

Capitalism and Dispossession: The Commodification of the Countryside and the “Improvement” of
Mi’kma’ki, 1760-1860

Jesse Watkins Coady

A Thesis
in
The Department
of
History

Presented in Partial Fulfillment of the Requirements
For the Degree of Master of Arts (History) at
Concordia University
Montreal, Quebec, Canada

December 2019

© Jesse Watkins Coady, 2019

CONCORDIA UNIVERSITY
School of Graduate Studies

This is to certify that the thesis prepared

By: Jesse Watkins Coady

Entitled: Capitalism and Dispossession: The Commodification of the Countryside and the
"Improvement" of Mi'kma'ki, 1760-1860

and submitted in partial fulfillment of the requirements for the degree of

Master of Arts (History)

complies with the regulations of the University and meets the accepted standards with respect to
originality and quality.

Signed by the final examining committee:

_____ Dr. Eric Reiter _____ Chair

_____ Dr. Theresa Ventura _____ Examiner

_____ Dr. Gavin Taylor _____ Examiner

_____ Dr. Anya Zilberstein _____ Thesis Supervisor(s)

Approved by _____ Anya Zilberstein _____

Chair of Department or Graduate Program Director

December 9, 2019 _____ André G. Roy _____

Dean of Faculty

Abstract

Capitalism and Dispossession: The Commodification of the Countryside and the “Improvement” of Mi’kma’ki, 1760-1860

Jesse Watkins Coady

Taking mainland Nova Scotia and Cape Breton Island as its case studies, this thesis attempts to uncover the mechanisms by which the Mi'kmaq were dispossessed of their lands in the eighteenth and nineteenth centuries. Dispossession is here problematized as a process connected to, but distinct from, the imposition of British jurisdiction in Mi'kma'ki following the conclusion of the Seven Years' War. In key respects, dispossession was an inherently local, unpredictable process involving a myriad of actors with disparate motives and interests; at the same time, it was given structural coherence by imperial and colonial land policies, which subjected settlers qua subjects of the Crown to common economic compulsions and constraints. This thesis argues that it was the promotion of capitalist social property relations in particular that provided the greatest impetus for the dispossession of both Mi'kmaq and settlers in this period, giving rise to complex intra- and inter-class dynamics. Although imperial and colonial policies varied widely in their efficacy and application across wide swathes of mostly unpoliceable territory, the promotion of capitalist economic imperatives played a decisive role in facilitating dispossession in even the remotest and most marginal areas. Crucially, it gave rise to widespread squatting, frustrating the authorities' plans for the orderly and profitable settlement of the colony and necessitating a policy of compromise with implicated settlers. By the mid-nineteenth century, authorities largely abandoned their policy of protecting indigenous reserves, opting to sell squatters their improvements in what amounted to a fire-sale of encroached-upon Crown lands.

Acknowledgements

Several people deserve to be recognized for their contributions to the crafting of this thesis, without which it would be much the poorer.

First and foremost, I would like to thank my thesis advisor, Dr. Anya Zilberstein, for her guidance, encouragement and support throughout all of the stages of the generation of this thesis. In addition to sharing her invaluable insights into the theoretical and historiographical dimensions of its subject, sharpening, at every juncture, my historical acumen, she patiently read through many drafts, subjecting them to thorough and targeted criticism. This thesis would not be half as strong without her input, for which I am immensely grateful.

Dr. Gavin Taylor likewise graciously shared his wealth of knowledge on indigenous forms of territoriality and tenure, and much else besides. Our many conversations over the course of the last two years have immeasurably deepened my knowledge of and appreciation for indigenous history, and for that I am in his debt.

A very special thank you goes to Dr. John Reid, who shared with me his immense knowledge of northeastern North America, providing invaluable guidance regarding both primary and secondary sources. A number of his conversational reflections and insights went a long way towards shaping my theorization of indigenous dispossession. His entire corpus of work – but particularly his humanistic and rigorous work on the Mi'kmaq and Mi'kma'ki – has served as a model and an inspiration for the writing of this thesis.

This thesis would not have gotten off the ground without the expert advice and assistance of the staff at the Nova Scotia Archives. John Macleod, Rosemary Barbour, Anjali Vohra and Gail Judge deserve special mention for going above and beyond to help me locate and cite hard-to-find documents.

Likewise, Darlene Brine, Barry Smith, Ginny Clark, Milly Riley, Gary Shuttak, Lois Pyke and David McLachlan all helped me navigate the complexity of the archives.

The staff at the Nova Scotia Department of Lands and Forestry in Halifax likewise helped me find relevant documents. Tracy Lenfesty, Stacey Walsh and Melanie Logue, in particular, put up with my constant queries and helped orient my research.

Finally, I would like to thank my family: To my parents, Moses and Suzy – thank you for everything; I would not be here today without your unfaltering love and support. To my siblings, Bridget, Megan, and Dylan – each of you, in your own inimitable way, has, by dint of embarking on your own journey, incredibly enriched mine. As the eldest sibling, I can gladly say that I do not have any special claim to knowledge and experience.

A special thank you goes out to my sister Megan, who was there to listen in trying times. Without her empathy and compassion, I probably could not have written this thesis.

You are – all of you – my moral compass.

Msit no'kmaq.

For Gary Knockwood

Table of Contents

Chapter 1: Introduction and Historiography.....	1
Chapter 2: "Perfecting the Improvements of the Indians," Unmaking their Gardens: Local Dispossessions and the Commodification of Land under the "Free" Grant Policy, 1763-1827.....	45
Chapter 3: Marginality and the Making of Capitalism in the Countryside: Dispossession in Margaree, Cape Breton, 1831-1860.....	110
Conclusion: Subjugating Subsistence, Creating New Needs.....	170
Bibliography.....	179
Appendix.....	191

Chapter 1: Introduction and Historiography

How were the Mi'kmaq dispossessed of their lands?

No sooner than it is posed, the question occasions a number of qualifications. The Mi'kmaq, an Algonquian nation indigenous to eastern Canada, traditionally inhabited – and continue to inhabit – the territory of Mi'kma'ki, comprising present-day Nova Scotia, Prince Edward Island, the eastern coast of New Brunswick, parts of Newfoundland and the Gaspé peninsula.¹ As one of the first indigenous groups in North America to come into contact with Europeans, they count among the indigenous peoples with the longest exposure to, and the consequent greatest success in coexisting with, European society within the original bounds of their territories.² The infinitive form “to dispossess,” meaning to “deprive (one) of possession (of a thing),” may, in a certain sense, be particularly inapposite for describing the colonization of their lands, denoting, as it does, a singular event limited in time, space and scope. While European colonization of Mi'kma'ki could involve incredible violence and social and environmental dislocation, it did not do so always and everywhere; it is difficult to trace “dispossession” to a single

¹ For an examination of the difficulties involved in defining the extent of Mi'kma'ki and neighboring Wulstukwiuk, the ancestral homeland of the Wulstukwiuk (Maliseet), see John Reid, “Empire, the Maritime Colonies, and the Supplanting of Mi'kma'ki/Wulstukwiuk, 1780-1820,” *Acadiensis*, Vol. 38, No. 2 (Summer/Autumn 2009), 79-81, fn 4; although a number of geographical delimitations might be used, this thesis adheres to the convention of defining Mi'kma'ki as comprising the Maritime provinces (excluding the St. John river [Wolastoq] watershed), the Magdalen islands, and the Gaspé Peninsula. See, for instance, Wilson D. Wallis and Ruth Sawtell Wallis, *The Micmac Indians of Eastern Canada* (Minneapolis: University of Minnesota Press, 1955), 3, 16-17. For a long time, Newfoundland was not included as part of Mi'kma'ki, but there is historical evidence of long-term seasonal occupation in the sixteenth to eighteenth centuries. These patterns gradually developed into semi-sedentary occupation by the late eighteenth century. See Charles A. Martijn, “Early Mi'kmaq Presence in Southern Newfoundland: An Ethnohistorical Perspective, c. 1500-1763,” *Newfoundland Studies* 19, 1 (2003): 44-102.

² Bernard Gilbert Hoffman, “The Historical Ethnography of the Micmacs of the Sixteenth and Seventeenth Centuries” (Unpublished Ph.D. diss., University of California, Berkeley, 1955), 2; Ronald J. Nash, “Research Strategies, Economic Patterns and Eastern Nova Scotia Prehistory,” in *Proceedings of the 1980 Conference on the Future of Archaeology in the Maritime Provinces*, ed. Daniel Shimabuku (Halifax: Saint Mary's University, 1980), 27.

period or a single set of causal factors. As William C. Wicken has argued, the first two hundred years of post-contact Mi'kmaw society were marked more by its tremendous adaptability and its capacity to incorporate external changes into traditional patterns of subsistence than by any putative tendency to fragment or become dependent on Europeans.³ Perhaps most importantly, we need to be mindful of the ways in which our discussion of aboriginal dispossession can feed into persistent and harmful discourses of indigenous decline and extinction as natural, inevitable processes occasioned by the advance of settler society. As Jean O'Brien has demonstrated in the context of nineteenth-century New England, widespread notions of the "vanishing Indian" not only contradicted reality on the ground, but also became a self-fulfilling mythology that served to further marginalize and dispossess indigenous people.⁴

At the same time, the colonization of Mi'kma'ki must be situated within larger North American and global perspectives on the history of indigenous peoples. With few exceptions, the encounter between indigenous and European societies has been one of colonialism and conquest by more dominant societies, involving acute cultural and demographic devastation through war, the spread of disease, rape, incarceration, mass displacement, forced assimilation and genocide. Almost without exception, the defining feature of indigenous societies – their intimate relationship to, and knowledge of, the land and its resources – has been imperiled by encroachments on and the forcible expropriation of traditional territories, disabling the patterns of subsistence on which their survival depends.⁵

³ William C. Wicken, "Encounters with Tall Sails and Tall Tales: Mi'kmaq Society, 1500-1760" (Ph.D. diss., McGill University, 1996).

⁴ Jean M. O'Brien, *Firsting and Lasting: Writing Indians Out of Existence in New England* (Minneapolis: University of Minnesota Press, 2010), xiv, xv, 109-110, 113, 116, 125, 129, 132-4, 174; for works that touch on aspects of the narrative of the "dying race" in the Nova Scotian context, see Peter Twohig, "Colonial Care: Medical Attendance Among the Mi'kmaq in Nova Scotia," *Bulletin of Medical History* 13, 2 (1996): 333-353, D.G. Bell, "Was Amerindian Dispossession Lawful? The Response of 19th Century Maritime Intellectuals," *Dalhousie Law Journal*, 23 (2000): 161-182, and Ralph Pastore, "The Collapse of the Beothuk World," *Acadiensis*, 19, 1 (Autumn 1989): 52-71.

⁵ As Lotte Hughes has noted, there is no universally agreed-upon definition of "indigenous peoples." Most official definitions define indigenous peoples primarily in relation to the more dominant societies that have established themselves in their territories. Summarizing these definitions, Hughes defines

Although the Mi'kmaq may have avoided some of the worst violence of colonialism (with the important exception of the exterminatory violence of French and British wars of the seventeenth century), like other North American indigenous societies, they have been deprived of the vast extent of their traditional territories through European – chiefly British – colonization and settlement.⁶ This process of displacement and dispossession occurred fitfully after 1760, when the British defeated the French in the Seven Years' War and began to consolidate their jurisdiction and control over the former French colony of Acadia. Prior to 1760, the Mi'kmaq had co-existed relatively peacefully with a smaller population of Acadian settlers, effectively maintaining control over their traditional territories.

Unlike the Acadians, the Mi'kmaq were not forcibly removed from Acadia to make way for British settlement; rather, they were gradually dispossessed of their lands via the settlement policies that inhered in legal instruments such as the Peace and Friendship Treaties of 1725-6, 1749, 1752 and 1760-61, and the Royal Proclamation of 1763.⁷ Most scholars situate indigenous dispossession as occurring systematically in the late eighteenth and early nineteenth centuries, stemming largely from the influx of

indigenous peoples as “non-dominant, non-state groups in a particular territory, who claim to be aboriginal (descended from pre-colonial inhabitants) [...] They have distinct social, political and cultural identities, and languages, traditions, legal and political institutions that are distinct from those of the national society. They have a special relationship with the land and natural resources, which is often fundamental to their cultural identity, and therefore their survival as distinct peoples. They are not industrialized, often subsistence producers, and they tend to be marginalized by wider society.” Lotte Hughes, *The No-Nonsense Guide to Indigenous Peoples*, 2nd ed. (Ottawa, Ontario: New Internationalist Publications Ltd.), 15; see also the chapter on “Colonialism and Conquest,” 29-45. Even though such definitions prioritize indigenous self-definition, they are largely based on a negative comparison; as such, they tell us nothing about the specificity of particular indigenous cultures. For a sharp critique of the tendency to highlight “native agency” vis-à-vis the settler state, see Robin Brownlie and Mary Ellen Kelm, “Desperately Seeking Absolution: Native Agency as Colonialist Alibi?” *Canadian Historical Review*, Vol. 75, No. 4 (December 1994): 543-556.

⁶ For works that deal with this history of violence, see John G. Reid, “The Three Lives of Edward Cornwallis,” *Journal of the Royal Nova Scotia Historical Society*, Vol. 16 (2013): 19-45; John Grenier, *The Far Reaches of Empire: War in Nova Scotia, 1710-1760* (Norman: University of Oklahoma Press, 2008).

⁷ Philip Girard, Jim Phillips, and R. Blake Brown, *A History of Law in Canada, Volume One: Beginnings to 1866* (Toronto: University of Toronto Press, 2018), 182, 201-2, 242-245, 365; see also, John Reid, “Brittanica or Pax Indigena? Planter Nova Scotia (1760-1782) and Competing Strategies of Pacification,” *Canadian Historical Review* 85, 4 (December 2004): 6-7.

Loyalist settlement after the end of the American Revolutionary War in 1783. Despite the availability of a number of excellent studies on the subject, much work remains to be done to clarify the mechanisms of indigenous dispossession at a local, granular level in the period 1760-1860. All too often, indigenous dispossession in the Maritimes has been naturalized as the result of a quantitative increase in settlement, lending credence, whether consciously or unconsciously, to fatalistic narratives of indigenous degeneracy.

This study aims to uncover the mechanisms of dispossession at a local and regional level within two of the colonial partitions of Mi'kma'ki, the colony and province of Nova Scotia and the briefly separate colony of Cape Breton, in the period 1760-1860. Through a close analysis of local land records, this study attempts to provide a clearer picture of the contingency and fluidity of dispossession at a local level, bracketing the process as a set of historically specific human actions and reactions. At the same time, it aims to show how these different, specific dispossessions were informed by a common structural logic, which affected settlers and the Mi'kmaq alike. It argues that indigenous ways of being and knowing on the land were progressively undermined, not solely or even primarily by the quantitative increase of settlement, but rather through the promotion and dissemination of emergent forms of capitalism within and across the mostly unpoliceable bounds of an economically marginal colony. The commodification of land was accompanied by the imposition of incentive structures that were intended to shape ideal forms of individual behavior, and it is the requirements of these economic compulsions or imperatives, together with inequalities in settlement patterns and in the parcellation and distribution of land to subjects of the Crown, that eventually disenabled the Mi'kmaq's engagement in seasonal rounds within and across a variety of interrelated villages. Patterns of Mi'kmaw subsistence varied across the province, and so too did commercialization and patterns of dispossession. Many of these patterns of dispossession were invisibilized, and there are a number of structural reasons why this was so. One of the main themes on which this thesis turns is the real or perceived marginality – geographic, economic,

cultural and political – of the province of Nova Scotia within the ambit of the British Empire, and the ways in which it influenced and conditioned patterns of conflict between settlers, and between settlers and the Mi'kmaq.

The first historians to delve into the subject of the dispossession of Mi'kma'ki in any depth periodized dispossession as occurring systematically in the late eighteenth and early nineteenth centuries, citing the consolidation of the British Empire after the Seven Years' War, the division of the colony into the separate provinces of Nova Scotia, New Brunswick, Cape Breton and Prince Edward Island, and the influx of Loyalist refugees after the American Revolutionary War as turning points in Mi'kmaw-settler relations.⁸ However, as John Reid has pointed out, the same scholars' analyses are vitiated by their tendency to conceive of the military defeat of the French and the Mi'kmaq and the subsequent settlement of the colony as the accelerants of a natural, inevitable process of indigenous decline.⁹ Historian J.B. Brebner famously argued that the "the conquests of Louisbourg and Canada had left the Indians absolutely at the mercy of the British."¹⁰ Following Brebner's lead, L.F.S. Upton cast the influx of Loyalist refugees from 1783 on as clinching the Mi'kmaq's military defeat, ensuring that "the Indians were no longer of account as allies, enemies or people."¹¹ Both accounts connected the military defeat and dispossession of the Mi'kmaq in this period to the supposed advanced state of their dependence on European culture and commodities.¹² Tellingly, in keeping with his account of post-war indigenous

⁸ See, in particular, the formative works of John Bartlet Brebner and L.F.S. Upton: John Bartlet Brebner, *The Neutral Yankees of Nova Scotia: A Marginal Colony during the Revolutionary Years* (New York: Russell & Russell, 1970 [1937]); Leslie F.S. Upton, *Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867* (Vancouver: University of British Columbia Press, 1979).

⁹ This critique was formulated in two seminal essays, which dealt with the significance and impacts of the settlement of Mi'kma'ki/Acadia/Nova Scotia by New England Planters and Loyalist refugees, respectively: see Reid, "Pax Indigena," 2-3, 12-14; and Reid, "Supplanting of Mi'kma'ki," 78, 81-2, 96-7.

¹⁰ Brebner, *The Neutral Yankees*, 71; quoted in John Reid, "Pax Indigena," 2.

¹¹ Upton, *Micmacs and Colonists*, 70; quoted in Reid, "Supplanting of Mi'kma'ki," 78.

¹² Upton saw the Mi'kmaq's military defeat in 1758 as hastening a process of cultural decline and dependence on European goods (weapons and wares) that had gradually developed over the previous two hundred years: "Gradually, the traditional artifacts fell into disuse, along with the knowledge that

powerlessness and dependency, Upton points to the issuance of a number of licences of occupation to “distressed” Mi'kmaq in the 1780s and beyond as evidence that they were forced to accommodate themselves to European forms of authority and property; it never occurs to him that the increase in indigenous petitions for land might represent adaptation to change and resiliency in the face of adversity.¹³ The depiction of these and other events as the climactic or terminal phase in a larger, long-term process of degeneracy has had profound consequences for the historiography, throwing up problems of periodization, interpretation and conceptualization.

As John Reid has shown, such narratives of terminal decline have persisted and shaped subsequent scholarship in profound and subtle ways. Even historians who reject the decline thesis in its particulars, such as Mi'kmaw scholar Daniel Paul and anthropologist Harald Prins, have tended to adopt the same temporal and interpretive framework for periodizing dispossession.¹⁴ As a result, they have tended to portray a unilateral pattern of dispossession whereby military defeat and dispossession proceeded hand in hand. Against such narratives, Reid convincingly demonstrates that the Mi'kmaq continued to articulate their needs and defend their interests in sophisticated interactions with imperial and colonial authorities well into (and beyond) the period 1780-1820. In particular, the history of diplomacy and gift-giving between the French and the Mi'kmaq served as a fount of experience on which the Mi'kmaq could draw to demand recognition and reciprocity from the British after 1758; these principles were

produced them. The Indians became dependent on imported goods that they could not duplicate, and as their dependence grew, so the importance of supplier increased. The tool that was servant became master.” Upton, *Micmacs and Colonists*, xi. On the same page, Upton lists trade goods along with disease and Christianity as one of “three horsemen of the European Apocalypse” that had paved the way for the dispossession of indigenous lands. Other references to dependency can be found on pp. xii, xiii, 57-58; Upton’s characterizations echo Brebner’s. See Brebner, *The Neutral Yankees*, 71.

¹³ Upton, *Micmacs and Colonists*, 82-3, 86-87, 99-100, 149; see also L.F.S. Upton, “Indian Policy in colonial Nova Scotia, 1783-1871,” *Acadiensis*, Vol. 5, No. 1 (1975): 3-31.

