

The Honour and Integrity of the Crown

by Silver Donald Cameron

ISLE MADAME, NS –

When the Supreme Court of Canada ruled that the 1760-61 treaties between the British and Mi'kmaq nations gave Donald Marshall the right to catch and sell eels out of season, it remarked that its ruling was required to sustain "the honour and integrity of the Crown." The aftermath has mostly shown the honour and integrity of the Mi'kmaq.

The Marshall decision set off a storm of protest from white fishermen. Mi'kmaq skippers have been harrassed, their lobster traps smashed, their boats sunk. Plants which handled their lobsters have been trashed. The Maritime media have gleefully publicized the confrontations, while the Deep Thinkers of Upper Canada have pummeled the court. Politicians in Halifax and Ottawa have writhed and squirmed and blustered, calling on the Mi'kmaq -- the Mi'kmaq! -- to show restraint.

Enough already. The supreme court in Canada is the Supreme Court of Canada, and it has spoken. The treaties give every Mi'kmaq the right to catch and sell enough fish, game and fur to provide "a moderate livelihood," though conservation-based regulations will still apply, and the judgment specifically precludes "the accumulation of wealth." Would that other East Coast fishing interests were subject to similar restraints.

But Deep Thinkers like Peter Worthington think it "crazy to apply terms of a 200-year-old treaty to modern times in 1999." Alas, that is the nature of treaties. They are mutually binding agreements, and they last until the parties change them. If we may unilaterally disregard the Mi'kmaq treaties, the French are equally entitled to denounce the 1763 Treaty of Paris which transferred Cape Breton, Prince Edward Island and most of the Great Lakes basin to Britain and thus to Canada. *Zut, Monsieur Worthington!* Just a 200-year-old treaty. Who cares?

Worthington thinks the issue has nothing to do with racism. Codswallop. This sorry episode is as permeated with racism as a corned mackerel is permeated with salt. How could one argue that the Treaty of Paris is unassailable, while the Mi'kmaq treaties are not? Only by arguing that the former was negotiated with a genuine -- i.e. European -- nation, while the latter was negotiated with a band of savages.

That argument is racist to the core. Long before Europeans arrived, writes Geoffrey York in *The Dispossessed*, the Mi'kmaq, "had their own political structures, boundaries, laws, and a sophisticated culture and language. Their language, which is often compared to Latin, has been described as one of the most beautiful in the world." They were healthier than the Europeans, and had a life expectancy of nearly 40 years. Europe did not reach that standard for another four centuries.

The Mi'kmaq have never ceded their land, and the British did not negotiate peace with them for sentimental reasons. The newly-won territories still had a considerable French population; the Mi'kmaq were traditional allies of the French and a formidable military force. The treaties secured a peace which served the long-term interests of both parties.

The Crown behaved with precious little honour or integrity thereafter. The Mi'kmaq were decimated by new diseases, barred from their traditional hunting and fishing grounds and crowded onto minuscule reserves. In 1882, for instance, several dozen were granted a two-acre reserve on Kings Road in Sydney. (At the time, they were supposed to be turning themselves into farmers, too.) Nearly half of that paltry

scrap of land was expropriated for a railway in 1888.

By the 1920s the city had grown in their direction, and after a blatantly racist campaign they were plunked on a 66-acre tract of swamp and rock on the outskirts of town -- the Membertou Reserve, where Donald Marshall grew up. This is the same Donald Marshall who served 11 years in prison after being wrongly convicted of murder. Having twice wrung justice from a judicial system intent on denying it to him, Donald Marshall has become one of the most important figures in the province's history.

The implications of the Marshall decision are profound -- and mainly positive. The Mi'kmaq have, at last, a genuine prospect of self-reliance and independence. They have rights in the fishery; everyone else merely has licenses. They also, hallelujah, have powers beyond the reach of the deplorable Department of Fisheries and Oceans.

And, though the yahoos have captured the media spotlight, white fishermen who represent the best traditions of these little provinces are already working quietly with the Mi'kmaq to shape a better fishery than DFO has managed to provide.

The sane will prevail. All of us will benefit. Our grandchildren may be as grateful for the Marshall decision as the Mi'kmaq are now.

-- 30 --

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