them speak any English, and from the want of intercourse with the white settlers they are but little acquainted with the manners and customs of civilized

²⁴⁶ Information on the Pokemouche Reserve is from B. Dewar, "Pokemouche Indian Reserve No. 13, Gloucester County, N.B." Unpublished manuscript; copy on file in the Lands Directorate, Lands, Revenues and Trusts, DIAND, Ottawa.

²⁴⁷ "Extract from Mr. Perley's Report on the Micmacs," in Journal of the House of Assembly of the Province of New Brunswick from the Nineteenth Day of January, to the Fourth Day of April..., p. c.

life. They adhere more closely to the ancient habits, forms and ceremonies of their forefathers, than any other of the Micmacs, and they gain their subsistence very nearly as their ancestors did before the settlement of the country.

The reserve was first surveyed by Deputy Surveyor Alex McNeil in October 1845. As this survey was undertaken after the passage of the 1844 legislation regarding the regulation and management [and disposal] of Indian lands, McNeil divided Pokemouche Reserve into thirty-three lots.²⁴⁸ In July 1847, county Indian Commissioner S.L. Bishop recommended that Lots 1 to 12 be reserved for the Indians, the remainder sold.

According to Moses Perley, who again met with the Pokemouche Indians in 1847, this Band had no desire to surrender a portion of their reserve. However, beginning in 1852, the provincial government began to advertise the sale of lots on the Pokemouche Reserve. By Confederation, twenty-eight lots had been sold.

Today, the reserve is uninhabited. There is no Pokemouche Band and the reserve is under the jurisdiction of the Burnt Church Band. In 1972, the reserve consisted of 680 acres, of which 180 had been surrendered for sale.²⁴⁹ Today, as stated, the reserve is only 374 acres in size.

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²⁴⁸ Copy of survey plan on file at Surveys and Mapping Branch, Legal Surveys Division, Energy, Mines and Resources Canada, Ottawa. Plan No. 4836.

²⁴⁹ Reported in B.Dewar, "Pokemouche Indian Reserve No. 13, Gloucester County, N.B.," p. 2.

SUMMARY

Based on historical documentation found to date, it would appear that the Miramichi River is navigable throughout most of its length. Canoes can navigate to the source of the Northwest branch and for forty to fifty miles above Newcastle on the Southwest branch. Large vessels can easily navigate to Newcastle and for about six miles up the Northwest branch.

The Miramichi is also a tidal river. Historical documents reveal that tidal influence has been evident opposite the Indian Point Indian Reserve No. 1 on the Northwest branch, and to the Ox Bow Meadow on the Little Southwest Miramichi, a tributary of the Northwest branch. These correspond to the locations chosen by the Department of Fisheries and Oceans for their administrative placing of the tidal boundaries.²⁵⁰

Only a general description of the head of tide on the Southwest branch of the Miramichi River has been found to date. This source indicates that tidal influence can be felt approximately forty miles above Miramichi Bay. However, the Department of Fisheries and Oceans places their administrative tidal boundary at Old Squaw Rock, above the Renous Indian Reserve No. 12.

Several rivers mentioned in this report are not tributaries of the Miramichi River, but flow into Miramichi Bay or the Gulf of St. Lawrence, North of Miramichi Bay. These too are affected by tidal influence. Burnt Church River is tidal beyond Burnt Church Indian Reserve No. 14. [Part of this reserve also fronts on Miramichi Bay, which is obviously tidal.] Historical documents report that Tabusintac River is tidal beyond Tabusintac Indian Reserve No. 9.

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Canada. Fisheries and Oceans. New Brunswick Tidal Waters Boundary Order made under the Fisheries Act, p. 106-1 - 106-6.

No historical documents could be found regarding tidal influence on Pokemouche River. However, the Department of Fisheries and Oceans places their administrative tidal boundary at the mouth of Pollard Brook, above Pokemouche Indian Reserve No. 13.

Micmac Indians have inhabited the Miramichi Valley for at least 2,500 years. Their contact with Europeans began 455 years ago with a chance encounter with Jacques Cartier; this contact has progressed steadily over the intervening centuries. As a result, the traditional lifestyle of these natives has all but been eradicated as they have adapted and were forced to adapt to a changing social and physical environment.

The first non-Indians to settle along the Miramichi were the French, or Acadians as they have become known. Under the Denys family, a seigniory was established near present-day Newcastle. And under their direction, a trading post and fishery were organized.

Following the Conquest of New France, British settlers slowly began moving into the region. The first of these English-speaking landholders was William Davidson. He too established a fishery on the Miramichi, along with other industries.

Conflict between the white settlers and the Miramichi Indians began after 1775, when the natives used the pretext of the American Revolution to vent their frustration over foreign incursion into their territory and the destructive fishing methods that the whites employed. But this uprising was put down in 1779 by the British military.