¹⁴ Reid, “Pax Indigena,” 2; Reid, “Supplanting of Mi'kma'ki,” 78-79.

later entrenched in the Peace and Friendship Treaties in 1760-1.¹⁵ While conceding that Brebner and Upton were right to situate “abrupt and profound” patterns of dispossession in the late eighteenth and early nineteenth centuries, Reid shows that patterns of settlement and dispossession, and Mi'kmaw responses to the same, varied considerably from region to region, exhibiting distinct spatial, temporal and geographic features. In addition, the degree of dislocation in any area was correlated to the relative amount of “back country” available for hunting, gathering and fishing. Cape Breton and New Brunswick had more back country than mainland Nova Scotia and Prince Edward Island, which were settled relatively early and rapidly. However, as the example of Cape Breton shows, commercial fisheries and hunting could, in the absence of settlement, produce similar dislocation, highlighting the contingency of causes.¹⁶ In sum, against Brebner and Upton, Reid shows that acute dispossession was contemporaneous with, yet discontinuous from, the continuation and even resurgence of Mi'kmaw political diplomacy, while dispossession itself was contingent on a number of different social and natural factors; it did not flow from military defeat or dependency on European society. Reid brackets these observations with an implicit call for a more rigorous historical analysis, stating that “general narratives have their place but must ultimately be disciplined according to the particularities of experience.”¹⁷

¹⁵ Reid, “Supplanting of Mi'kma'ki,” 81, 87, 89-90, 95. See also John G. Reid, “Imperial-Aboriginal Friendship in Eighteenth-Century Mi'kma'ki/Wulstukwik,” in *The Loyal Atlantic: Remaking the British Atlantic in the Revolutionary Era* (Toronto: University of Toronto Press, 2012): 75-102; Brebner, it should be noted, deemed the Peace and Friendship Treaties of 1760-1 to be tacit acts of capitulation to British authority; in his view, the Mi'kmaq were forced to acquiesce to the British claim to Nova Scotia in return for food and supplies: “After questioning their priests and making some fumbling efforts to estimate the new situation, in 1760 they [the Mi'kmaq] were led by their dependence on European supplies to make overtures for peace.” Brebner, *The Neutral Yankees*, 22-23. Upton would subsequently echo this claim: ““Unique among Canadian Indians, the Micmacs fought for their lands. They lost, but only when the defeat of France cut off their supplies.” Upton, *Micmacs and Colonists*, pg. xiii. See also pp. 57-58, where Upton connects the severing of the supply of powder and shot from Louisbourg in 1758 with the Mi'kmaq's inability to hunt or fight.

¹⁶ John Reid, “Supplanting of Mi'kma'ki,” 82-5.

¹⁷ *Ibid.*, 81-2.

While Reid's interventions have breathed new life into the study of colonization and dispossession in the Maritimes, encouraging historians to work through the historical complexity and contingency of the period, conceptual and interpretive problems remain. Although there is good reason to suppose that the period 1780-1820 was characterized by the "profound and abrupt" dislocation of the Mi'kmaq, albeit with distinct patterns, there is still little clarity on the mechanisms of dispossession. The tendency to conceive the dispossession of the 1780s as the corollary of the Mi'kmaq's military defeat after the Seven Years' War has had the effect of obviating the need to explain dispossession on its own terms. Most accounts of the period have thus tended to naturalize dispossession as an epiphenomenon of settlement itself. Upton, for one, portrays the depletion of game and resources after the arrival of the Loyalists as a simple by-product of the increasing pace and pressures of European settlement. He gives the impression that the Mi'kmaq were so weakened by the impersonal forces of colonization by the end of the war that they were simply overrun; he does not explain the particular regimes or sets of social relations under which access to land was diminished or game depleted.¹⁸ Similarly, as Reid has pointed out, Harald Prins equates dispossession with demographics, citing the sheer numbers of Loyalists as "overwhelming" the Mi'kmaq.¹⁹ Such accounts preclude an analysis of the specific social relations that were at play as well as obscuring the historical contexts that motivated settlers and Mi'kmaq in different times and places.

Any account of the historical specificity of dispossession in the Maritime provinces must take into consideration the marginality of the colony and province of Nova Scotia and the greater northeastern maritime region of which it formed part. As John Reid and Elizabeth Mancke have shown, European

¹⁸ For example, Upton writes, "The process was repetitious, predictable in its sameness throughout the three centuries that Europeans required to populate North America. The speed at which Indian societies were destroyed in any one area varied with the pressure of the immigrant population." Upton, *Micmacs and Colonists*, xii. For similar passages, see pp. xiii, 61, 78, 81-3.

¹⁹ Reid, "Supplanting of Mi'kmaki," 78-9.

commercialization preceded, and in chief respects determined the form and content of, European colonization in the region. In the sixteenth century, private European interests, financed by merchants, fished off the banks of Newfoundland and traded with indigenous people on the coasts; by the late sixteenth and early seventeenth centuries, the fishery and fur trade were thriving enterprises, representing a particularly profitable node of European commercial expansion overseas. Attracted to the opportunities for generating revenue, and inspired by the prior examples of Portuguese and Spanish colonization in the Americas, the European crowns of England, France and Scotland endeavoured to extend their control over the region through the establishment of communal colonies. Because they were financially incapable of directly funding the initiatives, however, all three crowns delegated their authority, in the form of charters, to various well-connected elites in order to establish commercial and colonial ventures overseas. These ventures represented fragile compromises between state and merchant interests, and as such they proved largely unworkable as vehicles for the promotion of permanent settlement. Internal tensions thus produced two kinds of settlement: inland communities based on the communal model, and coastal establishments oriented towards trade with more well-established Euro-American settlements, such as the Massachusetts Bay Colony to the south. Because the settlements were numerically small and fragmented, they were vulnerable to attack by natives and dependent on imperial sponsors for survival. What is more, the competing European crowns made multiple, often overlapping claims to the same territory, generating conflict between elite factions; colonial jurisdiction thus shifted and metamorphosed considerably between the three colonial jurisdictions, as when French control of Acadia at Port Royal gave way to the establishment of New Scotland in 1621, only to be returned to the French in 1632 as part of the Treaty of St. Germain-en-Laye. Despite this larger trend of fragmentation, a small but growing population of Acadians developed on the basis of diked agriculture in the fertile marshlands in and around Port Royal in the 1630s and 1640s. Port Royal's continued existence was predicated, however, on the tolerance of the Mi'kmaq, who maintained

sovereign control over their hunting grounds over the rest of the peninsula; similarly, the constant instability and transposition of colonial regimes brought Acadia into the political and economic orbit of the Massachusetts Bay colony, with the result that political control, such as was returned to the French in 1670 after an interregnum of New English dominion, rarely lined up with economic sovereignty. These contradictions issued in violent conflict at the end of the seventeenth century, an outcome that Reid qualifies as the culmination of the repeated failure of European colonists to “reconcile European concept with American reality.”²⁰

Other scholars have noted similar developments, bracketing their persistence into the eighteenth and nineteenth centuries as the legacy of “underdevelopment.” In his seminal work on Acadia to 1760, historical geographer A.H. Clark highlights the role of poor native soils, the importation of pre-existing cultural patterns and the exigencies of small-scale settlement in shaping the Acadian practices of settling diked marshlands in the Annapolis valley and the Minas and Chignecto basins. Clark claims that the Acadians practiced something akin to self-sufficient agriculture on the marshlands, although he concedes that they also depended on key imports from New England. What little surplus they were able to produce was sold to New Englanders or the neighboring island of Isle Royale, although poorly developed infrastructure inhibited their ability to transfer goods overland in the interior.²¹ The site of the French military fortress of Louisbourg, Isle Royale also hosted scattered fishing settlements on its southern and eastern fringes. Clark demonstrates the ways in which the island became a key entrepôt of

²⁰ This paragraph is adapted from two sources: John Reid and Elizabeth Mancke, “Elites, States and the Imperial Contest for Acadia,” in *The Conquest of Acadia, 1710: Imperial, Colonial and Aboriginal Constructions*, ed. John G. Reid, Maurice Basque, Elizabeth Mancke, Barry Moody, Geoffrey Plank, and William Wicken (Toronto: University of Toronto Press, 2004), 26-7, 29-31, 33, 38, 41-2; and John G. Reid, *Acadia, Maine, and New Scotland: Marginal Colonies in the Seventeenth Century* (Toronto: University of Toronto Press, 1981), 14-18, 20-33, 41, 52-3, 122-4, 135-43, 162-4, 178-190. For Reid’s quote, see pg. 163.

²¹ Andrew Hill Clark, *Acadia: The Geography of Early Nova Scotia to 1760* (Madison: University of Milwaukee Press, 1968), 374-80, 384-85, 388-90. See also pp. 158-9, 176, 230, 254-61, 262, 271, 318-20.

the triangular trade between France, New England and the West Indies in the eighteenth century, selling cod to the West Indies in return for products such as rum and molasses, which were in turn sold to New Englanders in return for a variety of agricultural products and goods. He perceptively argues that Isle Royale's reliance on New England for agricultural staples retarded the agricultural settlement of the interior of the island: up until 1760, the entire northern peninsula of the island – encompassing the present-day counties of Inverness and Victoria – were left virtually unsettled by Europeans, save for the existence of a few scattered Acadian fishing outposts.²² Thus, for Clark, economic marginality and dependency deepened existing patterns of isolation and fragmentation and prevented the development of endogenous dynamics of development.

Following in Clark's footsteps, historian Graeme Wynn highlights the preponderant influence of New England, particularly Massachusetts, in the settlement and economic patterns of the colony in the period 1755-1775, when the British expelled the Acadians from the province and issued proclamations to New Englanders inviting them to settle vacated Acadian lands. Although settlement increased drastically in this period, resulting in the formation of thirty-one promising townships, the same factors – scattered and thin settlement, poorly developed inland infrastructure, and the push and pull of New England's economic dominance – resulted in similar outcomes: economic and political marginality.²³

As a paradigm of historical analysis, the “underdevelopment” thesis has undoubtedly advanced the discussion of Nova Scotia's historical development in a way that has highlighted recurrent and distinct influences and patterns of change. At the same time, as an explanatory framework, it has certain

²² Clark is at pains to point out that Acadians' trading with Cape Breton and New England was technically illegal, disproportionately benefitting New England interests. Andrew Hill Clark, “New England's Role in the Underdevelopment of Cape Breton Island during the French Régime, 1713-1758,” *Canadian Geographer*, 9, 1 (1965): 1, 6-10, ; see also, Clark, *Acadia*, 180-183, 281, 287, 315-316, 321-323.

²³ Graeme Wynn, “A Province Too Much Dependent on New England,” *Canadian Geographer*, Vol. 31, No. 2 (1987): 99-100, 104, 107-108, 110.

limitations. For one, if used uncritically, it risks becoming a catchall explanatory scheme for historical dynamics in the region. As its name suggests, it is an essentially comparative thesis whose conception of “development,” or historical change, is premised on observed deviations from an explicit or implicit point of reference. As such, it has more in common with a nomological rather than a historical explanatory model. In such models, comparison is made possible by placing both the “developed” and “undeveloped” (or, what amounts to the same thing, the less developed) areas or regions along a common linear trajectory of change.²⁴ Unidirectionality is imputed to both the developed and undeveloped areas or regions, as they are assumed to be under the pull of the same laws or patterns of development. In a fundamental sense, this kind of approach tends to opacify, if not obscure completely, the historicity of local events and processes. As historians are wont to put it, it fails to treat local phenomena “on their own terms.” Although seventeenth- and eighteenth-century Nova Scotia's economic dependence on New England is a historical fact and a legitimate subject of historical inquiry, the recourse to dependency to explain the colony's development over time risks obscuring endogenous factors and substituting negative evidence for an analysis of history as a set of particular, concrete human actions and responses.

These shortfalls are perhaps most evident in the tendency in the historiography to accord too much explanatory value to geographical features, such as the supposed inferior quality of the soil (another instance of comparative bias) and the omnipresence of the open coastline, in determining both patterns of settlement and subsistence.²⁵ For its part, settlement is typically treated in a quantitative manner,

²⁴ I've taken the distinction between “nomological and historical modes of explanation” from the essay “Does Culture Evolve?” in Richard Levins and Richard Lewontin, *Biology Under the Influence: Dialectical Essays on Ecology, Agriculture and Health* (New York, NY: Monthly Review Press, 2007), 275. Elsewhere in the same collection, the authors identify the kind of linear comparison discussed here as “developmentalism,” which they define succinctly as “the view that progress takes place along a single axis from less developed to more developed.” Ibid., 321.

²⁵ See, for instance, Graeme Wynn, “The Maritimes: Geography of Fragmentation and Underdevelopment,” in *Heartland and Hinterland: A Geography of Canada*, 2nd edition, ed. L.D. McCann

emptied out of historical content; its “thinness” or comparatively scant quantity becomes its most salient qualitative aspect. (In much the same way, Upton privileges the quantitative aspect of settlement, albeit in a positive sense, in order to account for the dispossession of the Mi'kmaq in the 1780s.) However, when a notable quantitative increase of settlement occurs, its effects can be simultaneously exaggerated and downplayed; Wynn, for instance, can claim that the Loyalist migrations to Nova Scotia “transformed the human geography of the region” with the addition of some 19,000 people, while at the same time invoking pre-existing patterns of settlement, fragmentation and economic dependency as the root cause of continued underdevelopment.²⁶

Perhaps the greatest unintended effect of this focus on the Maritime region's “backwardness” – its relative self-sufficiency, fragmentation, political and economic marginality, and attenuated settlement – has been a tendency to neglect or misappreciate the often transformative effects of its embeddedness in the Atlantic world. As Daniel Samson has pointed out, the traditional historiography has tended to equate the transition to capitalism in Nova Scotia with the emergence of industrial and urban centres in the late nineteenth and early twentieth centuries, neglecting to study the countryside as a “grand theatre” of the development of modernity.²⁷ Only a handful of scholars, including Samson, Debra McNabb, Béatrice Craig, and Rusty Bittermann, have challenged the dominant picture of late seventeenth- and early-nineteenth century Nova Scotia as a patchwork of traditional, self-sufficient, and subsistence-based communities.²⁸ In different ways, each has shown how smallholding communities and

(Scarborough, Ontario: Prentice-Hill Canada Inc, 1987), 175 (“The area's heavily indented coastline and centrifugal drainage patterns have enhanced isolation and distinctiveness by separating province from province and inlet from estuary [...]”), 177, 186 (“[...] its society mirrored the isolation and diversity of its fragmented territory”; Wynn, “A Region of Scattered Settlements and Bounded Possibilities: Northeastern America, 1775-1800,” *Canadian Geographer*, Vol. 31, No. 4 (1987): 322-24, 326.

²⁶ Wynn, “Scattered Settlements,” 320.

²⁷ Daniel Samson, *The Spirit of Industry and Improvement: Liberal Government and Rural-Industrial Society, Nova Scotia, 1790-1862* (Montreal: McGill-Queens University Press, 2014), 5-6, 8-9, 15-16.

²⁸ Debra McNabb, “Land and Families in Horton Township, N.S., 1760-1830” (Master’s thesis, University of British Columbia, 1986); Debra McNabb, “The Role of Land in the Development of Horton

townships were embedded in larger networks of exchange of the North Atlantic market. From their inception, these communities were structured by inequalities arising out of market involvement, class differentiation, and the allocation of property. McNabb convincingly details the role of land speculation and acquisitiveness in determining the settlement of the township of Horton amid the land boom of the 1760s. The majority of the New Englanders who were drawn to settle the township arrived in disconnected groups, drawn by the prospect of free land; at the outset, the land was parcelled into individual shares based on factors such as status and ability to cultivate in order to accommodate the settlers' desire to accumulate land and turn it to profitable use. McNabb shows how the emergence of an early market in land enabled the proprietors who benefited most from the original allocation of shares to increase and concentrate their holdings at the expense of other proprietors and prospective settlers alike. The artificial scarcity maintained by this small coterie of wealthy proprietors resulted in an increase in the population of tenants and wage laborers. Through the employment of tenants and laborers, meanwhile, the large proprietors were able to overcome the Malthusian-Ricardian limits of Nova Scotia's environment to generate a surplus of agricultural products for the market.²⁹

Rusty Bittermann finds similar patterns in the settlement of the inland river valley community of Middle River in Victoria County, Cape Breton in the first half of the nineteenth century. Located between

Township, 1760-1775," in *They Planted Well: New England Planters in Maritime Canada*, ed. Margaret Conrad, Planter Studies Series, No. 1 (Fredericton: Acadiensis Press, 1988), 151-160; Béatrice Craig, *Backwoods Consumers and Homespun Capitalists: The Rise of Market Culture in Eastern Canada* (Toronto: University of Toronto Press, 2009); Béatrice Craig, Judith Rygiel and Elizabeth Turcotte, "The Homespun Paradox: Market-Oriented Production of Cloth in Eastern Canada in the Nineteenth Century," *Agricultural History*, Vol. 76, No. 1 (Winter 2002): 28-57; Rusty Bittermann, "Middle River: The Social Structure of Agriculture in a Nineteenth-Century Cape Breton Community" (Master's thesis, University of New Brunswick, 1987); Rusty Bittermann, "The Hierarchy of the Soil: Land and Labour in a 19th Century Cape Breton Community," *Acadiensis*, Vol. 18, no. 1 (Autumn 1988): 33-55; Rusty Bittermann, Robert A. MacKinnon, and Graeme Wynn, "Of Inequality and Interdependence in the Nova Scotian Countryside, 1850-70," *Canadian Historical Review*, Vol. 74, No. 1 (1993): 1-43.

²⁹ This paragraph paraphrases the main arguments as they appear in the Conclusion, pp. 102-108, in McNabb, "Land and Families." See also pp. 15, 21, 40-1, 51-2, 54, 72, 81-2, 97-8.

the Margaree and Baddeck river systems, both of which likewise spring from the boggy headwaters of the Cape Breton highlands, Middle River (or Waqmitkuk, as it is called by the Mi'kmaq) was the site of a major Mi'kmaw village, situated at the terminus of the river in Indian Bay on the northern shore of the island's inland brackish sea, the Bras D'Or lake. In the early nineteenth century, the village was reserved for the use of the Mi'kmaq, and Cape Breton council began accepting petitions from settlers for land upriver from the site. As Bittermann convincingly demonstrates, the initial patterns of subsequent European settlement resulted in a stratified, tri-partite social structure. The first three Scottish-born families to settle in the area in 1806 were relatively wealthy, well-established emigrants to the province, who used their capital and experience to lay claim to the best intervalle land north of the Indian reserve. In the intervening years, a number of Scottish families attempted to settle the area, but for whatever reasons, they were unable to replicate the successes of the first three settler families, and by 1820 most had sold their holdings and decamped from the valley. The original three families took advantage of the sales to enlarge their holdings, while incoming settlers, mostly of the same regional Scottish provenance, stepped in to purchase the remainder. On the whole, both groups were able to develop successful farms, which produced a surplus for the market. In the late 1820s and 1830s, another wave of Scottish immigration came to the valley, but this time the immigrants were not from the same areas of Scotland, and on the whole, they arrived in a comparatively much more impoverished state than the previous two cohorts. Mirroring what had occurred in Horton in the first few decades of settlement in the late eighteenth century, the first two groups of settlers had monopolized the best agricultural land; they also controlled the market in land, effectively depriving newcomers from accessing the best intervalle lots. What is more, the new settlers had few resources with which to buy choice land, a situation that was starkly aggravated in the early 1830s, when the imperial government replaced free grants with a system of sale by public auction. The price of Crown lands, not to mention improved lands, was often too steep for newcomers. As a result, most were forced to take up marginal agricultural land

further upriver and on the “back lands,” the stony uplands behind the established lots fronting the river; many were forced to work on the farms of wealthier inhabitants in order to make ends meet. These settlers also became squatters, owner-occupiers without legal title to their holdings; many opted to illegally take up lots on the Indian reserve further downstream at the mouth of the river.³⁰ Like McNabb, Bittermann shows that marginality and environmental constraints were not transhistorical constants; they only took on significance through the mediation of historical social and economic relationships.

This historiographical turn towards uncovering commodification, class differentiation, the creation of private property, and other modern capitalist dynamics in the rural countryside of the Maritimes, initiated in the 1980s when neoliberalism and classical economics were in the ascendant, has been mirrored in a much more recent (and much broader) historiographical recrudescence of interest in the history of capitalism. Following the global financial crisis of 2008, popular and academic channels alike have turned their attention towards understanding the historicity of capitalism as a distinct system.³¹ Out of this renewed popular and academic interest has coalesced what might be called a loose “school” of historical scholarship on capitalism that has been dubbed by its proponents the “New History of Capitalism.” The proponents of this school have rallied around a core set of historical orientations and principles, foremost of which is the project to denaturalize capitalism as a set of particular, historically specific and changeable processes and institutions.³² Among other things, the school dispenses with what it considers the dogmas and orthodoxies of both neoclassical economic and Marxist

³⁰ This paragraph paraphrases the main arguments in Chapter 3, “Land and Settlement,” pgs. 93-121 inclusive, in Rusty Bittermann, “Middle River.” See especially pgs. 46, 95, 97-8, 100-1, 103-4, 106, 109, 111, 113-5.

³¹ Sven Beckert, “History of American Capitalism,” in *American History Now*, ed. Eric Foner and Lisa McGirr (Washington, D.C.: American Historical Association, 2012), 2; Sven Beckert, “The New History of Capitalism,” in *Capitalism: The Reemergence of a Historical Concept*, ed. Jürgen Kocka and Marcel van der Linden (London: Bloomsbury, 2016), 235. 237-8; Sven Beckert, “Cotton and the Global Origins of Capitalism,” *Journal of World History*, Vol. 28, No. 1 (March 2017): 111-2.

³² Beckert, “New History of Capitalism,” 238, 247-8; Seth Rockman, “What Makes the History of Capitalism Newsworthy?” *Journal of the Early Republic*, Vol. 34, No. 3 (Fall 2014): 447.

interpretations of capitalism in order to get closer to the fine-grained specificities of capitalism as a many-faceted historical object of study; it is neither interested in accounting for a “transition to capitalism” nor committed to any one definition of capitalism.³³ New historians of capitalism see capitalism as an inherently global system whose growth and development encompassed (and encompasses) a wide variety of peoples, places, temporalities and labor systems. Accordingly, their analyses are typically interdisciplinary and comparative.³⁴ Like McNabb and Bittermann, the new historians of capitalism are concerned with exploring the significance of the process of commodification – what Sven Beckert has deemed one of, if not the most important, “core processes of capitalism” – in the heretofore neglected arena of the “global countryside.”³⁵ In what is likely their key discovery, the new historians of capitalism have highlighted the indispensable role of slavery in the growth and development of capitalism as a global system. Against liberal and Marxist interpretations of slavery as a residual, inefficient, pre-modern form of labor, they have defined it as a key, if not formative, “form of labor under capitalism,” which developed contemporaneously (and some would argue, dialectically) with “free” wage labor.³⁶ They insist that the violent expropriation of land in the Americas, together with the importation of millions of slave workers from Africa, allowed planters to “dominate production” – that is, subjugate land, labor and resources to capital in the global countryside – for the first time.³⁷ Slavery afforded planters a degree of coercion and control over labor that was not possible via other means. And as many new historians of capitalism are now addressing, the same coercion and control

³³ Sven Beckert and Seth Rockman, “Introduction: Slavery’s Capitalism,” in *Slavery’s Capitalism: A New History of American Economic Development*, ed. Sven Beckert and Seth Rockman (Philadelphia: University of Pennsylvania Press, 2016), 9; Rockman, 442, 446-7; Beckert, “Global Origins,” 116-7; Caitlin Rosenthal, *Accounting for Slavery: Masters and Management* (Cambridge, Massachusetts: Harvard University Press, 2018), 209, fn 4.

³⁴ Rockman, 443, 445-6; Beckert, “New History of Capitalism,” 236.

³⁵ Beckert, “Global Origins,” 113-114, 117-9; Beckert, “New History of Capitalism,” 245.

³⁶ Rockman, 444-5; Beckert, “New History of Capitalism,” 239.

³⁷ Beckert, “Global Origins,” 114, 116-9.

afforded planters the means to scientifically measure and direct labor as an input in production; many supplemented violent coercion with incentive schemes designed to improve labor productivity and reduce inefficiencies in ways that mirrored similar experiments with waged factory labor in England and America.³⁸

For all its insights and innovations into slavery and capitalism, the New History of Capitalism has run up against trenchant and searching criticisms, which have called into question both the originality of its arguments and its historiographical and methodological commitments. Peter James Hudson, for instance, has faulted some of the school's main proponents with eliding the radical tradition of scholarship that laid the evidentiary and historiographical groundwork for its arguments. Hudson is of course referring to Marxism and the “black radical tradition” of authors such as C.L.R. James, Eric Williams, and W.E.B. DuBois. Some of the key strengths or historiographical advances claimed by the “new” historians – its global orientation, its focus on the rural and commodification, its definitional flexibility and interdisciplinarity, even its focus on the integral role of slavery in capitalism – are singled out as discoveries of an older historiography that have been selectively mined and rehashed in a

³⁸ Caitlin Rosenthal, “Slavery’s Scientific Management: Masters and Managers,” in *Slavery’s Capitalism: A New History of American Economic Development*, eds. Sven Beckert and Seth Rockman (Philadelphia: University of Pennsylvania Press, 2016), 62-86. See, especially, pp. 69-70, 72-74, 77-8, and 83; Caitlin Rosenthal, *Accounting for Slavery*, see Chapters 2 and 3, “Forms of Labor: Paper Technologies in Comparative Perspective,” and “Slavery’s Scientific Management: Productivity Analysis in the Antebellum South,” 49-120; Rockman, 444-5; Rosenthal’s work, it should be noted, owes an intellectual debt to an older historiographical tradition rooted in the work of Eric Williams and centered on the study of European plantations in the Caribbean basin. See, in particular, Justin Roberts, *Slavery and the Enlightenment in the British Atlantic, 1750-1807* (Cambridge: Cambridge University Press, 2013); Eric Williams was among the first scholars to argue that labor concentration and control and geographic displaceability were the central factors underpinning planters’ decisions to replace white indentured labor with African chattel slavery. Eric Williams, *Capitalism and Slavery* (4th ed. (London: Andre Deutsch, 1975), 6, 19, 29. Williams may have erred, however, in pinpointing slaves’ relatively “cheaper price” as the factor that ultimately clinched the adoption of African slaves. On the transition from white indentured servitude to African slavery in Barbados, see Hilary Beckles, “The concept of “white slavery” in the English Caribbean during the early seventeenth century,” In *Early Modern Conceptions of Property*, ed. John Brewer and Susan Staves (London: Routledge, 1996).

sanitized, depoliticized form. For Hudson, the New History of Capitalism thus rests on a historical caesura, if not historiographical erasure.³⁹ Others, such as John J. Clegg, have similarly argued that the new historians' theoretical and historical contributions have been vitiated by their lack of a precise definition of capitalism. Some of the field's central claims (e.g., the claim that slavery was integral to capitalism, or the stronger claim that slavery “gave birth to the capitalist mode of production”) become less cogent when one is tasked with accounting for the larger system that slavery is purported to have been the cause or catalyst of.⁴⁰ Here, the field's celebrated “disavowal of theoretical definitions” becomes a stumbling block.⁴¹ As Clegg convincingly demonstrates, there is little evidentiary basis for claiming that slavery singlehandedly or principally gave rise to capitalism in Britain, and a lot of evidence to suggest that the development of industrial capitalism in the late eighteenth and nineteenth centuries was due to domestic social relations premised on increases in the productivity of agriculture and the growth of an internal market. In chief respects, the New History of Capitalism mistakes slavery's spatial proximity with and chronological precedence to capitalism for causal priority.⁴² But it has not, as yet, offered a convincing alternative account of the “transition” to capitalism.

In the Marxist tradition, a number of authors have attempted to advance a synthetic account of capitalist history that deftly integrates the revolutionary “transformations of the global countryside”

³⁹ Peter James Hudson, “The Racist Dawn of Capitalism: Unearthing the Economy of Bondage,” *Boston Review*, May 14, 2016, <http://bostonreview.net/books-ideas/peter-james-hudson-slavery-capitalism>

⁴⁰ John J. Clegg, “Capitalism and Slavery,” *Critical Historical Studies* Vol. 2, No. 2 (Fall 2015): 281-3; the quote regarding the birth of capitalism was made by Stephanie Smallwood in her contribution to a larger online forum in *The Boston Review* on the relationship between capitalism and slavery. See Stephanie Smallwood, “To Remake the World: Slavery, Racial Capitalism, and Justice: What Slavery Tells Us about Marx,” *Boston Review*, February 21, 2018, <http://bostonreview.net/forum/remake-world-slavery-racial-capitalism-and-justice/stephanie-smallwood-what-slavery-tells-us>. The claim that capitalism gave rise to capitalism has been made by a number of authors. See, for example, Walter Johnson, “The Pedestal and the Veil: Rethinking the Capitalism/Slavery Question,” *Journal of the Early Republic*, 24, 2 (2004): 299-308, and David Graeber, “Turning Modes of Production Inside Out: Or, Why Capitalism is a Transformation of Slavery,” *Critique of Anthropology*, 26, 1 (2006): 61-85.

⁴¹ Rockman, 444. See also pg. 442; quoted in Clegg, 282.

⁴² Clegg, 295-99.

with a conceptual and historical account of the “transition” to capitalism. Perhaps the most exceptional and enduring account among these is Eric Wolf's *Europe and the People Without History*. Wolf sets out to write nothing less than an integrated analytical account of the global growth and spread of the capitalist mode of production, which he conceives, from a *longue durée* perspective, as the product of the multiple and differentiated interactions, interpenetration and mutual determination of different modes of production that characterized the territorial and commercial expansion of European states beyond their borders from the fifteenth to the nineteenth centuries.⁴³ Wolf's approach to these encounters eschews a focus on “societies” as bounded, stable entities in favor of an analysis of the “strategic relationships involved in the deployment of social labor by organized pluralities” – that is, the modes of production, or the particular, historically contingent sets of social relations “through which labor is deployed to wrest energy from nature by means of tools, skills, organization and knowledge.” For Wolf, it was the combination and transmutation of such modes that produced the African slave trade and the North American fur trade.⁴⁴ Wolf extrapolates three modes of production essential for understanding the encounter between European and non-European societies during the period of European commercial expansion: the tributary mode, the kin-ordered mode, and the capitalist mode.⁴⁵ The first two modes characterized Europe in 1400 as well as many of the societies that Europeans would

⁴³ Eric R. Wolf, *Europe and the People Without History* (Berkeley: University of California Press, 1982). Regarding the use of the word “states,” Wolf notes that they “can best be understood as political coalitions between the centralizing executive and the merchant class.” These included Portugal, Castile-Leon, The United Provinces, France and England. See pages 103, 110-125; for Wolf's description of his aims and methodology, see especially pages 17-21, 73-76.

⁴⁴ As Wolf so eloquently defines his approach, “What [...] if we take cognizance of processes that transcend separable cases, moving through and beyond them and transforming them as they proceed? Such processes were, for example, the North American fur trade and the trade in Native American and African slaves.” *Ibid.*, 17; 75-76.

⁴⁵ *Ibid.*, 77-100. Interestingly, Wolf does not consider slavery as a “major independent mode of production,” but rather as one that “has played a subsidiary role in providing labor under all modes – kin-ordered, tributary, and capitalist” (87). This is a powerful, albeit controversial, observation, which has been independently borne out by several eminent scholars of slavery. See, for, example, Joseph Miller, *The Problem of Slavery as History: A Global Approach* (New Haven: Yale University Press, 2012).

encounter in the Americas, Africa and Asia. Wolf uses the tributary mode to encompass the major agricultural societies premised on the extraction of surpluses (“tribute”) from direct producers by extra-economic (read: political or military) means;⁴⁶ the kin-ordered mode, on the other hand, encompasses the diverse non-state societies, including both pastoral and nomadic hunter-gatherers, which inhabited the fringes of large-scale agricultural settlement, and which allocated social labour through kinship relations.⁴⁷ The capitalist mode emerged later, in the late eighteenth century, as a result of European expansion. Perhaps most importantly, Wolf notes that capitalism had historically “determinate origins” in Britain, in the revolutionary transformation of the rural woolen and cotton industries. Here, for the first time, merchants extended their control over the means of production, setting in motion a system by which laborers deprived of the means of production were forced to sell their labor power to the merchants in order to survive – a process that, coupled with efforts to refine and improve the production process, was continually repeated in an effort to increase profitable surplus and ensure the future viability of the system.⁴⁸ Once created, this system was expanded beyond Britain's borders and exported around the world, interacting with other modes of production and ultimately subjugating them to its logic.⁴⁹

For Wolf, then, the capitalist mode of production is a historically specific configuration of social

⁴⁶ Wolf, 79-88.

⁴⁷ Although the intricacies of Wolf's discussion of kinship cannot be summarized here, suffice it to say that the kin-ordered mode is characterized by the allocation of social labour through “access to,” or “rights in,” people. Wolf defines kinship “[...] a way of committing social labor to the transformation of nature through appeals to filiation and marriage, and to consanguinity and affinity. Put simply, through kinship social labor is “locked up,” or “embedded,” in particular relations between people. This labor can be mobilized only through access to people, such access being defined symbolically. *What* is done unlocks social labor; *how* it is done involves (a) symbolic constructs ('filiation/marriage; consanguinity/affinity') that (b) continually place actors, born and recruited, (c) into social relations with one another. These social relations (d) permit people in variable ways to call on the share of social labor carried by each, in order to (e) effect the necessary transformations of nature.” Ibid., 91.

⁴⁸ Ibid., 78 (“determinate origins”), 87, 120, 266, 305-6.

⁴⁹ Ibid., 79; 86-88.

relations that operates as a systemic, relational unity. Wolf identifies three main constituent properties (or prerequisites or preconditions) of the capitalist mode of production: capitalists must first appropriate and maintain control over the means of production; laborers must be compelled to sell their labor to capitalists in order to access the means of production and meet their subsistence needs; and capitalists must endeavor to increase the productivity of laborers under their control via constant reconfigurations of the labor process. (These are, of course, the characteristics of the capitalist mode delineated by Marx.)⁵⁰ The pursuit of surplus value – that is, profit over and above the costs of hiring labor and maintaining the means of production – is undertaken on two fronts. First, capitalists may try to increase what Marx called absolute surplus value extraction by increasing the amount of labor the laborer produces; this usually entails lengthening the working day and reducing wages to the barest minimum required to provide for the workers' subsistence. The other option involves an intensification of output per worker per a quantifiable portion of the working day – in short, any attempt to improve productivity.⁵¹ This is typically achieved by compelling the worker to increase the rate and intensity of her work through a combination of incentive structures and disciplinary techniques.

Altogether, these characteristics constitute a minimalist definition of capitalism as a mature system. If not for Wolf's broader periodization of the emergence of the capitalist mode as the outcome of a long wave of interaction with other world regions and modes of production, the definition would be almost indistinguishable from the so-called classical definition of industrial capitalism. The classical definition has, of course, been refined and deepened by subsequent historiographical contributions: Marcel van der Linden has argued that the generalized commodification of capitalism is premised on three further constituent elements: property rights (or bundles of rights protected by law); money; and competition

⁵⁰ Ibid., 78, 298; Karl Marx, *Capital: A Critique of Political Economy, Vol. I* (London: Penguin Books, 1990 [1867]).

⁵¹ Wolf, 78; Marx, 646-654.

(understood as the pursuit of profit conceived as a zero sum game between individual capitalists).⁵² Similarly, the primacy of wage labor has been challenged, so that it is generally recognized as but one (albeit qualitatively determinant) form of labor in a manifold of labor and work relations under capitalism: other forms include unfree labor, such as chattel slavery, serfdom, indentured servitude and debt peonage; informal (or technically illegal, low- or under-paid, and temporary) labor; unpaid labor, such as housework, subsistence production, and care work; and precarious (or self-employed) labor.⁵³ As commodification is generalized under capitalism, these labor forms also correspond to certain forms of indirect surplus value extraction and transfer: the capitalist, for instance, indirectly benefits from the unpaid labor carried out by families (or individuals) in order to reproduce wage workers; they also benefit from the reduction in costs afforded by the integration of insecure, low-or-under-paid, and unfree labor along certain nodes of the global commodity chain.⁵⁴ What unites these disparate forms of labor and surplus appropriation, however, is the generalized dependence on the market embodied by the wage labor-capital nexus: under capitalism, wage labor becomes the primary "means to appropriate the values generated by other forms of work or labor"; it is the structural logic that pervades the whole and determines the ways in which other modes of production and forms of labor function.⁵⁵

For all its complexity, Wolf's account of the growth and development of capitalism identifies capitalism with industrial capitalism, i.e. with its most mature, fully developed form. There are good reasons for doing so, as the industrial form that emerged in the late eighteenth century marked the first time that capitalism exerted complete control over the labor process. But, at the same time, this

⁵² Marcel van der Linden, "Final Thoughts," in *Capitalism: The Reemergence of a Historical Concept*, ed. Jürgen Kocka and Marcel van der Linden (London: Bloomsbury Academic, 2016), 255-7.

⁵³ Andrea Komlosy, "Work and Labor Relations," in *Capitalism: The Reemergence of a Historical Concept*, ed. Jürgen Kocka and Marcel van der Linden (London: Bloomsbury Academic, 2016), 40-48.

⁵⁴ *Ibid.*, 44-5; 51-56.

⁵⁵ *Ibid.*, 34, 51, 57-58; this is what Wolf means when he speaks of the "differentiated and intertwined relationships" between different modes of production during Europe's commercial expansion from the late fifteenth century. Wolf, 23, 79; Clegg, "Capitalism and Slavery," 299.

periodization almost entirely brackets the prior development of class relations in the English countryside, which made industrialization possible. As historians Robert Brenner and Ellen Meiksins Wood have shown, it was a historically specific ensemble of class relations rooted in certain forms of property, not mass proletarianization, which created a capitalist dynamic in the English countryside. To capture the manifold of social relations that resulted in this new dynamic, Brenner coined the term “social property relations”:

Social property relations, as I would define them, are thus the relations among direct producers, relations among exploiters, and relations between exploiters and direct producers that, taken together, make possible/specify the regular access of individuals and families to the means of production (land, labour, tools) and/or the social product per se. The idea is that such relations will exist in every society and define the basic constraints on – the possibilities and limits of – individual economic action.⁵⁶

In fifteenth-century England, the transition between feudal social property relations to capitalist social property relations was occasioned from within the former – that is, it was class conflict between lords and peasants, attempting to “reproduce themselves *as they were*,” that set off a series of unintended consequences, leading to a change in social property relations.⁵⁷ In the wake of the Black Death, the population had decreased significantly, to the point where lords had to compete for tenants, and tenants successfully played lords off against each other in order to secure lower fees and different terms of tenure. Villeinage was replaced with copyhold – a form of contractual tenure that gave peasants legally enforceable rights. But the lords, backed by the state, succeeded in transforming dues on transfer into economic leases (leaseholds).⁵⁸ A market in leases developed in historically unprecedented ways,

⁵⁶ Robert Brenner, “Property and Progress: Where Adam Smith Went Wrong,” in *Marxist History-writing for the Twenty-first Century*, ed. Chris Wickham (Oxford: Oxford University Press), 58; see also Robert Brenner, “The Social Basis of Economic Development,” in *Analytical Marxism*, ed. J. Roemer (Cambridge: Cambridge University Press, 1986), 23-53; and Robert Brenner, “A Critique of Neo-Smithian Marxism,” *New Left Review*, no. 104 (1977): 25-92.

⁵⁷ Ellen Meiksins Wood, *The Origin of Capitalism* (New York: Monthly Review Press, 1999), 52; Brenner, “Property and Progress,” 89.

⁵⁸ Brenner, “Property and Progress,” 95-99, 104-106.

subjecting landholders and tenants alike to new forms of economic compulsion: tenants increasingly found that they had to produce competitively for the market in order to hang on to their leases and to safeguard their means of subsistence; landlords likewise increasingly came to rely on the productivity of tenants for ground rent.⁵⁹ This eventually produced a differentiation in classes – the tri-partite division, remarked by Marx, between capitalist landlords and tenants, on the one hand, and propertyless wage laborers, on the other – which was completely mediated by the market. For Brenner and Wood, then, the social property relations of capitalism are defined, above all else, by a generalized dependence on the market for access to the means of subsistence. Both are at pains to stress that this dependence affected both appropriators and appropriators alike, including landlords, tenants, and wage laborers, the latter of whom remained a quantitatively small fraction of the population in seventeenth century England; it also preceded, and, in effect, caused, mass proletarianization of the work force, setting the groundwork for the emergence of capitalism in its industrial form in the late eighteenth century.⁶⁰

From the fifteenth century, then, classes in England were increasingly subject to what Ellen Meiksins Wood has called the “economic imperatives” of capitalism – its compulsions to compete, accumulate, maximize profit and improve labor productivity. Stemming from market dependence, these compulsions are, as their name denotes, the antithesis of choice: producers must conform to them or risk losing their means of subsistence. Once established, they tend to subjugate social relations in general to their logic. As conceived by Wood, the concept of “economic imperatives” is thus at once usefully specific and broad: she boils down capitalist property relations to its most salient structural properties on a general, analytical level, leaving open-ended the question of their particular historical permutations in space and time. “Economic imperatives” could, then, in theory encompass a wide variety of phenomena. As Wood

⁵⁹ Ibid., 80; Wood, *Origin*, 46-47.