Beginning in 1783, the Micmac Indians were either given or requested Licenses of Occupation to small portions of their traditional lands along the Miramichi River. This first Licence

was for a 20,000 acre tract, issued to "John Julien Chief over the Indians of the River Merimichy & its dependencies, for himself and his Tribe to Occupy during pleasure..." [The Julian family, following the American Revolution, had become the dominant native group along the Miramichi.] This tract overlapped the one given to William Davidson.

By 1789, when it became apparent that this first grant would not be honoured by the New Brunswick government, John Julian requested a License of Occupation for 3,033 acres on the Northwest branch of the Miramichi. This License constitutes the original title document to the present-day Eel Ground Indian Reserve No. 2.

In 1802, the Tabusintac River district Indians received a Licence of Occupation to a 1640 acre-tract, known today as Burnt Church Indian Reserve No. 14. That year, another 9,035 acres was granted these Indians on the Tabusintac River. Today, this grant is known as the Tabusintac Indian Reserve No. 9.

In 1804, John Julian's brother, Francis Julian, claimed a 10,000 acre-block on the Little Southwest Miramichi River. This tract was reserved for the Indians by the Surveyor General in 1805, and was confirmed by the Executive Council in 1807. The reserve was known originally as the Little Southwest Reserve, then the Red Bank Reserve, and today as Red Bank Indian Reserve No. 4 and Red Bank Indian Reserve No. 7.

In 1805, another Licence of Occupation was issued to John Julian and his Tribe. This Licence, according to an 1848 source, covered 750 acres at Indian Point, known today as Indian Point Indian Reserve No. 1, and 8,700 acres at Big Hole, known today as Big Hole Tract Indian Reserve No. 8. The Big Hole Tract Reserve was confirmed by the Executive Council in 1807.

In 1808, the Executive Council issued a general confirmation for the Indians' Licences of Occupation on the Miramichi and tributaries. These included those reserves on the Northwest branch [Big Hole Tract and Indian Point], on the Little Southwest [Red Bank], at Eel Ground, at Burnt Church Point and opposite [Burnt Church], and on the Tabusintac.

One other reserve exists today on the Miramichi River, but was never issued a Licence of Occupation or apparently confirmed by the Executive Council of the New Brunswick government. The Renous Indian Reserve No. 12 was originally described as a campground, although in 1841 some 100 natives were living at the settlement. It was then described as being approximately forty acres in size, although today it is only 24.6 acres in size. By 1867, this reserve was uninhabited. Most of its occupants had move to the Eel Ground Reserve. At Confederation, the New Brunswick government transferred this reserve, along with all other Indian lands in the province, to federal jurisdiction.

Although not in Northumberland County, the Pokemouche Indian Reserve No. 13, on the Pokemouche River, was also set aside for the natives in the first decades of the nineteenth century. In 1810, the Executive Council confirmed a 4,000 acre-reserve on both sides of the Pokemouche River. However, by the time the reserve was surveyed in 1811, the Council had apparently curtailed their generosity. Only 2,600 acres was set aside on the South side of the North branch of the Pokemouche. This reserve, along with the Tabusintac Reserve, is today controlled by the Burnt Church Band.

Because of their economic deprivation in the nineteenth century, and because of unscrupulous dealings on the part of some of their Chiefs, the natives along the Miramichi River leased away some of their lands to homesteaders and lumber speculators. These leases became, in effect, deeds of sale. As well, non-native squatters

simply took over sections of these reserves without any deference to the fact that they were occupying Indian land. It wasn't until the 1970s that government bureaucrats finally untangled the complicated web of transactions and settled with these white occupants.

Today, the Indian reserves along the Miramichi River and its tributaries are considerably reduced since they were set first aside by the New Brunswick government.²⁵¹ Eel Ground Reserve is 2,650 acres [1,072.8 hectares]. The Eel Ground Band also controls the 24.6 acre [10 hectares] Renous Reserve, and the South half of Big Hole Tract Reserve, consisting of approximately 4,298 acres [1,740.2 hectares].

Red Bank Indian Reserve No. 4 is 3,599 acres [1,457 hectares]. The Red Bank Band also controls the 2,499 acre [1,011.7 hectares] Red Bank Indian Reserve No. 7, the 3,449 acre [1,396.2 hectares] North half of Big Hole Tract, and the 600 acre [242.8 hectares] Indian Point Reserve.

Burnt Church Reserve is 2,434 acres [985.4 hectares]. The Burnt Church Band also controls the 374 acre [151.4 hectares] Pokemouche Reserve and the 8,074 acre [3,268.7 hectares] Tabusintac Reserve.

January 1989

²⁵¹ See Canada. Schedule of Indian Bands, Reserves and Settlements..., p. 7-8.

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