⁶⁰ Both Brenner and Wood stress that this dependence affected even those who owned the means of production. Brenner, “Property and Progress,” 60; Wood, *Origin*, 24, 53-4, 58, 94-5, 103-4.

notes, from the fifteenth to nineteenth centuries, they increasingly came to be expressed in the doctrine of "improvement," "the enhancement of land's productivity for profit."⁶¹ This constellation of ideas and practices regarding the right way to make productive, profitable use of the land was central to the process of enclosure in the fifteenth and sixteenth centuries, whereby improving landlords sought to extinguish peasants' common rights to the land in order to consolidate holdings conceived as private, exclusive, and commercial property. The export of economic imperatives to the colonies and dependencies was a distinguishing feature of British empire, and it is here where their historical permutations are important. The transfer of economic imperatives to the settler colonies was never a smooth, uncontested process, as the abundance of land and the shifting preoccupations of Britain's surplus population militated against a close coordination of land, labor and resources. For a long time, Britain's response to the intractability of the labor problem was to import slaves to do the productive work required on plantations.⁶² From Barbados to Canada and the Chesapeake colonies, capitalist economic imperatives underpinned a wide variety of labor regimes. In all cases, "improvement" – the imperative to improve the productivity of land, and increasingly more often, labor – was the ideological lynchpin uniting discrete cases before industrialization.⁶³

Taking Ellen Meiksins Wood's concept of economic imperatives as its primary theoretical and historical lens, this thesis aims to uncover the ways in which British imperial land policies sought to enhance the productivity of land and laborers in colonial Nova Scotia. As has already been stated, it

⁶¹ Wood, *Origin*, 71, 79, 80.

⁶² *Ibid.*, 81-3, 87, 89.

⁶³ For exemplary works on the many facets of "improvement" in the early modern and modern periods, see in particular Lorena S. Walsh, *Motives of Honor, Pleasure, and Profit: Plantation Management in the Colonial Chesapeake, 1607-1763* (Chapel Hill: UNC Press Books, 2012); Anya Zilberstein, *A Temperate Empire: Making Climate Change in Early America* (New York, NY: Oxford University Press, 2016); Richard Drayton, *Nature's Government: Science, Imperial Britain, and the 'Improvement' of the World* (New Haven, Connecticut: Yale University Press, 2000); and Joyce E. Chaplin, *An Anxious Pursuit: Agricultural Innovation and Modernity in the Lower South, 1730-1815* (Chapel Hill: UNC Press Books, 2012).

situates the unfolding of these imperatives against the backdrop of the colony's relative political and economic marginality. Given the colonial state's often tenuous grasp over the fragmented and expansive geography of the region, imperial legality often failed to take root at a local level; a level of informality prevailed that exceeded even the characteristic pliability of local commonwealth jurisdiction. As major matrices and incubators of social property relations, however, land policies tended to exert a disproportionate influence over social life even in such conditions of informality and marginality, determining both the possibilities and limits of settlers' subsistence strategies. They are thus indispensable for understanding both settler and indigenous dispossession, which, I argue, tended to become intertwined. The centrality of economic imperatives to dispossession has long been insufficiently addressed largely because the paradigm of marginality has, with few exceptions, directed scholars to look elsewhere for causes and to ignore their importance. As I hope to show, however, it was the incentive structures for enhancing productivity and generating revenue from Crown lands that did the most to destroy subsistence strategies, giving rise to widespread informality in the form of squatting.

Any discussion of economic imperatives must touch on the issue of jurisdiction. The history of British imposition of jurisdiction over Mi'kma'ki has already been well covered in existing scholarship, and it will not be repeated in detail here. Seminal events in the creation of settler colonial state in Nova Scotia, such as the conquest of Acadia in 1710, the establishment of Halifax in 1749, and the events of the Seven Years' War culminating in the consolidation of jurisdiction over Mi'kma'ki by 1758, have all been covered in detail elsewhere. Insofar as this consolidation of power and jurisdiction made possible the imposition of economic imperatives within Mi'kma'ki, this thesis will highlight those sources, connections and continuities. This thesis must necessarily bracket, as well, the legal and political agreements that the Mi'kmaq entered into with the British – namely, the Peace and Friendship Treaties of 1725-6, 1749, 1752, and 1760-1, the Royal Proclamation of 1763, and the New England truckhouse

system. All of these are immensely important subjects, which have already been treated in depth.⁶⁴

There is no doubt that the treaties and the Proclamation constituted (and remain) important achievements of Mi'kmaw diplomacy, safeguarding Mi'kmaw rights and traditions. But as legal documents that surreptitiously smuggled in British conceptions of jurisdiction, they arguably did very little to impede the imposition of economic imperatives. As Girard, Brown and Phillips have perceptively noted, in the Maritimes "[...] Indigenous title was acknowledged by a treaty containing no mechanism for surrender or compensation, but no clear boundary was established between areas where Europeans could settle and where they could not."⁶⁵ Furthermore, key provisions of the treaties were worded in an underhanded way, so that they could be interpreted as unilateral grounds for advancing British settlement.⁶⁶ Likewise, as Girard, Brown and Phillips admit, local and imperial exigencies took precedence over adherence to the provisions of the Royal Proclamation.⁶⁷

Above all, the success of economic imperatives depended on the extinguishment of prior, alternative ways of organizing land use. Traditional Mi'kmaw land use, rooted in resilient social and political structures, stood in the way of the subjugation of the countryside to the imperatives of productivity. Ironically, despite the comparatively longer period of mutual acculturation between the Mi'kmaq and Europeans in Mi'kma'ki, there are few surviving sources from the early historic period that describe the Mi'kmaw mode of production. Most surviving accounts date from the seventeenth century, well after

⁶⁴ See, in particular, William Wicken's richly informative and humanistic work on Mi'kmaw engagements with/interpretations of the Peace and Friendship treaties. William C. Wicken, *Mi'kmaq Treaties on Trial: History, Land, and Donald Marshall Junior* (Toronto: University of Toronto Press, 2002); William C. Wicken, *The Colonization of Mi'kmaw Memory and History, 1794-1928: The King vs. Gabriel Syliboy* (Toronto: University of Toronto Press, 2012). On the subject of the truckhouse system, see R.O. MacFarlane, "British Indian Policy in Nova Scotia to 1760," *Canadian Historical Review* 19, no. 2 (1938): 154-167, and R.O. MacFarlane, "Indian Trade in Nova Scotia to 1764," *Report of the Annual Meeting of the Canadian Historical Association*, 13, 1 (1934): 57-67.

⁶⁵ Girard, Brown, & Phillips, 205.

⁶⁶ *Ibid.*, 365.

⁶⁷ *Ibid.*, 202.

the period of contact; almost without exception, they come from European observers, typically Jesuit priests or French and Acadian traders, whose activities were largely confined to Euro-American settlements – a state of affairs reflective of the fragmentation and isolation of settlement in the colony of Acadia more generally. Despite the inherent partiality and the spatio-temporal limitations of these accounts, they have provided the foundation for a de facto scholarly consensus regarding pre- and post-contact Mi'kmaw society. As will be seen, however, there are compelling reasons to treat some of the major claims of the consensus view with skepticism.⁶⁸

The consensus view holds that the historical Mi'kmaw mode of production (or subsistence) was “biseasonal” or “seasonally dichotomized”⁶⁹ – that is, major shifts in subsistence patterns occurred twice a year, in summer and winter. The key work here is Bernard Hoffman's historical ethnography. Collating all seventeenth- century (and some eighteenth century) historical sources into a composite picture of Mi'kmaw subsistence practices and social norms, and supplementing this picture with extrapolations on the material conditions that prevailed in the same period, Hoffman undertook to reconstruct early pre-contact and post-contact Mi'kmaw society in toto.⁷⁰ He proceeded on the assumption that “the old culture was still functioning” in the seventeenth century, characterizing the effects of the preceding one hundred years of regular contact with Europeans as minimal.⁷¹ In what has since become known as the “Maritime model” of subsistence, Hoffman delineated an annual subsistence cycle based almost entirely

⁶⁸ Hoffman’s historical ethnographic reconstruction of pre- and post-contact Mi’kmaw lifeways relies almost exclusively on the (often short-lived) experiences of a select number of European writers in Acadia. These include Champlain (c. 1605-1607), Marc Lescarbot (c. 1606-1607), Pierre Biard (c. 1611-1613), Nicolas Denys (c. 1632-1670), Chrestien LeClercq (c. 1675-1686), and Sieur de Dièreville (c. 1699-1700). See Hoffman, 44-54, 74, 77-83.

⁶⁹ Michelle Lelièvre, *Unsettling Mobility: Mediating Mi’kmaw Sovereignty in Post-contact Nova Scotia* (Tucson: University of Arizona Press, 2017), 8; Frances L. Stewart, “Seasonal Movements of Indians in Acadia as Evidenced by Historical Documents and Vertebrate Faunal Remains from Archaeological Sites,” *Man in the Northeast*, No. 38 (1989): 56, 61, 74.

⁷⁰ Hoffman, 1.

⁷¹ *Ibid.*, 2; to be fair, on page 42, Hoffman does admit that “the events of the 16th century may have been sufficiently important to render the 17th century culture of the Micmac definitely unaboriginal.”

on maritime resources, which he claimed accounted for as much as ninety per cent of Mi'kmaw subsistence needs over ten months of the year.⁷² According to the schema developed by Hoffman, the annual subsistence cycle began in the spring, when the Mi'kmaq relocated to coastal and riverine sites ("[...] the seacoast, [...] the bays, estuaries, coves, and river mouths [...]") in anticipation of the spawning runs of several species of anadromous fish. Winter flounder tided the Mi'kmaq over until the arrival of smelt in mid-March; alewives followed in mid-April and July, shad in July, and sturgeon and salmon shortly thereafter.⁷³ A relative relocation from freshwater to coastal waters occurred in late April and May in order to take advantage of the availability of cod, plaice, skates, brook trout and striped bass; these were followed by hake, perch, mackerel and eels in late May and early June.⁷⁴ During all this time, the Mi'kmaq were also able to take advantage of the presence of migratory birds, shellfish and land mammals.⁷⁵ Finally, in mid-September, the Mi'kmaq relocated to riverine locations in the interior in order to pursue eels; in October and November, they hunted moose and beaver further inland; in December, the tomcod appeared under the ice; in January, they might return to the coast to hunt seals; and in February and March, they were apt to resume the hunt of mammals such as moose, caribou, bears, otters and beavers.⁷⁶ For Hoffman, the "reorientation towards the interior" that occurred in winter was a relatively new phenomenon, a deviation from a maritime-centred subsistence model occasioned by the Mi'kmaq's involvement in the North American fur trade.⁷⁷

Subsequent comprehensive treatments of the subject have not fundamentally altered the scheme outlined by Hoffman. Patricia Nietfeld claims that the Mi'kmaw seasonal round began in late March and

⁷² Ronald J. Nash, *Mi'kmaq: Economics and Evolution* (Curatorial Report No. 57, Nova Scotia Museum, Halifax, 1986), 157; Hoffman, 151.

⁷³ The salmon's spawning runs took place in October, although adult salmon frequented inshore waters in the spring to feed on other fish. *Ibid.*, 160.

⁷⁴ *Ibid.*, 153-165.

⁷⁵ *Ibid.*, 167-71.

⁷⁶ *Ibid.*, 172-3, 178.

⁷⁷ *Ibid.*, 32, 704.

April, coinciding with the spawning runs of smelt; alewives followed from mid-April through May, with the Mi'kmaq relocating to lower riverine areas below their spawning grounds to intercept them; in May and June, shad, sturgeon and spring-running salmon were "probably taken near river mouths and on the lower rivers"; "striped bass were also taken from lower rivers."⁷⁸ Like Hoffman, Nietfeld notes that the Mi'kmaq relocated to the coast in the early summer, when sea mammals, a variety of fish species, and resident and migratory birds were all abundant. During this period, they might undertake inland hunting expeditions, but they were unlikely to stray far from the coast.⁷⁹ With the waning of summer, however, they moved to interior riverine areas in order to take advantage of eels, smelt, striped bass, trout and salmon; the move upriver brought them closer to their winter hunting grounds, where moose and beaver would be taken in October and November. In the fall, the Mi'kmaq preserved food to carry them through the vicissitudes of winter; once embarked on hunting expeditions, they were again unlikely to stray far from their fishing grounds.⁸⁰ Likewise, William Wicken asserts that the location of Mi'kmaq settlements was closely connected to the seasonal migrations of the animals on which they depended for subsistence.⁸¹ In spring, summer, and fall, then, the Mi'kmaq exclusively inhabited coastal and riverine settlements: in spring, they settled along rivers to exploit anadromous fish runs; in summer, "[...] families tended to live along river systems adjacent to the shoreline, eating fish, small mammals, and berries and ground nuts."⁸² In winter, families hunted moose and beaver.⁸³ Wicken goes so far as to say that fishing was "the foundation of the Mi'kmaq society."⁸⁴

⁷⁸ Patricia Kathleen Linskey Nietfeld, "Determinants of Aboriginal Micmac Political Structure" (Ph.D. diss., University of New Mexico, 1981), 308-9.

⁷⁹ *Ibid.*, 309-313, 377-8.

⁸⁰ Certain aquatic resources provided a "fall-back" option in times of scarcity, and the Mi'kmaq might relocate to the coast to hunt seals, although this option was probably one of last resort. *Ibid.*, 317-19, 368.

⁸¹ Wicken, "Tall Sails and Tall Tales," 63-4.

⁸² *Ibid.*, 65.

⁸³ *Ibid.*, 71-73.

⁸⁴ *Ibid.*, 87.

All scholars agree that kinship structures (in effect, what Wolf refers to as the kin-ordered mode of production) organized and directed Mi'kmaw subsistence activities. The basic unit was the nuclear family, or what Hoffman has called the bilateral extended family. These radiated out into larger households incorporating both the men's and women's relatives, including widows and orphans; these, in turn, were organized into collectivities united under the governance of a sakamow, or local chief. The sakamow was typically the eldest son of the principal (or most powerful) family in any given area, who received his position through inheritance, and who was expected to demonstrate certain leadership qualities befitting his position. Among other things, he was responsible for settling internal disputes, planning the seasonal migrations of the group, organizing hunting expeditions, and caring for orphans and widows and others, i.e. all those without kin relations who chose to live under his authority.⁸⁵ In spring and summer, households united under the authority of a sakamow formed large villages; in the winter, these villages were divided into smaller groups of households to form hunting expeditions. As the Mi'kmaq spent the greater part (between nine to ten months) of the year on the coast, the "summer village" was typically a fishing village.⁸⁶ Wicken calls the village the "most important social and political structure of Mi'kmaw society."⁸⁷ These agglomerations of families and households united under the authority of sakamows were relatively fixed settlements, although their exact location tended to shift in any given year to correspond with the movements of fish; they could become quite large and expansive, developing links with other villages through intermarriage.⁸⁸

There is evidence that Mi'kmaw social and political organization did not stop at the village level.

⁸⁵ Virginia P. Miller, "Social and Political Complexity on the East Coast: The Micmac Case," in *The Evolution of Maritime Cultures on the Northeast and the Northwest Coasts of America*, ed. Ronald J. Nash, Publication No. 11, Department of Archaeology, Simon Fraser University, B.C. (1983) 42-43; 46-7; Hoffman 186-7; Wicken 128-131.

⁸⁶ Wicken 69-71; 114.

⁸⁷ *Ibid.*, 90.

⁸⁸ *Ibid.*, 101, 114; 158.

According to Mi'kmaw oral tradition, local chieftaincies, or sakamowtis, were the constituent units of a larger political whole, called the *Sante Mawio'mi* (variously translated as the “Grand Council” or “Holy Gathering”), which was created six hundred years ago as a counterpoise against the Iroquois Confederacy.⁸⁹ According to tradition, Mi'kma'ki was divided into seven districts or sakamowtis, each of which was headed by a district chief or a captain (keptin); these district chiefs, when assembled together, comprised the Grand Council, which was headed by the Kjisakamow, or grand chief.⁹⁰ The key functions of the Grand Council, it would appear, were to facilitate the assignment of hunting territories within districts and to deliberate over matters of war and peace.⁹¹ Historical evidence for the existence and operation of these structures in the seventeenth century and earlier is impressionistic, however, and as a result, some historians, such as Patricia Nietfeld, have claimed that the supralocal political authority of the Grand Council probably did not exist. Others, such as Wicken and Miller, pointing to a select few references in the European historical record, as well as the authority of Mi'kmaw oral tradition and modern ethnography, have argued that the institutions probably predated contact. Wicken couches his argument within a larger thesis regarding the continuity and adaptability of Mi'kmaw culture, in all of its facets, from the sixteenth to the eighteenth centuries.⁹²

In key respects, the radically divergent interpretations regarding the existence, nature and origins of the Grand Council reflects, or maps onto, a broader, older debate within the historiography on the impact of European trade, diseases and warfare on indigenous societies. In the historiography of North America, the debate has focused on the effects of the North American fur trade on the cohesion of indigenous cultures and their modes of subsistence. In broad strokes, some scholars argued that the fur

⁸⁹ Ibid., 135; Miller 44-6; 52.

⁹⁰ As Wicken points out, there is evidence to suggest that the Kjikeptin once resided at Pubnico. After 1749, the location shifted to Unimaki (Cape Breton) or Antigonish. Wicken, “Tall Sails and Tall Tales,” 135-7.

⁹¹ Miller, 44-5.

⁹² Nietfeld, 471-76; Wicken, *Tall Sails and Tall Tales*, 134-38.

trade caused a wholesale transformation of indigenous societies, rendering them dependent on European culture and commodities; others denied the magnitude of such change, arguing that indigenous societies successfully navigated and adapted to European pressures, incorporating external inputs into pre-existing, resilient social structures. In the twentieth century, the key debate focused on the question of the aboriginality of the “family hunting territory system” that American anthropologist Frank Speck identified and described as part of his extensive fieldwork among Algonquian peoples of the northeastern United States and Canada. In 1915, Speck identified the “family hunting territory” as a largely invariant, pre-contact form of territoriality of the northeastern Algonquian hunting group, which he defined as “a kinship group composed of folks united by blood or marriage, having the right to hunt, trap, and fish in a certain inherited district bounded by some rivers, lakes or other natural landmarks.”⁹³ In an implicit critique of then-prevalent evolutionary conceptions of indigenous societies as less developed forms of “primitive communism,” Speck stressed that the family hunting territory system represented a definite form of “ownership” or “property,” which he occasionally explicitly likened, if not equated, to a form of private property. In the 1930s and 1950s, Speck's arguments came under criticism from scholars such as Diamond Jenness and Eleanor Leacock, who, defending the evolutionary paradigm, argued that the hunting system was a relatively recent cultural change brought about by the pressures of the fur trade.⁹⁴

Although Leacock and her followers carried the day in the 1950s and '60s, fieldwork conducted in the 1980s challenged and overturned many of their central contentions and conclusions. Today, most scholars have more or less accepted Speck's concept of the family hunting territory as an aboriginal

⁹³ Frank G. Speck, “The Family Hunting Band as the Basis of Algonkian Social Organization,” *American Anthropologist*, 17 (1915): 290.

⁹⁴ Diamond Jenness, *The Indians of Canada* (Ottawa: National Museum of Canada, Bulletin 65, 1932); Eleanor Leacock, “The Montagnais “Hunting Territory” and the Fur Trade” (Ph.D. diss., Columbia University, 1952).

institution, while recognizing that he was wrong to characterize it as a form of private property. The anthropologist Colin Scott, for instance, defined the Cree hunting boss as a “political leader and resource custodian, not a private owner,” firmly situating the role of the hunting boss within a communal, egalitarian system of resource stewardship, and putting paid to false dichotomies between individual and communal property.⁹⁵ In a rejection of both sides of the classic debate, he noted that the institution of the family hunting territory was “misrepresented by the application of property concepts more appropriately attributed to capitalism.”⁹⁶ Likewise, as Paul Nadasdy has argued, it is now not only possible, but increasingly morally necessary, to imagine and acknowledge the probable pre-Columbian existence of aboriginal forms of territoriality without reference to Speck's particular arguments regarding ownership: conceptualizing indigenous relationships to the land as forms of “property” at all obscures the real and enduring differences between indigenous and non-indigenous forms of tenure and territoriality and renders the former susceptible to cooptation by the state and capitalist interests.⁹⁷ Furthermore, the central claims of both sides of the old debate have not been transcended; in a very real sense, if either set of claims were subjected to a rigorously historical epistemology, neither could claim any sort of precedence given the impressionistic evidentiary basis of the historical period in which they must be tested.

The discrepancies and limitations of the historical record become clearer when they are compared to archaeological findings. In particular, Hoffman's Maritime model of biseasonal subsistence has come under criticism from anthropologists Ronald Nash and Frances Stewart. In a fascinating study, Stewart

⁹⁵ Colin Scott, “Hunting Territories, Hunting Bosses and Communal Production among the Coastal James Bay Cree,” *Anthropologica*, New Series, Vol. 28, No. 1/2 *Who Owns the Beaver?* Northern Algonquian Land Tenure Reconsidered (1986): 163; see also Mélanie Chaplier and Colin Scott, “Introduction: From Beavers to Land: Building on Past Debates to Unpack the Contemporary Entanglements of Algonquian Family Hunting Territories,” *Anthropologica*, Vol. 60, No. 1 (2018): 33.

⁹⁶ Scott, “Hunting Territories, Hunting Bosses,” 164.

⁹⁷ Paul Nadasdy, “‘Property’ and Aboriginal Land Claims in the Canadian Subarctic: Some Theoretical Considerations,” *American Anthropologist*, 104, 1 (2002): 247-261. See in particular pg. 251.

rigorously compared the findings of the historical literature with an analysis she had undertaken of the seasonality of vertebrate faunal remains at various Woodland period archaeological sites in northern Nova Scotia and southern and northern New Brunswick. While she found some correspondence between the historical and archaeological records, she also identified some major discrepancies: at Delorey's Island off the northern coast of mainland Nova Scotia, the Mi'kmaq hunted seals, moose and beaver during the summer – a deviation from the biseasonal model that finds sanction in several of the historical sources; the two coastal sites located in the Passamaquoddy Bay in southern New Brunswick, however, were occupied in the winter months, contradicting the observations of seventeenth-century observers. Likewise, in Cape Breton, the examination of a number of prehistoric sites excavated by Nash revealed some evidence of an inland habitation pattern on the Bras D'Or lake from the late winter to the spring and a coastal habitation pattern in the winter. Interestingly, all of the sites analyzed yielded little or no fish remains, suggesting that fishing was not a central component of the subsistence strategies pursued there. Stewart concludes that the diversity exhibited at various sites shows that the biseasonal model of summer coastal occupation and winter inland hunting is “too simplistic.”⁹⁸ In its stead, both she and Nash advocate for a model more attuned to regional variations and adaptations.⁹⁹ For his part, Nash's takeaway from Stewart's findings and his own research on Cape Breton is that the “prehistoric peoples of eastern Nova Scotia could not be characterized as being fishing societies or even predominantly maritime societies.”¹⁰⁰

One of the principal outstanding debates on the early Mi'kmaw economy centers on the aboriginality of agriculture, particularly the cultivation of corn. A few historical sources either claim that the Mi'kmaq

⁹⁸ Stewart, “Seasonal Movements of Indians in Acadia,” 61, 65-66, 69-71, 74.

⁹⁹ Ibid., 74; Nash, “Research Strategies,” 32, 36-7.

¹⁰⁰ Nash, “Research Strategies,” 35; instead, he argues that the prehistoric Mi'kmaq economy was part of a larger “oscillating economic mix” characteristic of Woodland economies, one which “can be viewed as a mosaic of differential involvements with the sea and its resources, involvements which changed in space and time” [pg. 37].

once practised agriculture or refer to folk tales making the same claim. For instance, the French lawyer Marc Lescarbot, writing of his experiences at Port Royal between 1606 and 1607, claimed that the Mi'kmaq had once practised agriculture but had abandoned it as a result of their dependency on European goods.¹⁰¹ Upon reviewing the historical sources and the secondary literature, Patricia Nietfeld concludes that the Mi'kmaq did not practise agriculture in the early historic period and probably did not practise it in prehistoric times.¹⁰² She notes, however, that several Mi'kmaq cultivated corn in the late seventeenth and early eighteenth centuries, as a result of its cultural transmission from French settlers and missionaries. On the whole, however, Nietfeld denies that agriculture was a privileged feature of the Mi'kmaq's available set of subsistence strategies, arguing that it "probably interfered with the scheduling of other spring, summer and early fall subsistence activities."¹⁰³ William Wicken, on the other hand, is much more willing to entertain the hypothesis that the Mi'kmaq had formerly cultivated corn in prehistoric times, noting the possibility that "declining hemispheric temperatures beginning in 1450 made horticultural production untenable and had precipitated its abandonment prior to the first recorded observations made by Europeans of Mi'kmaq peoples." Wicken also entertains the possibility that agricultural practices were disseminated by the early Acadians or by the neighbouring Maliseet. He provides several early seventeenth-century references to the Mi'kmaq's planting of gardens (primarily of corn, but he also mentions peas, beans and cabbage). Like Nietfeld, he argues that agriculture primarily served as a supplement to more well-established subsistence activities.¹⁰⁴ In any case, the Mi'kmaq mode of subsistence differed markedly from that of the French and the English, which was primarily based on agriculture and its regimented annual cycle of planting and harvesting a variety of cultivable

¹⁰¹ Lescarbot's claim is of uncertain provenance. See Nietfeld, "Micmac Political Structure," pg. 323; Wicken, "Tall Sails and Tall Tales," 66.

¹⁰² Nietfeld, "Micmac Political Structure," 323.

¹⁰³ *Ibid.*, 325-330.

¹⁰⁴ Wicken, "Tall Sails and Tall Tales," 65-68.

crops.

Perhaps no historian has done more to elucidate these differences within the northeastern Atlantic region than William Cronon. In *Changes in the Land*, his highly influential environmental history of seventeenth-century New England, Cronon set out to examine both indigenous and Euro-American modes of production as "a subset of ecology."¹⁰⁵ In his view, indigenous peoples were like Europeans inasmuch as they formed organized political collectivities that exercised sovereignty over defined territories; they also defined their territories in terms of their ecological value. But unlike Europeans, who derived their authority from monarchical states, indigenous groups articulated power through kinship structures; it was the sachem or sagamore, a leader who typically inherited his power or acquired it through personal means, who wielded authority on behalf of the collectivity. The primary social and economic institution under the sachem's authority was the village, whose location along a given river system shifted in accordance with the seasonal availability of resources. Like their European counterparts, indigenous villages had relatively well-defined boundaries, but access to resources within these boundaries was accorded on an egalitarian basis in conformity with kin ties; in effect, the sachem's or sagamore's main role was to manage the village as an ecological preserve for the subsistence of the community. Cronon quite perceptively defines the rights that inhered in these territories as customary and collective use rights.¹⁰⁶ He argues that this system of use rights was reflected in indigenous toponyms, which in most instances designated landmarks or local resources, serving as cognitive maps or "ecological labels to describe how the land could be used."¹⁰⁷ Perhaps most

¹⁰⁵ William Cronon, *Changes in the Land: Indians, Colonists and the Ecology of New England* (New York: Hill and Wang, 1983), xv-xvi.

¹⁰⁶ In an acknowledgement of the complexity of the system, Cronon notes that individuals possessed their own tools. However, "accumulation made little sense for the ecological reasons of mobility" that defined the overall system. *Ibid.*, 61-2; this paragraph paraphrases several of Cronon's main arguments in the chapter "Bounding the Land." See, in particular, pp. 58-63, 65-6.

¹⁰⁷ *Ibid.*, 66.

importantly, he notes that access to land within villages could not be privatized or otherwise denied to individuals based on exclusive claims of "ownership."¹⁰⁸

Although Cronon's observations were intended to apply only to the horticulturalists and hunter-gatherers that inhabited southern and northern New England, respectively, they are equally relevant to the case of the Mi'kmaq. The Mi'kmaq language is verb-based and relational, describing the world in terms of the myriad interrelationships between animate and inanimate beings.¹⁰⁹ In Mi'kmaq oral culture, toponyms served as repositories of cultural information about the landscape: they variously defined the ecological uses of the land, described its features and boundaries, or referred to important historical or mythological figures and events that occurred there.¹¹⁰ For instance, the Mi'kmaq toponym Pne'katik (Benacadie, Cape Breton) means "egg laying place"; likewise, Me'katewik (Liscomb Harbour, Guysborough County) means "place of the big eels."¹¹¹ Legends, dances and songs served similar functions, anchoring the Mi'kmaq's relationship to the land. Practices regarding the management of land and the harvesting of resources formed part of a larger vision of the world as an interconnected whole

¹⁰⁸ Ibid., 62. Although Cronon's comments regarding indigenous groups in colonial New England are probably too general to be of much analytical use to discerning anthropologists today, his observations regarding customary rights, the role of the sachem as a manager of resources, and the absence of forms of exclusive ownership in villages find sanction in the wider ethnographic literature on Algonquian hunting groups. The anthropologist Colin Scott, for instance, summarized the consensus view of the Cree family hunting system in the mid-eighties as follows: "To speak of Cree property, then – even "communal" property – would be to gloss over the essential dynamics of the system. Customary rights in the land, living resources and products may be specified, but these relate to the technical and political relations of managing and sharing resources – resources in which no one, in the last analysis, retains exclusive or absolute rights." Colin Scott, "Property Practice and Aboriginal Rights among Quebec Cree Hunters," in *Hunters and Gatherers, vol. 2, Property, Power and Ideology*, ed. Tim Ingold, David Riches, and James Woodburn (Oxford: Berg, 1988), 40.

¹⁰⁹ Trudy Sable and Bernie Francis, *The Language of this Land, Mi'kma'ki* (Sydney, NS: Cape Breton University Press, 2012), 26-34; the importance of kinship as a structuring principle is embodied in the language. As Bernie Francis and Trudy Sable note, it is impossible to refer to a "father" without using a possessive pronominal marker, e.g. "in the name of the father" must be translated to "in the name of the father who has a son." Pg. 32.

¹¹⁰ Ibid., 50-51

¹¹¹ Ibid., 53; "Mi'kmaq Place Names Digital Atlas," 2010, <http://mapdev.ca/placenames/#/>.

whose constituent beings and attributes must be respected.¹¹² Protocols of respect and reciprocity governed kin relations as well as the broader relationship with the non-human world.¹¹³

As Cronon points out, settlers also defined the land in terms of its ecological uses, albeit in different ways; they invariably defined the land in terms of its natural capacity to support agriculture. Initially, this fact manifested itself in a plurality of practices: land deeds named farmers' fields and natural features of the landscape, such as blazed trees, as physical markers of property boundaries; patterns of land use reflected the provenances of settlers, resulting in a patchwork of tenure forms and agricultural practices.¹¹⁴ In time, however, this plurality came to be disciplined by a more uniform tendency: land deeds delineated property according to abstract measurements, and individual lots were increasingly treated as commodities "whose legal definition bore no relation to their use [...]"¹¹⁵ These tendencies, which were part and parcel of a burgeoning market in land, did not at first revolutionize the subsistence patterns of settlers; nothing even remotely like a clear division between wage laborers and capitalists existed. But, in a brilliant passage that might as well have been written about the marginal colony of Nova Scotia, Cronon notes

And yet when colonial towns are compared not with their industrial successors but with their Indian predecessors, they begin to look more like market societies, the seeds of whose capitalist future were already present. The earliest explorers' descriptions of the New England coast had been framed from the start in terms of the land's commodities. Although an earlier English meaning of the word 'commodity' had referred simply to articles which were 'commodious' and hence useful to people – a definition Indians would readily have understood – that meaning was already becoming archaic by the seventeenth century. In its place was the commodity as an object of commerce, one by definition owned for the sole purpose of being traded away at a profit. ("Profit" was another word that underwent a comparable evolution at about the same time: to its original meaning of the benefits

¹¹² Sable and Francis, *Language*, 24-5, 34-5, 39; Roger Lewis and Trudy Sable, "The Mi'kmaq: *Ta'n Mi'kmaqik Telo'Itipnik Mi'kma'ki* – "How the People Lived in Mi'kma'ki"" in *Native Peoples: The Canadian Experience*, Fourth Edition, ed. C. Roderick Wilson and Christopher Fletcher (Don Mills: Oxford University Press, 2014), 274, 285.

¹¹³ As Sable and Francis point out, the distinctions between human and non-human were not hard and fast; kinship designations could be applied to animals, plants and even rock formations and stars. Sable and Francis, *Language*, 33-5, 39-41, 44.

¹¹⁴ Cronon 69, 71, 73-4.

¹¹⁵ *Ibid.*, 74.

one derived from using a thing was added the gain one made by selling it.) Certain items of the New England landscape – fish, furs, timber, and a few others – were thus selected at once for early entrance into the commercial economy of the North Atlantic. They became valued not for their immediate utility they brought for their possessors but for the price they would bring when exchanged at market. In trying to explain ecological changes related to these commodities, we can safely point to market demand as the key causal agent.

As Cronon points out, the lynchpin linking settlers' practices to market demand was their shared belief in "improvement" – the imperative to make land productive, to subject it to the dictates of exchange value.¹¹⁶

Certain scholars have taken issue with this portrayal. Most recently, Allan Greer has taken Cronon to task for his claim that New England settlers were "moved to transform the soil by a property system that taught them to treat land as capital."¹¹⁷ Greer argues that Cronon's statement exemplifies "a leftist variant of [a] metanarrative of progress [that] insists on an association between colonization and capitalism stretching back to the earliest encounters with the New World and its inhabitants," one which "gives the impression that the colonists arrived from Europe with a system of property that was somehow complete, fully formed and perfectly in line with that of the historian's own time."¹¹⁸ Neither the charge of presentism nor the implication of teleology can stand, however; a close reading of Cronon's work reveals Greer's claims to be a straw man.¹¹⁹ As we have seen, far from arguing that the

¹¹⁶ Ibid., 76; 77.

¹¹⁷ Ibid., 77; quoted in Allan Greer, *Property and Dispossession: Natives, Empires and Land in Early Modern North America* (Cambridge: Cambridge University Press, 2018), 3.

¹¹⁸ Ibid., 2-3. The second quote is not explicitly connected to Cronon, although it is clear from the context that it is meant to apply to his argument. For clearer proof, see Greer's working paper of the intro chapter of the book, in which the connection is undeniable. Allan Greer, "Land, Property and Colonization: Some Conceptual Issues" (paper delivered to the Workshop, "Property in the Making of the Portuguese Empire," Lisbon, 13 November 2013), 8.

¹¹⁹ It is hard to take Greer's claims seriously when they are at complete variance with Cronon's text. Compare the above claims with the following excerpt from page 75 of *Changes in the Land*: "[...] Western notions of property, commodity, and market underwent a complex development in both Europe and America over the course of the seventeenth and eighteenth centuries, *one which did not affect all people or places in the same way or at the same time*. Peasant land practices which had their origins in the manorial customs of feudal England *were not instantly transformed into full-fledged systems of production for market simply by being transferred to America [...]*" [emphasis added]

early New England economy was a mature capitalist economy based on a division between capitalists and wage laborers, Cronon simply identified a *tendency* towards commodification, accumulation, and market dependence, an ensemble of social relations that had already come to dominate large parts of the English countryside and which were being diffused elsewhere.¹²⁰ But that is not all. Greer also tries to pass off Cronon's argument as an exemplar of an Enlightenment-derived tendency to conflate notions of property (including a "unitary" conception of "private property") with civilization and modernity. This tendency, argues Greer, necessarily essentializes differences between Europeans and indigenous peoples, casting indigenous arrangements as inferior.¹²¹ Here, too, the argument falls apart.¹²² Ironically, Greer's bind turns out to be a false dilemma: it is entirely possible to stress the historical specificity of (and the radical differences between) indigenous, European and Euro-American modes of subsistence and "property" (particularly as they relate to, and are organized under, capitalism) without universalizing one set of traits and casting the other as inferior. Neither is the concept of (capitalist) private property necessarily a barrier to understanding the intricacies of dispossession: this thesis argues that, in the long term, neither indigenous nor Euro-American dispossession can be properly understood without reference to the subjugation of land to the historically unprecedented economic imperatives of

¹²⁰ In this respect, Cronon's argument can be cited as an example of what Hardt and Negri call Marx's method of the historical tendency. Just as Marx identified the tendency of the wage labor-capital nexus in England while it was still incipient and – in quantitative terms, at least – marginal to the operation of the global economy, so Cronon delineates a tendency that would come to exert a decisive influence on the future configuration of social and environmental relations in northeastern North America. Michael Hardt and Antonio Negri, *Multitude: War and Democracy in the Age of Empire* (New York, New York: Penguin Books, 2004), 140-1.

¹²¹ Greer, "Land, Property and Colonization," 8-9; Greer, *Property and Dispossession*, 2-3.

¹²² Again, Greer's claims must be measured against Cronon's actual argument. See pp. 68-69 of *Changes in the Land*: "European property systems were much like Indian ones in expressing the ecological purposes to which a people intended to put their land; it is crucial that they not be oversimplified if their contribution to ecological history is to be understood. *The popular idea that Europeans had private property, while the Indians did not, distorts European notions of private property as much as it does Indian ones.*" [Emphasis added] See also pgs. 58, 80.

competition, accumulation, profit maximization, and improving labor productivity.¹²³ This process, which occurred fitfully over time, encountering multiple and intense forms of resistance, certainly “needs to be explained and historicized.”¹²⁴

This thesis is divided into three chapters and a conclusion. The present chapter serves as both an introduction to the subject and a review of the relevant historiography. The following two chapters lay out the basic argument of the thesis through an analysis of primary sources. Each tackles a particular period in the genesis, growth and development of economic imperatives in the colonies of Nova Scotia and Cape Breton, the latter of which was briefly split off from the mainland to form its own colony between 1784 and 1820. Chapter 2, ““Perfecting the Improvements of the Indians,” Unmaking their Gardens: Local Dispossession and the Commodification of Land under the “Free” Grant Policy, 1763-1827,” looks at the myriad of land policies that constituted the imperial government’s so-called “free” grant policy after the consolidation of the colony of Nova Scotia after the Seven Years’ War. It argues that, even amid the fluctuations of the period, the “improvement” of land formed the core of the government’s land policies, determining the possibilities and constraints of settlers’ relationships with the land. It analyzes the ways in which commodification was channeled through these policies, as well as the ways in which it proceeded independently of them; using a few case studies, it argues that both official and unofficial processes of commodification were central to the process of disabling Mi’kmaw subsistence practices in the period. Chapter 3, “Marginality and the Making of Capitalism in the

¹²³ Relevant here in putting to rest the notion of “unitary private property” is Marx’s distinction between individual private property and capitalist private property. See Chapter 32, “The Historical Tendency of Capitalist Accumulation,” in *Capital: A Critique of Political Economy, Vol. I*. (London: Penguin Books, 1990 [1867]), 927-930. Certain passages exhibit productive determinist leanings, but on the whole, the analysis remains critically relevant and deserves to be more fully developed and historicized. Adrian Tanner usefully employs these important distinctions in his reflection on the family hunting territory debate. See Adrian Tanner, “The New Hunting Territory Debate: An Introduction to Some Unresolved Issues,” *Anthropologica* New Series, Vol. 28, No. 1/2, Who Owns the Beaver? Northern Algonquian Land Tenure Reconsidered (1986): 27-32.

¹²⁴ Sven Beckert, “The New History of Capitalism,” 246.

Countryside: Dispossession in Margaree, Cape Breton, 1831-1860," looks at the imperial government's effort to streamline and intensify the project of improvement, beginning in 1827 with its introduction of the policy of selling Crown lands by public auction. Expressly designed to bring about capitalist conditions through the imposition of artificial scarcity, these policies interacted with previous patterns of commodification and class differentiation, resulting in new patterns of dispossession that affected both settlers and Mi'kmaq in distinct and complex ways. Unlike the first chapter, which aspired to analyze the divergent patterns and dynamics of indigenous dispossession across different sites in Nova Scotia and Cape Breton, this chapter zeroes in on one of the case studies – the settlement of the rural community of Margaree in Inverness County, Cape Breton – in order to uncover the dynamics of dispossession in a relatively marginal part of the colony. Building on the work of Samson and Bittermann, it aims to show that, contrary to the common portrayal of rural Nova Scotia as a patchwork of subsistence communities, commodification and class conflict were important, early and endogenous factors in the settlement of the countryside in the eighteenth and nineteenth centuries, informing the logic of the dispossession of settlers and Mi'kmaq alike. Both chapters frame the developments they study against the backdrop of the colony's political, economic and geographical marginality, which encouraged a kind of pluralism that conditioned the ways in which both official policies and informal developments played out on the ground. The conclusion draws out and distills the main themes and takeaways of the preceding chapters, placing them within their particular and wider contexts.

Although the case studies developed in these chapters are meant to draw attention to structural dynamics that affected all inhabitants of Mi'kma'ki, the particular dynamics of each case should not be generalized for each region of the province. The developments described are highly particularistic, and much more work remains to be done before a complete picture of commodification and dispossession can be developed.

Chapter 2: "Perfecting the Improvements of the Indians," Unmaking their Gardens: Local Dispossessions and the Commodification of Land under the "Free" Grant Policy, 1763-1827

In *Micmacs and Colonists*, L.F.S. Upton outlined a theory and a history of dispossession in the Maritimes that have since taken on the cast of a dominant narrative. Central to Upton's account was the determinative role of settlement. Upton argued that the defeat of the French in the Seven Years' War neutralized the military power of the Mi'kmaq and exposed their dependence on European supplies. The Loyalist migrations of the 1780s clinched this process of disempowerment, placing unbearable stress on the land base when the Mi'kmaq were at a political and cultural nadir. In his own stark words, "The Micmac Indians, already broken as a military power, were now overwhelmed as a people."¹ In a much-cited passage that has since become a point of departure for subsequent studies of dispossession in Nova Scotia, Upton pointed to the issuance of a large number of licences of occupation to the Mi'kmaq in the 1780s as a sign and symptom of the changed material circumstances on the peninsula: hemmed in on all sides, their favorite coastal or riverine sites encircled or appropriated, the Mi'kmaq were now forced to acquiesce to European laws and practices and to petition the colonial government to secure their claims to land.² According to Upton, such claims were typically licences of occupation "during pleasure" – a provisional, insecure form of tenure. The first to be issued were a June 1782 grant of five hundred and fifty acres at St. Margaret's Bay and a September 4, 1783 grant of 11,500 acres at Sheet Harbour. A slew of licences followed, representing "what the colonial government no doubt saw as its definitive answer to the Indian problem. Licences were issued to eight groups for lands along the Stewiacke, Remsheg, Antigonish, Philip, Merigomish, Macan and Shubenacadie rivers, and at St. David's

¹ L.F.S. Upton, *Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867* (Vancouver: University of British Columbia Press, 1979), 81.

² *Ibid.*, 81-2.

Bay."³ For Upton, the issuance of these grants, which were assigned to the chiefs in the districts of the northeasternmost part of the province, obviated the need for the position of a Superintendent of Indian Affairs. In effect, this led to a situation in which the Mi'kmaq were left to fend for themselves, except in times of war when the post of Superintendent was resurrected to monitor and control potential subversion from the natives. At such times, the tactic of using gifts to pacify the natives was also resurrected, and in time this tactic developed into proposals for the regular provision of relief to the Mi'kmaq, whose general condition was observed to be worsening. At the turn of the nineteenth century, relief efforts were joined with efforts to settle the Mi'kmaq on plots of land and to encourage their self-dependence. In 1819-20, at Lieutenant Governor Dalhousie's instigation, a reserve system was finally developed that regularized existing Mi'kmaq claims and created new reserves. They were laid out in one-thousand-acre parcels and held in trust by the Crown for the Mi'kmaq.⁴

As a schematic historical narrative, Upton's work holds up remarkably well. Based on an exhaustive amount of research in the archives of Nova Scotia, New Brunswick and Prince Edward Island, Upton's narrative cleaves closely to the available sources, weaving them into a sophisticated, thematically and chronologically uniform account of Mi'kmaq resistance and adaptation. In the historiography of dispossession in the Maritimes, no other work comes close to Upton's exacting use of available primary documents. But, as with any such complete and unified efforts at understanding the past, a rigorous adherence to the sources in itself cannot guarantee a complete grasp of history in its actuality. In shaping his material into a coherent chronological narrative, Upton elides important elements of the historical record. References and details emerge that point to an experience and a pattern of dispossession that his work fails to encompass altogether. Among the licences of occupation that were issued in the 1780s is a February 1, 1786 memorial to Governor John Parr from Philip Bernard, chief of

³ Ibid., 83.

⁴ This is a paraphrase of Upton's argument. Ibid., 83-87.

the St. Margaret's Bay Indians, and Solomon and Tawmaugh, "two of his said tribe." In what is likely a reference to the same June 1782 licence of occupation to the La Have Mi'kmaq, which Upton cited as the first licence of occupation⁵, the memorialists claim that they "were promised by Sir Richard Hughes and Sir Andrew Snape Hammond a tract of Five Hundred Acres of Land at St Margaretts Bay, and that they obtained a Licence to occupy it, until a Grant could be made out for them, but before that was accomplished the Land was found to be the property of Brook Watson Esq.re and was afterwards sold by his Agents at Halifax, in consequence of which they were dispossessed of it."⁶ The details of the petition point to a facet of dispossession – the commodification of land – that has largely been ignored in the historiography. It also raises questions about the significance of the issuance of insecure tenure – a “licence to occupy” – to dispossession in a commercialized context. Even if Upton followed up on the details of the reference and failed to find any further evidence of the memorialists' claims, such references to dispossession through commercial land transactions occur frequently enough in the historical record of the period to merit contextualization and comment. At the very least, they point to a specific social history that troubles the claim that dispossession flowed from the quantitative increase of settlement. The difficulty in locating and interpreting such references to primarily local occurrences, and the opaqueness of the few surviving records – deeds, mortgages, judgements – that contain them, point to a central historiographical problem of indigenous dispossession: although the nature and effects of dispossession can be theorized and historicized from a long-term, cumulative perspective, historical records provide few clues as to how dispossession proceeded at a granular, local level, as a set of historically specific human actions and reactions.

This chapter aims to re-evaluate and problematize the dominant claims about the nature of

⁵ That licence was issued to “Philip Bernard, Solomon Bescoloon, and Thomas Ambroise.” See the licence of occupation issued to Philip Bernard et al, Nova Scotia Archives (hereinafter NSA), RG 20, Series "C," Vol. 95, pp. 72-73.

⁶ NSA, RG 1, Vol. 430, No. 26 ½.

dispossession in the period 1763-1827 in light of evidence of commodification of land at the local level. It approaches the subject in two ways. Following Upton's observation that settlers and Mi'kmaq vied for the same fertile coastal and riverine sites, it examines several examples of contests over land at the mouths of rivers and harbors in both Nova Scotia and Cape Breton, and attempts to describe their dynamics. Against Upton's claim that settlement itself "overwhelmed" the Mi'kmaq, it argues that dispossession flowed from imperial land policies and the patterns of land grant and tenure they mandated. Through the issuance of large land grants to Loyalists and speculators, the government alienated large swathes of land and generated complex spatial and class dynamics of dispossession that affected poorer settlers and Mi'kmaq alike. At the same time, the government's policy of requiring settlers to "improve" their lots provided the main criterion by which the legitimacy of competing claims was determined. Mi'kmaq occupation of coastal and riverine areas was based on seasonal patterns, and usually revolved around a constellation of closely related sites. Although settlers recognized certain of the Mi'kmaq's agricultural practices as "improvements," Mi'kmaq changes to the land at such sites were more often differentiated, probably disadvantageously, as "making gardens" – a distinction that had important consequences for the forms of tenure and protection that were subsequently afforded them by government. Secondly, this chapter looks at the early development of land markets and the ways in which deeds, mortgages and informal sales caused, or contributed to, dispossession. It tackles the silences and elisions in local land records and attempts to deduce a dynamics of dispossession at the local level. While local land transactions were supposed to be mediated through a system of land boards and deed registries, in practice they were often conducted informally or extralegally, with serious repercussions for Mi'kmaq claims. I argue that such local, unregulated land transactions were a central factor in Mi'kmaq dispossession. Exceeding colonial officials' capacity to control, they were cited by government officials as evidence that the Mi'kmaq needed to be protected, and they were used as a justification for the government's paternalistic policy of holding land in trust for the use of the Mi'kmaq.

The granting of land in this insecure, conditional form of tenure, I argue, made the Mi'kmaq even more vulnerable to encroachments from settlers.

One of the main problems with the privileging of the Loyalist influx of the 1780s as a turning point for indigenous dispossession is the way it overlooks or downplays the continuities with patterns of land granting and dispossession that occurred after the defeat of the French and the Mi'kmaq in the Seven Years' War, when the British were consolidating their hold over the colony. Scholars have typically taken the slow growth of settlement and the absence of petitions from the Mi'kmaq in this period as signs that competition over land had not yet reached a critical point.⁷ While there is some evidence to support this conclusion, such arguments privilege the role of settlement as a factor of dispossession and fail to grasp the ways in which the unilateral imposition of British jurisdiction and the arrogation of title to Acadian and indigenous lands at the close of the war laid the groundwork for, and established many of the structural patterns of, indigenous dispossession.⁸ In 1758, Governor Lawrence devised a plan to people Nova Scotia with New England settlers. On October 12, 1758, he issued a proclamation on the “favourable opportunity” that the defeat of the French enemy afforded for “the Peopling and

⁷ For instance, Upton cites the lack of petitions for land in this period, and an abundance of requests for priests, as evidence that “the Micmacs were more interested in priests and presents than in land.” Even though Upton acknowledges the harm land grants caused, he argues that it was not thoroughgoing enough to disrupt the traditional subsistence patterns of the Mi'kmaq in this period. For Upton, the significant independent variable – settlement – was as yet absent in significant quantities to disrupt old patterns. Principally concerned with the declining role of the Mi'kmaq as a fighting force in the 1760s and 1770s, Upton completely overlooks the land policy that was put in place in the 1760s and the patterns of land grant and dispossession that flowed from it. Upton, *Micmacs and Colonists*, 68-9.

⁸ British efforts to impose their jurisdiction on, and extinguish the title of, the Mi'kmaq represented a fragmented and fitful process, and some scholars may object to my periodization. There is much evidence to show that British legal attempts to have the Mi'kmaq submit to their “Jurisdiction and Dominion” dated back to the 1725 treaty signed at Boston with the Abenaki, Passamaquoddy, Mi'kmaq and Wulstukwiuk, which was signed by the Mi'kmaq at Annapolis Royal in 1726. The founding of Halifax and Lunenburg in 1749 and 1753, respectively, constituted other important impositions of jurisdiction. See, in particular, the analysis of this question of jurisdiction in reference to the Peace and Friendship treaties in Philip Girard, Jim Phillips, and R. Blake Brown, *A History of Law in Canada: Volume One, Beginnings to 1866* (Toronto: University of Toronto Press, 2018), 242-245.

Cultivating, as well the lands vacated by the French, as every other part of this valuable Province." The proclamation advertised the quantity and quality of the "vacated" lands and arranged for proposals for settlement to be forwarded to agents in Boston and New York.⁹ A second proclamation, dated January 11, 1759, responded to queries from interested applicants about the conditions of settlement. The proclamation offered one hundred acres for each head of family and fifty acres for each additional family member at no cost. However, grantees were required to "plant, cultivate, improve or inclose" one-third of their holdings in ten years, two-thirds in twenty, and the remainder in thirty, or their holdings would be subject to escheat. The total acreage of land granted to one person was not to exceed one thousand acres, and an annual quit rent of one shilling sterling per fifty acres would be payable ten years after the passing of the grant.¹⁰ As a further measure, the government passed a law to extinguish Acadian title to their former holdings so that New England settlement could proceed unimpeded and unchallenged.¹¹

Further changes came with the passing of the Royal Proclamation of 1763. The Proclamation is perhaps better known for its status as an "indigenous constitution," a blueprint that the British devised to safeguard the land and rights of indigenous peoples in British North America.¹² Among other things, it reserved a vast tract of territory west of the Alleghenies as the "Hunting Grounds" of the Indians, and technically the same reservation applied to any and all lands that had not been ceded by or purchased from indigenous peoples. It also included prohibitions on the settlement and private sale of indigenous lands. But the proclamation was also a blueprint for increasing settlement, and, as Allan Greer contends,

⁹ See the Minutes of His Majesty's Council at Halifax, October 12, 1758, NSA, RG 1, Vol. 188, pp. 30-32.

¹⁰ See the Minutes of His Majesty's Council at Halifax, January 11, 1759, NSA, RG 1, Vol. 188, pg. 38-41; see also, Margaret Eells, "Clearing the Decks for the Loyalists," *Canadian Historical Association Annual Report* 12, 1 (1933): 44; Leonard Woods Labaree, ed. *Royal Proclamations to the British Colonial Governors, 1670-1776, Vol. II* (New York: Octagon Books, Inc., 1967), 583, 586.

¹¹ Eells, 44; see also Girard, Phillips and Brown, 232.

¹² Girard, Phillips and Brown, 201; see especially 198-202.

a document for regulating dispossession.¹³ Royal Instructions issued in 1764 refined the conditions and obligations that applied to land grants and settlement. The ensemble of these conditions and obligations have come to be referred to as the “free” grant policy. Under this policy, individual settlers could receive grants of land free of cost on the condition that they pay an annual quit rent and meet certain conditions and obligations regarding the cultivation and improvement of their lots. Article 53 required each prospective settler to “improve” three acres for every fifty acres granted over a three-year period.¹⁴ Some of the changes were not mutually reinforcing. Article 52 gave the governors of the colonies discretionary power to grant large quantities of land to settlers of their choosing.¹⁵ The most egregious use of this discretionary power in Nova Scotia occurred between 1758 and 1765, when colonial officials granted away millions of acres of Mi'kmaw land to speculators, political officials and settlers. Not only did such grants commodify the hunting grounds of the Mi'kmaq and transform large portions of Mi'kma'ki into private property, free to be divided and transferred to other owners, they also locked away large quantities of land and thereby restricted the options available for settlers who received more modest grants according to the stipulations of the other articles in the Royal Instructions.¹⁶ In effect, the alienation of large swathes of land to absentee proprietors forced new settlers onto less productive land, and contributed to the problem of squatting.¹⁷ The majority of these

¹³ Allan Greer, *Property and Dispossession: Natives, Empires and Land in Early Modern North America* (Cambridge: Cambridge University Press, 2018), 382.

¹⁴ The period within which these conditions were to be carried out was extended to five years. See Peter Burroughs, “The Administration of Crown Lands in Nova Scotia, 1827-1848,” *Collections of the Nova Scotia Historical Society* 35 (1966): 82, 105n2; R.G. Riddell, “A Study in the Land Policy of the Colonial Office, 1763-1855,” *Canadian Historical Review* 18, 4 (1937): 388; Labaree, *Royal Instructions, Vol II*, 528-531; Ells, 46.

¹⁵ Burroughs, *Administration of Crown Lands*, 88; Riddell, 388-9; Ells, 47.

¹⁶ For a sharp analysis of the role that this “land boom” played in the dispossession of the Maliseet (Wolastoqiyik), see Andrea Bear Nicholas, “Settler Imperialism and the Dispossession of the Maliseet, 1758-1765,” in *Shaping an Agenda for Atlantic Canada*, eds. John G. Reid and Donald J. Savoie (Halifax: Fernwood, 2002), 21-57.

¹⁷ John Reid, “Scots in Mi'kma'ki, 1760-1820,” *The Nashwaak Review*, 22, 23 (2009): 236-7.

grants were insufficiently improved and therefore became escheatable after a period of four years. The entire policy came to an abrupt end in 1773, when Royal Instructions proscribed the issuance of free grants in favor of an ill-advised experiment with land sales – a state of affairs would last until the 1780s.¹⁸ By this point, the asymmetrical patterns of land grant under the free grant system had already fundamentally altered the landscape, setting in motion distinct class and spatial dynamics. The dual pattern of generous grants to absentee proprietors and speculators and small-scale settlement by families, and the contradictions it gave rise to, would continue to shape the logic of dispossession well into the nineteenth century.

In the 1780s, the problem of settling over 30,000 Loyalist refugees after the American Revolutionary War generated significant changes in policy. As most of the good agricultural land in the colony was still locked up in large grants to absentee proprietors and speculators, the government was forced to pursue escheat procedures on an unprecedented scale in order to clear the way for settlement. As Margaret ELLS has shown, between 1783 and 1788, the majority of the large tracts granted during the land boom of the mid-1760s – a total of 1,488,871 acres of land – were escheated to make way for the Loyalists.¹⁹ Significantly, the asymmetrical pattern of granting land was not fundamentally altered in this period. Prior to the Board of Trade's issuance of special Instructions for the settling of Loyalist troops in November 1784, Governor Parr had issued grants according to the terms set out in the Royal Instructions to Wilmot in 1764. Those instructions allowed one hundred acres for each head of family and fifty acres for each additional family member. After November 1784, however, Governor Parr was given discretion to issue larger grants, ranging from one hundred and one thousand acres, to Loyalist

¹⁸ ELLS, 52-3.

¹⁹ The total number of acres granted in the pre-Loyalist period was five and a half million. Of these, most were granted in 1765. As Margaret ELLS puts it, "Seven times more subsequently escheated acres were granted during 1765 than in the other thirty-three years of the pre-Loyalist period. It was largely these grants which necessitated the heavy escheating that heralded the Loyalists' arrival." ELLS, 48. The total acreage of land escheated in the pre- and post-Loyalist periods is detailed on pp. 55-58.

troops and officers.²⁰ Under these rules, both individual grants to Loyalist soldiers and group grants to disbanded regiments were pursued. Some of these grants were of comparable or equal size to the large tracts that had been issued during the land rush of the 1760s. As such, they continued and extended the process of commodifying and restricting access to land that had been initiated in the 1760s and 1770s, pushing settlers and the Mi'kmaq to its fringes.

In the first half of the decade, plans to grant extensive individual tracts and large plantations to Loyalists in and around Mi'kmaw encampments generated fear of dispossession among implicated Mi'kmaw groups. One year after his appointment as Nova Scotia's first Superintendent of Indian Affairs on March 8, 1783, George Henry Monk received instructions to travel to Antigonish to “quiet” the concerns of the resident Mi'kmaq regarding the pending arrival and settlement of the area by a recently disbanded regiment, the Loyal Nova Scotia Volunteers. Monk was intimately familiar with the regiment: he had served under it in various capacities – as an officer, a senior captain and an acting general – prior to its demobilization.²¹ On June 6, 1783, five months before the regiment was officially disbanded, Governor Parr had issued an order for a plantation to be surveyed and laid out at Antigonish to accommodate the soldiers.²² The following December, in what was likely a coordinated attempt to safeguard existing Mi'kmaw claims and avert potential conflict with incoming Loyalists, Parr instructed Surveyor General Charles Morris to issue licences of occupations to several “Indian chiefs” in different parts of the province.²³ Among these, a licence was made out to Anthony Barnard and his tribe at

²⁰ See Ells, 54-55.

²¹ Monk served under Lieutenant Colonel Timothy Hierlihy prior to demobilization. See C.J. MacGillivray, *Timothy Hierlihy and His Times: The Story of the Founder of Antigonish, N.S.* (paper presented at the Nova Scotia Historical Society, 1935), 113; see also Barry Cahill, “Record Keeping in a Provincial Regiment: The Strange Case of the Loyal Nova Scotia Volunteers, 1775-1783,” *Archivaria* 26 (1988): 84-5.

²² NSA, RG 20, Series “A,” Vol. 5, Item 1, no. 136.

²³ These were the same licences that Upton opined were treated as a final solution to the “Indian problem.” Upton, *Micmacs and Colonists*, 83.

Antigonish “for them to occupy, undisturbed the several villages, and tracts, they have improved and settled upon, on the River of the same name, to wit, on the peninsula on the Western side the River, where the Mass House is placed, also the island near the western side of the River together with the Villages near the Head of the Tide, on both sides the River with Liberty of Hunting and Fishing as Customary.”²⁴ Upon his arrival in Antigonish on May 19, 1784, Monk proceeded forthwith to meet with the Mi'kmaq. In his report filed two days later, he reassured the Governor Parr that the group of disbanded soldiers had been well received, noting that the Mi'kmaq “have given assurance of continuing in Friendship, declaring themselves perfectly satisfied with the reservations that are made of their little settlement on the River, their place of worship, & their burying place.”²⁵ He closed by relaying their request for a priest to minister to their community in the spring and fall, when the Mi'kmaq frequented their habitual sites at the harbor.

Despite Monk's cheery prognostication, the Mi'kmaq's initial fears were justified. As the December 1783 licence of occupation noted, the Mi'kmaq had established several villages and encampments in and around Antigonish Harbour. Under the guidance of the Acadian priest, Antoine Gaulin, a church was built and burial grounds established on the peninsula that jutted out at the entrance of the harbor. Gaulin had encouraged agricultural pursuits among the Mi'kmaq, and there is textual evidence to suggest that the Mi'kmaq cultivated crops along the shoreline of Antigonish Harbor. The Mi'kmaq also cultivated the fertile estuarine floodplain and marshland at the inmost point of the harbour, a tract that later came to be known by the appellation of the “Indian Gardens.”²⁶ Roughly a week after Monk

²⁴ NSA, RG 1, Vol. 430, 23 ½.

²⁵ Library and Archives Canada, MG 23, G 11-19, Monk Papers, George Henry Monk Letter Book, Indian Affairs, 1783-1797, Vol. 3, pp. 1035-1036. Accessed from Nova Scotia Archives Microfilm: Biography: Monk Papers, microfilm reel 10,912.

²⁶ For a contemporaneous description of the Indian Gardens, see Charles Morris' report on the reserves of the province in the Minutes of His Majesty's Council at Halifax, May 8, 1820, NSA, RG 1, Vol. 193, 450-1; for a contemporaneous depiction of the Indian Gardens, see the plan drafted for Lt. Colonel Pilkington's grant, Antigonish County Land Papers, NSA, RG 20, Series “C,” Vol. 15, Folders 1809-1819.

received his instructions, Parr issued a second, more exact set of instructions to Surveyor General Charles Morris to lay out to the Royal Nova Scotia Volunteers a “plantation in severalty” consisting of 12, 600 acres.²⁷ The soldiers arrived to take up their claim in early May, and although the details of their arrival and early settlement are unclear, it appears that they landed their ship on the peninsula in the harbor where the Mi'kmaq had placed their church and their burial grounds. Although they would later remove from the site to concentrate settlement further inland, the early settlers named the site Town Point and drew up plans to lay it out into township lots.²⁸ Six months after Monk's May 21 report on the Antigonish Mi'kmaq, a grant of 21, 600 acres was made out to Lieutenant Colonel Timothy Hierlihy, the commanding officer of the Loyal Nova Scotia Regiment, and its eighty-eight members. The grant laid claim to a vast swathe of land that included most of the coastal frontage on either side of Antigonish Harbor, extending inland several miles. It all but engulfed the Indian Gardens, and the bounds of the grant covered all of the Mi'kmaw holdings on the western and eastern shores of the harbor, extending several miles inland in large rectangular parcels.

To the east, in nearby Pomquet Harbour, similar, albeit distinct patterns of dispossession occurred. As in Antigonish, the fertile river delta at the entrance of the harbor served as a favorite seasonal site of the Mi'kmaq. As in Antigonish, local settlers referred to the site as the “Indian Gardens,” most likely in reference to the Mi'kmaw practice of clearing land and planting small gardens as a supplement to

²⁷ NSA, RG 20, Vol. 5, Item 1, No. 136. The warrant of survey drafted in 1783 mandated that 47,500 acres be laid out to the officers.

²⁸ A list of the lots drawn up by Aaron Harrington, Deputy Surveyor for Antigonish County, on October 24, 1831 lists one hundred and thirty-one lots. By his account, most lots were drawn up in 1784; only twelve were allocated at a later date. Many lots were deeded to other settlers in the nineteenth century. See Antigonish County Land Papers, NSA, RG 20, Series “C,” Vol. 16, Folders 1831-1839. In 1829, Harrington was instructed to survey fifty-one lots on the peninsula that had been acquired by the late Edward Irish, Esq., a gentleman from Antigonish, and which had been sold to James Forman, Jr., merchant, and Charles D. Archibald, attorney, both of Halifax, at a public auction. See NSA, RG 20, Series “C,” Vol. 15, Folders 1827-9.

hunting and gathering.²⁹ Here, too, the Indian Gardens was but one site among many whose use and occupation shifted with the seasons; the Mi'kmaq also frequented a network of interrelated coastal and inland sites along the northeastern expanse of the harbor. For much of the late eighteenth and early nineteenth centuries, these coastal and inland sites were included in a Crown reserve, and the Mi'kmaq were able to move back and forth between them and the Indian Gardens with little interference from settlers. Starting in the late eighteenth century, however, the government began to carve out five-hundred- and one-thousand-acre parcels from the reserve in order to accommodate Loyalists and influential gentlemen with grants. Circa the turn of the century, as incursions from settlers increased, the Mi'kmaq appealed to Lieutenant Governor Wentworth to protect their claims, and they received a licence to occupy and "plant Gardens" on the reserve, with the exception of a one-hundred-acre tract reserved for ferry services.³⁰ The effectiveness of the licence was vitiated, however, when the government continued to alienate reserve land to settlers in the second decade of the nineteenth century. In 1787, a warrant of survey had been issued to Major Colin Campbell, Esquire, for a plantation of one thousand acres on the lower east side of the harbor.³¹ In 1810, a five-hundred-acre lot was granted to William McWhinnie north of the Campbell Grant.³² Meanwhile, the land contiguous to the Indian Gardens was granted to a number of settlers, encircling the site with a patchwork of claims in

²⁹ Theresa Redmond, "'We Cannot Work Without Food': Nova Scotia Indian Policy and Mi'kmaq Agriculture, 1783-1867," in *Earth, Water, Air and Fire: Studies in Canadian Ethnohistory* (1998): 115-25.

³⁰ NSA, RG 1, Vol. 430, 160a.

³¹ NSA, RG 20, Series "A," Vol. 19, No. 23. The initial warrant of survey was issued in 1784 for land in Chebucto. Campbell must not have taken up his lands, however, as the warrant was renewed in November 1787 for one thousand acres in Guysborough County. For reasons unknown, this warrant was also neglected; Campbell would not receive a grant until 1821, following the communication of express instructions on the matter from the Earl of Bathurst. See the April 28, 1821 grant to Colin Campbell of Halifax, Esquire, Nova Scotia Department of Lands and Forests, Land Grant Registration Books, Book H, pg. 86 (NSA microfilm reel no. 130328).

³² The plan attached to the grant identifies the contiguous land as "vacant land." See the November 9, 1810 grant to William McWhinnie, Nova Scotia Department of Lands and Forests, Land Grant Registration Books, Book A, Pg. 112 (NSA microfilm reel no. 13039).

free and common socage – a form of tenure that carried much more legal weight than a licence of occupation.³³ Finally, in 1819, another five-hundred-acre lot was granted to Henry H. Cogswell, a gentleman and merchant from Halifax. Located between the McWhinnie and Campbell lots, the grant marked the culmination of a process of commodification that transformed the greater part of the northeastern coast into a grid of discrete, interlocking parcels of fee simple property.

Just as Pomquet Harbor was undergoing a wholesale transformation in land tenure, government officials in Halifax were preoccupied with the growing problem of squatting. Just six months into his term as Lieutenant Governor, Sir James Kempt was forced to confront the various practices of “irregular settlement” that hindered the orderly settlement of Crown lands across the colony. In a letter read before Council on November 21, 1820, he outlined the nature of the problem: on repeated occasions, his government had granted Crown land to prospective settlers only to find that it was already illegally occupied by squatters. Many of these squatters had no form of legal title to the land; others had simply neglected to pursue a formal grant after securing warrants of survey for their holdings. What was more, a black market for warrants of survey had developed. In order to check these problems, Kempt advocated putting in place a system of local land boards to oversee all matters relating to the land grant process. Staffed by local magistrates and members of agricultural societies, such boards would be tasked with collecting all relevant information on the encroachments in order to facilitate the perfection of their title or their expropriation. Once that work was completed, they would manage, streamline and expedite the granting of land at a local level. With Council's approval, Kempt published a notice of the forthcoming changes, as well as a few immediate alterations to the petition process – among other things, all future petitions were to describe the land applied for and declare whether it was already

³³ See, for example, the grants to William Bannerman, Mary Irish, and John Solomon, John Collier Solomon, and Edward Wentworth Solomon, among others: Nova Scotia Department of Lands and Forests, Land Grant Registration Books, Book B, no. 29 (NSA microfilm reel no. 13031); *Ibid.*, Book B, No. 93 (NSA microfilm reel no. 13031); *Ibid.*, Book D, pg. 129 (NSA microfilm reel no. 13030).

occupied, and warrants of survey were not to be renewed after a six-month period except in mitigating circumstances.³⁴

The system of land boards that eventually came into being clove closely to Kempt's original instructions. Land boards were established in each district and county. Composed of three or more commissioners, usually men of standing and influence from their respective communities, they were empowered to review all petitions for land and to determine their merit according to criteria set by the imperial government. Among other things, they referred petitions to the Lieutenant Governor for approval, collected all of the administrative fees that had to be paid before applicants could receive title to the land, and mediated disputes between claimants. In these respects, they were similar to the District Land Boards that were established by Lord Dorchester in Upper Canada between 1788 and 1790 to parcel out grants of Crown land to Loyalists and other settlers on the basis of their loyalty as subjects of the British Crown. As local arms of the imperial administration of Crown lands, they became indispensable institutions for regulating the dispossession of indigenous people. When conflict invariably broke out between settlers and the Mi'kmaq, the latter typically petitioned the Crown for redress. But because the Crown were, in most cases, ill-equipped to assess circumstances on the ground, they invariably referred the issue to the land boards to report on. Such undertakings could prove to be interminable affairs, dragging on for months or even years and implicating a wide variety of local figures, including squatters, indigenous people, local Justices of the Peace, and settlers of standing in their communities. The fact that Commissioners and Justices of the Peace were themselves prominent

³⁴ In addition to meeting the conditions of settlement, settlers were required to pay a number of fees in the six-month period after the issuance of a warrant of survey in order to obtain title to the land. Minutes of His Majesty's Council at Halifax, November 21, 1820, NSA, RG 1, Vol. 194, 11-15; Minutes of His Majesty's Council at Halifax, November 1, 1820, NSA, RG 1, Vol. 194, 1-5.

settlers whose standing in their fledgling communities had contributed to their appointment reinforced an informal logic that tended to favor the claims of settlers over those of the Mi'kmaq.

Because the land boards were devised as a solution to the larger structural problem of squatting, and given that this problem had evolved out of the government's policies for the settlement of indigenous territory, it is important to understand its causes and to problematize its relation to indigenous dispossession. The generally accepted view is that squatting was primarily caused by the government's decision to implement a moratorium on free grants between 1773 and 1783 and again between 1790 and 1807. In both cases, the moratoriums were put in place in order to carry out experiments in land sales.³⁵ Girard, Phillips and Brown argue that the moratorium of 1790-1807 gave rise to squatting primarily because it suppressed the issuance of freehold grants in fee simple estate, resulting in the proliferation of a number of less secure, provisional forms of tenure such as licences of occupation, tickets of location, and Crown leases. The assumption here would appear to be that insecure tenure prevented settlers from passing on title to their children and rendered them more vulnerable to counterclaims by other settlers.³⁶ Although this interpretation is defensible, it is problematic on several levels. For one, it seemingly attributes the genesis of squatting to temporary lapses in the otherwise effective operation of the land grant system. Such an interpretation typically stems from an ideal conception of how the law ought to function, and it can lead to counterfactual claims and special pleading. It also neglects the ways in which squatting was produced by structural features of the system. As has been seen, the alienation of large tracts of land to absentee proprietors and speculators contributed to squatting over a longer period of time. In addition, an exclusive focus on discrete policies

³⁵ For the period 1773-1780, see Ellis 52-54; for the period 1790-1807, see Girard, Phillips and Brown, 240; see also Stephen J. Hornsby, *Nineteenth-century Cape Breton: A Historical Geography* (Montreal & Kingston: McGill-Queen's University Press, 1992), 51-2.

³⁶ See Girard, Phillips, and Brown, 240, 344-5, 600-1; for a similar argument, see Hornsby, *Nineteenth-century Cape Breton*, 51-56, 125-128, particularly pg. 126.

fails to grasp the multiplicity of causes that interact and mutually determine each other in a complex network of relations. The emergence and growth of a black market in warrants of surveys points to the general incapacity of settlers to afford the costs of obtaining a grant – a state of affairs linked to variables such as settler income and access to resources.³⁷ Finally, while certain forms of land grant and tenure provided more legal protections to settlers and indigenous people, it would be a mistake to equate freehold tenure and the strict legality of land transfers with the protection of indigenous rights. As will be seen, the legitimation of both informal modes of possession and grants issued in the securest form of tenure, free and common socage, ultimately came down to indeterminate, normative notions of “improvement,” which were systematically used to differentiate, marginalize and dispossess the Mi'kmaq. In short, we must avoid a false dichotomy between legal and extra-legal dispossession. Ultimately, these are analytic concepts that do little to describe the functioning of law in a settler colonial context.

In Pomquet Harbour, dispossession flowed first and foremost from face-to-face encounters with settlers. In May 1820, two of the Mi'kmaq's longstanding claims – the Indian Gardens at the mouth of the Pomquet River, and an eight-hundred-and-eighty-acre block of reserve land located far inland on the northeastern expanse of the harbor – were officially incorporated as legal reserves as part of Governor Dalhousie's effort to safeguard indigenous settlements across the province.³⁸ Although the legal

³⁷ The multiplicity and interpenetration of causes in complex systems can lead to opaqueness. This scenario is perhaps best captured by the Marxist term “overdetermination,” which, according to Lewontin and Levins, “recognizes causal processes as operating simultaneously on different levels and through different pathways.” See Richard Lewontin and Richard Levins, *Biology Under the Influence*, 111.

³⁸ Minutes of His Majesty's Council at Halifax, May 8, 1820, NSA, RG 1, Vol 193, 450-1. In his report on the reserves of the province, Surveyor General Charles Morris identified two reserves in Antigonish, an eight-hundred-and-eighty-acre tract at Pomquet and a one-hundred-and-twenty-acre tract at Antigonish Harbor “called and known by the name of the Indian Gardens.” Here, Morris may have confused the Indian Gardens at Pomquet with the tract of the same name at Antigonish Harbor. Subsequent references to a “reserve” at Antigonish Harbor do not exist, while various surviving documents, mostly surveyors' records, depict a one-hundred-and-twenty-acre lot named Indian Gardens at Pomquet. See, for instance, the undated maps contained in the County records for Antigonish at the Nova Scotia

incorporation of the two tracts of land as reserves, to be held in trust for their exclusive use, no doubt afforded the Mi'kmaq some protection from settlers, it did nothing to safeguard Mi'kmaw ways of life, which were predicated on the variable use and occupation of a constellation of related sites in and around the harbor. If, after 1819, the Mi'kmaq were collectively able to persist in their subsistence economy, this was so because the substantial blocks of fee simple property along the harbor were as of yet thinly populated. The owners of the lots were, in effect, absentee proprietors who rarely visited their holdings and made few improvements to the land. All evidence suggests that this reprieve was short-lived, however. Less than a month after receiving his lot, William McWhinnie sold it to another gentleman, John H. Flieger. In the early 1820s, a farmer named James Grant undertook to escheat it, and it appears that he also laid claim to it through purchase. On April 28, 1820, Colin Campbell, the owner of the thousand-acre lot, passed away, leaving a number of outstanding claims and debts on his estate. On June 25, 1821, two merchants by the names of Logan and McKay seized his estate, which had been placed on public auction. Three months later, they sold a two-hundred-acre strip of the land to a farmer named James Johnston. Once established on the land, these settlers maintained a much more permanent presence, and were more zealous in defending their improvements, however negligible their initial extent.

The confrontations between settlers and the Mi'kmaq on the coast soon began to tell. In 1822, eighteen families of Mi'kmaq approached local Justices of the Peace and had them draft a petition on their behalf to Lieutenant Governor Sir James Kempt. The petition detailed the duration of their occupation in Pomquet generally and on the Crown reserve in particular, and highlighted the fact that they had made "considerable improvements which are all taken away from us at present." The situation

Archives. Antigonish County Land Papers, NSA, RG 20, Series "C," Vol. 15, Folder 1809-1819. The earliest such record is included in the folder for the year 1810. See also the February 23, 1825 copy of a "plan made by an Indian." Ibid., Folder 1825.

was dire enough that they offered to relinquish all their claims to the eight-hundred-and-eighty-acre reserve “made for them in the woods” in exchange for a one-hundred-acre strip of land on the shoreline called “the Indian Point.” Clearly feeling encircled, and tacitly submitting to the prospect of having to choose between their possessions, the families privileged the site where “they have had gardens for 25 years.”³⁹ Although his response has not survived, Sir James Kempt apparently promised to reserve them a part of the McWhinnie lot in the event that Grant's attempted escheat of the land proved successful. Ostensibly mistaking Kempt's conditional offer as a guarantee, the Mi'kmaq removed to the front of the McWhinnie lot, where they soon came into conflict with Grant. In February 1824, they approached local Justice of the Peace John Cunningham and had him draft a letter and a second petition on their behalf. This time around, they reiterated the duration and extent of their improvements and complained of Grant's threats to eject them from the land. Shortly after receiving the correspondence at Halifax, Sir James Kempt championed the families' cause in Council, and it was determined that the Land Board Commissioners at Antigonish would investigate and report on the matter “with a view to obtain all information [...] as to the whole facts relating to their possession and improvement.”⁴⁰

As quasi-legal bodies appointed by the Lieutenant Governor to serve during pleasure, the Land Boards were premised on the committed and flexible labor of the local figures who composed them. Appointees were typically men of standing and influence in their communities for whom the added office of Commissioner represented a chance to increase their prestige and power. The obligations of the position could be demanding, however, requiring an inordinate investment of time and labor. This was particularly true of the Boards' investigations into conflicting claims – getting to the bottom of a conflict often required Commissioners to go above and beyond their routine duties to undertake fact-

³⁹ See the 1822 petition of the “Indians of Pomquet,” NSA, RG 20, Series “A,” Vol. 87.

⁴⁰ See the February 3, 1824 letter from provincial secretary William Hill to the secretary of the Antigonish County Land Board, John Munro, NSA, RG 1, Vol. 145, p 94; see also the Minutes of His Majesty's Council at Halifax, February 2, 1824, NSA, RG 1, Vol 194, pp. 224-5.

finding missions and serve as go-betweens among disputants. In Pomquet in the 1820s, these roles fell to Reverend Thomas Trotter, a Scottish-born Presbyterian minister and Antigonish County's parish priest. A teacher and a scholar with a wide array of theological and scientific interests, including an avowed enthusiasm for geology and scientific agriculture, Trotter kept a high profile in the community and expressed an avid interest in the lives of his congregants. Few local happenings escaped the probing of his curious mind. In 1824, together with fellow Commissioners John Cunningham, J.M. McDonald, and Robert Henry, he undertook to lead the mediation of the dispute between the Mi'kmaq and Grant, and it is largely his voluminous correspondence with the Board to which we owe our understanding of the conflict and its history.

In his first letter to the Board, dated February 24, 1824, Trotter relayed the results of a fact-finding mission that he had undertaken on a recent trip to Pomquet; among other things, he was able to compile evidence of antecedent Mi'kmaw settlements on the McWhinnie, Cogswell and Campbell lots, which he estimated to comprise fifty acres altogether.⁴¹ As the information returned was incomplete, subsequent efforts were made to ascertain the extent of the improvements. In late April, Trotter, accompanied by Cunningham, McDonald, Henry, James Johnston, James and Peter Grant, local gentleman Elisha Randall, ferryman Alphonse Atwater, and deputy surveyor Aaron Harrington – and guided by several unnamed Mi'kmaq – set out to survey the latter's improvements along the entirety of the northeastern stretch of the harbor. They recorded over sixty-five acres of improvements divided between the three lots, which they detailed in a map and advanced as undeniable proof "that the Indians have been in possession of the land for a period of twenty three years and upward." The majority of improvements – about forty acres – were situated on Henry Cogswell's grant on a wide expanse of shoreline called the Indian Point.⁴² On the same day, the party took the affidavit of

⁴¹ NSA, RG 1, Vol. 430, No. 160a.

⁴² NSA, RG 1, Vol. 430, No. 160b.

Dominique Philypar, a local Justice of the Peace with firsthand knowledge of the improvements. They stopped short of taking individual depositions from the Mi'kmaq, however, opting instead to collate their testimony into one document.⁴³

Taken together, the various proofs and testimonies drawn up by the Board in its effort to establish the Mi'kmaw presence in Pomquet Harbor provide a fairly consistent, yet necessarily provisional and partial, chronology of Mi'kmaw movements and conflicts with settlers over a thirty-year period. They demonstrate a marked progression from a period of initial fluidity, in which the Mi'kmaq were able to divide their residence between a constellation of interrelated sites without interference, to a time when increased interaction with settlers constrained the range of their activity and often forced them to abruptly withdraw from their chosen sites to locations further afield. In the first half of the last decade of the eighteenth century, the Mi'kmaq settled on the shore near the ferry reserve on land that would later fall under McWhinnie's grant. At the turn of the century, they were eventually "warned off by Talbot the Ferryman."⁴⁴ In the very same year, they petitioned Governor Wentworth for protection. In 1800 or 1801, they removed to an area of southern shoreline called the Indian Point, which encompassed part of the Campbell lot as well as land that would later be incorporated into Cogswell's grant. They resided there for a handful of years before being "ordered by some person who cut the hay on some marsh land in the farm of Campbell lot to remove from it [..]"⁴⁵ In response, they moved further north on the Indian Point, settling on land that would later be granted to Cogswell. Finally, in 1822 – two years after Cogswell's grant – they petitioned Governor Kempt for protection, and when he indicated that a reserve might be carved out of McWhinnie's lot for their exclusive use, they relocated

⁴³ NSA, RG 1, Vol. 430, Nos. 160c and d.

⁴⁴ NSA, RG 1, Vol. 430, 160c.

⁴⁵ NSA, RG 1, Vol. 130, 160d.

north again, only to come into conflict with James Grant, the lot's new proprietor.⁴⁶ Although they are not (or only briefly) mentioned in the documents, the Indian Gardens and the eight-hundred-and-eighty acre reserve located further inland would have also figured prominently in the Mi'kmaq's annual itineraries in this timeframe. The families' willingness, by 1822, to cede the latter in return for a formal grant of land at the Indian Point becomes more understandable in light of the evidence of the gradual constriction of the spatial order of the Mi'kmaq's mode of production over the preceding thirty years.

In principle, the Board's efforts to ascertain the number and extent of the Mi'kmaq's improvements in the harbor should have strengthened the latter's historical claim to the land and facilitated the constitution of their claims as legal property. While all signs point to this eventually being the case, this process of recognition and legitimation cut both ways. In assiduously identifying, measuring and delimiting the bounds of Mi'kmaw "property," the Commissioners also, in a negative sense, more clearly defined its opposite. If and when it was accorded, legal protection would be restricted to a few enclaves cut out of a vaster territory in which the Mi'kmaq moved, drastically reducing the extent of land they could access for subsistence. These enclaves would invariably be subjected to all the same conditions and obligations regarding settlement and improvement that applied to freehold grants – efforts to pursue an aboriginal subsistence economy within this qualified space could only be judged unfavourably against the activity of settlers.

These distinctions were sharply reflected in the Land Board Commissioners' correspondence. Although seemingly phrased in an inclusive manner, detailing indigenous changes in the land as "consequential improvements" worthy of respect, Trotter's correspondence could also evince traces of paternalist contempt for the Mi'kmaq's putative incapacity. In the same letter in which he had relayed their collected testimony to Halifax, Trotter noted that he had, in lieu of the Governor's authority,

⁴⁶ See NSA, RG 1, Vol. 430, Nos. 160a, b, c, and d; 1822 petition of the "Indians of Pomquet," NSA, RG 20, Series "A," Vol. 87.

arrogated the right to grant them permission to cultivate Cogswell's grant until official sanction could be secured. In the event that the Crown decided to grant all or part of Cogswell's grant to the Mi'kmaq, he recommended that they "adopt some plan to encourage industry among these poor and ill used people by giving each of them his own spot under certain conditions."⁴⁷ In February, by contrast, it had been perfectly natural for him to refer to the activity of the Johnsons, who had, in effect, forced the Mi'kmaq off the Campbell lot, in more favorable terms: "Campbells lott has been sold and for some years in possession of a family of the name of Johnson who have made large improvements on the front of it and have been at Considerable expence in perfecting the improvements of the Indians and as they have no chance of obtaining any redress from the heirs of Colonel Campbell it would be a very great hardship to them to have their lands and improvements taken from them after they have gone so far on the faith of a public deed." In the same letter, Trotter recounted the Mi'kmaq's earlier occupation of the ferry reserve, referring to the way they had cleared the land "in their imperfect way," underscoring the notion that indigenous changes to the land were somehow less salutary of progress and industry and therefore less deserving of protection.⁴⁸ The putative insubstantiality of indigenous improvements accorded in theory, then, with the insecure tenure they were granted. In keeping with gradualist ideas about civilization and progress, it was thought that the Mi'kmaq needed to be guided along the path of progress under the paternalist supervision of the authorities before they could reach the level and example of the enterprising, and more deserving, settlers who surrounded them.

The power of the ideology of improvement to delegitimize Mi'kmaw claims became particularly evident in the case of conflicts with poorer settlers. As much of the best agricultural land in the province had been locked up in large grants to absentee proprietors, recent emigrants and established residents

⁴⁷ Thomas Trotter to Rupert George, May 5, 1824, NSA, RG 1, Vol. 430, 160d.

⁴⁸ See Trotter's February 24, 1824 letter to the Board of Commissioners, NSA, RG 1, Vol. 430, No. 160a.

alike had few options for settlement at their disposal. Like the Mi'kmaq, they were often forced to take up marginally productive land in the interstices of large grants, which were marked by the irregular concentration of settlement by smallholders. Such was the case for Peter McChesney, a poor Scottish emigrant with a large family, who in 1820 applied for and received a warrant of survey for two hundred and fifty acres in Pomquet in the County of Sydney. Unaware (or contemptuous of the fact) that it had already been reserved to the Mi'kmaq, McChesney took up residence in the middle of the eight-hundred-and-eighty-acre tract of the Crown reserve located behind the Cogswell and Campbell lots. Remarkably, the land was surveyed, and it appears that no objection was made to the placement of the lot on the reserve.⁴⁹ As McChesney was poor, it took him four years to generate the requisite funds to confirm his title. On September 16, 1824, he petitioned the Lieutenant Governor for a grant.⁵⁰ If the land applied for was still considered a reserve in this period, this fact was not reflected in the actions of the deputy surveyor who eventually laid out McChesney's lot. On November 1, 1824, Aaron Harrington drew up a map and a survey plan of the area; he depicted the eight-hundred-and-eighty-acre lot on which McChesney had settled as "vacant," and referred to McChesney's claim as "part of the lot formerly laid off as a reserve for the Indians."⁵¹ Whether Harrington acted alone or in accordance with express

⁴⁹ McChesney petitioned for the lot several months before Kempt issued his notice regarding the creation of the County Land Boards. The handling of his petition was probably emblematic of the types of irregular practices and discrepant standards that prevailed in the period. It is entirely possible that the surveyor was ignorant of the reserve's bounds, or even of its existence. The absence of recorded conflict with the Mi'kmaq in the period subsequent to McChesney's arrival does not indicate that it did not take place; but it is also entirely possible that the Mi'kmaq spent most, if not all, of their time at other sites in this period. Their stated willingness to part with "the reserve made out for them in the woods" in 1822 may have been due in part to McChesney's presence on the reserve or it may have been reflective of the site's reduced importance compared to their ongoing efforts to secure land on the coast. See the 1820 petition of Peter McChesney, NSA, RG 20, Series "A," Vol. 81.

⁵⁰ In the petition, McChesney states, "That your petitioners [sic] poverty has always prevented his obtaining a grant for said lot, but that he now trusts have the means of paying the necessary fees." See the September 16, 1824 petition of Peter MacChesney, RG 20, Series "A," Vol. 98.

⁵¹ See plan for Peter McChesney's lot, Antigonish County Land Papers, NSA, RG 20, Series "C," Vol. 15, Folder 1824.

instructions, it would appear that the Mi'kmaq's variable use and occupation of a constellation of sites was turned against them; their claim to any one site could be denied if it could be argued to be unimproved or even temporarily unoccupied.⁵²

The following year, conflict broke out between McChesney and the Mi'kmaq, and the latter asked Reverend Thomas Trotter to draft a complaint on their behalf to the Lieutenant Governor. Armed by the priest with a note – and possibly a hand-drawn plan of indigenous holdings⁵³ – a Mi'kmaw man named Peter Baptiste, whom Trotter claimed was "acknowledged as a sort of Chief by the Indians of this place," was despatched to Halifax. The note he ferried contained an unusually perceptive appreciation of the spatial coordinates and requirements of Mi'kmaw settlement:

The Indians have hitherto lived during the whole of the year on two different lots of land namely the Indian Gardens and the front of Land granted to Mr. Cogswell both of which are situated on the waters of Pomket. On these however the wood is mostly cut down and they will after this be compelled to settle during the winter on the Indian Reserve. Their manner is to settle in a body in some part of the woods during the winter where they cut down the timber for fence and plant potatoes in the spring for next winter's provision and they are beginning to see themselves hemmed in and so look forward with anxiety to the time when they will have no suitable place to settle on. They have frequently complained to me of late of the encroachment of Peter McChesney who it appears has actually settled upon the reserve and made very great improvements for the time he has been upon it but I did not believe it and always assured them that they were in no danger as I knew that McChesney had never applied through the medium of the Board of Commissioners here and as we had received the most positive assurance from his Excellency the governor that no part of the land could be given away.

⁵² Curiously, Harrington's characterization of the tract as a "former reserve" cannot be traced to a government decision to extinguish the Mi'kmaw claim. But even if such a decision had been made, it is unlikely that it would have been recorded, given that Crown land held in trust or granted "during pleasure" could be retracted at the Crown's discretion.

⁵³ The plan (see Figure 1 in the Appendix) is a snapshot of the land claims in and around Pomquet Harbour. It was received in Halifax on December 7, 1825, not long after Trotter wrote his letter. The map appears to have been drawn up as a corrective to previous surveys characterizing the reserve in the woods as an extinguished claim: the tract in question is emblazoned with the words "Reserved for the Indians," and McChesney's encroachment is set off in dashed lines. In keeping with Trotter's letter, the map depicts the Mi'kmaq's only other possessions, the Indian Gardens and the Cogswell lot on the Indian Point, the latter of which is emblazoned with the text "Henry Cogswell now in the possession of the Indians." See the "Copy of a Plan Brought by an Indian" dated February 23, 1825 in the Antigonish County Land Papers, NSA, RG 20, Series "C," Vol. 15, Folder 1825.

Trotter would go on to vouch for McChesney's character, noting the harm that would be produced if his improvements were taken away from him; at the same time, he acknowledged that Mi'kmaw territory was under threat of extinguishment and ought to be protected.⁵⁴

Baptiste's sojourn in the capital must have impressed officials, as the Antigonish County Land Board was shortly thereafter directed to enquire into the facts of McChesney's encroachment on the reserve. When, over two years later, they finally concluded their inquiry, they determined that McChesney had unknowingly encroached on the reserve in 1820. McChesney was cleared of any wrongdoing and confirmed in his possession. Trotter went on record to say that the Board had "formerly enquired into every particular respecting" McChesney's claims and "were fully satisfied that he had the land in question laid of [sic] for him before it was known by any person in this place that it was reserved for the Indians, also that the Indians have never made any improvement on the land and in the opinion of the Board are not likely ever to make any or to settle upon it."⁵⁵ For all his talk about the need to protect indigenous lifeways, Trotter still saw them as imperfect variations of settler agricultural practices, and the contrast evidently grew stronger until he denied their capacity to be improvements altogether. Ultimately, in the context of encroaching on Mi'kmaw land, the poor squatter became the model improver.

As the example of Pomquet illustrates, dispossession was not coterminous with the issuance of grants; once bequeathed, smallholdings and speculative grants alike could be sold to other settlers, extending its processes into the future. Like other common law jurisdictions in the eighteenth century,

⁵⁴ Thomas Trotter to William Hill, November 25, 1825, NSA, RG 1, Vol. 430, No. 23 ½.

⁵⁵ Trotter goes on to point out that the Board had already determined that McChesney ought to receive a grant of his lot on the foregoing grounds. These comments were recorded on Peter McChesney's second petition of September 15, 1824, which was on file in Halifax. Surveyor General Charles Morris endorsed Trotter's comments and approved McChesney's grant, writing, "I believe this to be a true statement and that the Petitioner Chesney ought in justice to be confirmed in the Land payd for." See McChesney's 1824 petition, NSA, RG 20, Series "A," Vol. 98.

Nova Scotia established a deed registry system for the recording of land transfers at the local level. The first registry of deeds was established in Halifax in 1752, and subsequent registries followed as counties and townships sprang up across the province.⁵⁶ Deed registries regularized and streamlined the sale and conveyancing of land for the express purpose of preventing fraudulent transactions and providing certainty of title to proprietors. Ideally, interested parties could ascertain the title of any given tract of land by tracing its chain of title – the succession of conveyances subsequent to a grant – back to its origin. In these and other respects, deed registries facilitated burgeoning local markets in land, and became central drivers of indigenous dispossession. Dispossession could be effected in any number of ways, whether through the habitual registered deeding of granted lands, direct purchases from individual Mi'kmaq, or blatant land grabs legitimated ex post facto by purchase. Buying land from indigenous peoples had, of course, been proscribed by the Royal Proclamation of 1763, but it continued in practice in Nova Scotia well into the nineteenth century.⁵⁷ If officials looked on the practice with leniency in the eighteenth century, they changed their tack later as they endeavoured to settle the Mi'kmaq on various forms of tenure. Here again, though, it would be a mistake to view informal sales of indigenous land as a deviation from normal legal practice: from an early date, certain structural features of the common law deed system lent themselves to the registration and perpetuation of faulty title, and, as the problem of irregular settlement grew apace, informal practices for deeding property became the rule in certain areas.⁵⁸ Formal and informal systems often co-existed and became enmeshed;

⁵⁶ Cumberland County's deed system was established in 1764; Antigonish County's deed system was launched in 1784, in the year of the Soldiers' Grant.

⁵⁷ Some might contend that this was so partly because officials considered the Proclamation to be a dead letter in the province. A far more important factor, however, was the geographical distance between center and periphery, and the government's lack of any effective oversight over local transactions across vast swathes of its territory.

⁵⁸ Although the causes of squatting were numerous and complex, they were arguably predominantly rooted in a disjuncture between the government's efforts to raise revenue through its land policies and the settlers' material incapacity. Thus, a more effective and complete consolidation of the common law

informal sales could be superseded by registered claims, and vice versa. The question of the legitimacy of claims did not often become an issue until much later, after the land had been deeded to several owners.

Oftentimes, dispossession resulted from an original illicit sale, which was subsequently reified and given legal sanction by a chain of commercial transactions. Such was the case in Cumberland County in the late eighteenth and early nineteenth century. In response to the influx of Loyalists in the 1780s, lands were reserved for the Mi'kmaq of Pugwash Harbor and River Philip. Extensive tracts on the western and eastern sides of the harbour, as well as further inland along the River Philip, were surveyed and reserved for the Mi'kmaq, typically as a group of individuals. On the eastern side of Pugwash Harbor, on the site of the present-day town of Pugwash, nine-hundred and fifty acres were surveyed for Captain Peter Paul and other Mi'kmaq; on the western side of the mouth of the harbor, along Toney's Bay, Lieutenant Governor Wentworth reserved a tract of land to another group of Mi'kmaq who had, in the face of declining game, petitioned for land on which they could pursue agriculture as an alternative to hunting and gathering.⁵⁹ Below, further upstream, some nine-hundred and seventy acres were "reserved for the use of the Indians" at the mouth of River Philip. In the early nineteenth century, the Mi'kmaq were dispossessed of substantial parts of these lands through direct commercial land transactions, all of which were made by one settler, Stephen Seaman. Seaman was a Loyalist soldier from New York who had served with the West Chester Loyalists under Colonel Lowther Pennington. Although he was initially granted land in nearby River Philip as part of a group grant to the West Chester

system, or its substitution by another system, would not have been likely to eliminate informal practices.

⁵⁹ In fact, both sites were surveyed by a local Loyalist and deputy surveyor, Stephen Tuttle. Although the petitions and warrants of survey have not survived, a number of later sources confirm the arrangements. See, for instance, the 1809 petition of Lewis and Newell Argimeau, NSA, RG 20, Series "A," Vol. 30, Item 2; see also the undated map of Pugwash Harbor, in which the eastern coast appears emblazoned with the text "Indian Land – Capt. Peter Paul and others." Cumberland County Land Papers, NSA, RG 20, Series "C," Vol. 20, Folder 1817-19.

Loyalists in 1784, Seaman moved further afield to Pugwash Harbor in the late eighteenth century.⁶⁰ There, between 1797 and 1804, he managed to purchase a substantial, if not the greater, part of the lands laid out to the Mi'kmaq. Of the three transactions that were made, only one – an informal deed for the lands on the east side of the harbor – has survived. Although there is little direct evidence to suggest that its negotiation involved deception and subterfuge, the August 17, 1802 deed of the sale of the nine-hundred-and-fifty-acre tract of land on the eastern side of the harbor bears all the hallmarks of a social interaction determined by asymmetries of power and discrepant understandings: first, the deed was conducted with three Mi'kmaw individuals whose authority to conclude the deed on behalf of other Mi'kmaq named in the reserve is dubious; the circumstances of the signing of the deed – most importantly, the location, the signatories' state of mind and their understanding of what the deed was for or what it would do – are unknown; the deed itself was not formally registered; lastly, the land was purchased for a sum of money (five pounds) that would no doubt have been considered grossly disproportionate to the land's potential value.

In and of itself, the alienation of the Mi'kmaw lands did not necessarily mean the end of Mi'kmaw occupation, as any number of informal arrangements could in theory have been arranged to accommodate their needs. But as Seaman's subsequent plight shows, the commodification of the land fundamentally transformed the way land could be used. At around the same time that Seaman purchased the lots from the Mi'kmaq, he found work as a trader, selling timber. He worked closely with the Halifax-based firm, Fillis, Boyd & Fillis, which provided him with ample credit so that he could get his business off the ground. When Fillis, Boyd & Fillis foundered in 1803, one of its principals approached Seaman to demand some form of security for their loans. In straitened financial circumstances, Seaman

⁶⁰ See, for instance, the October 29, 1784 warrant of survey to the West Chester Loyalists, which included an April 17, 1785 warrant of survey to Stephen Seaman and eighty others for 31, 750 acres at River Philip. NSA, RG 20, Series "A," Vol. 14, No. 156.

had no choice but to mortgage his lands. He was put upon to include all of his holdings, including the nine-hundred-and-fifty-acre tract along the harbor and the land at Toney's Bay.⁶¹ In addition to forcing Seaman to pay the principal – a not inconsiderable sum of five hundred and ninety-seven pounds, thirteen shillings and eight pence – and interest, the firm set the default date a year from the signing of the deed, and included the onerous condition that Seaman would have to pay the greater sum of one thousand, one hundred and ninety-five pounds, seven shillings and five pence in the event of a default.⁶² On the maturation of the interest of the deed, Fillis Boyd & Fillis assigned the mortgaged lands to William Lyon, a Halifax merchant, for six hundred and five pounds, seven shillings and eleven pence.⁶³ When, at the expiration of the mortgage, Seaman refused to co-operate with the now-deceased Lyon's executors, his sons Robert Lyon Senior and Robert Lyon Junior, the latter petitioned the Lieutenant Governor to investigate into the circumstances of the case and to force Seaman to pay the principal and interest on the loans or otherwise hand over the mortgaged premises.⁶⁴ Afraid of losing all his land, in 1807 Seaman travelled to Halifax to petition Governor John Wentworth for four hundred acres of the nine-hundred-and-fifty-acre tract on the eastern side of the harbour. Although Wentworth reprimanded Seaman for including the reserved Indian land in the mortgage, noting that he had had “no right” to do

⁶¹ In the mortgage deed, signed January 14, 1803 and registered the next day at Amherst, Stephen Seaman offered, among other lands, “222 1/4 acres - wood land being part of 970 acres, situate lying and being at the mouth of the River Philip so called in the County of Cumberland aforesaid, part of which is cleared with two dwelling houses. a new house frame two stories high, with out houses appertaining to the same - Also at Toney's Bay the northwest side of the Mouth or Harbour of the River Philip aforesaid 368 3/4 acres wood land being one quarter part of 1475 acres purchased of the Indians. Also 950 acres wood land, on the east side of Pugwash Harbour, being purchased of the Indians.” See the copy of the deed in the Nova Scotia Court of Chancery Fonds, NSA, RG 36, No. 192, Document 1.

⁶² Ibid., Documents 1 and 2.

⁶³ Ibid., Document 3. It would appear that Seaman had asked for a year's respite in order to pay the mortgage, but Fillis Boyd & Fillis proved unable to wait that long, as they were in “distress.” See *ibid.*, Document 4.

⁶⁴ It appears that Seaman obstructed due process for some time: according to the brothers' petition, Seaman refused to countenance their entreaties, “combining and confederating” with others who reinforced Seaman's claim that he had not signed a mortgage with Fillis Boyd & Fillis. *Ibid.*, Document 4.

so, he nonetheless complied with Seaman's request and directed his deputies to lay out the land for Seaman and his family.

In 1809, as his creditors were closing in, Seaman came into conflict with the Mi'kmaq at Toney's Bay. Lewis and Newell Argimeau, two brothers who had been included in the original warrant of survey for the land, petitioned Lieutenant Governor George Prevost to secure their possession from Seaman's aggressions. Seaman, the petitioners claimed, had forcibly expropriated the timber they had sold to another settler, claiming that he owned the land from which it had been sourced. For their part, the brothers stated that "they never sold the land to Mr. Seaman or any other person," and they petitioned for a grant of one hundred and fifty acres of the previously reserved land "so that they may be secured in their improvements." Drafted and endorsed by local Justices of the Peace Charles Baker and Alpheus Morse, the petition was carefully crafted to portray the brothers' claim in terms of an unbroken line of possession and cultivation: shortly after receiving the warrant of survey from Governor Wentworth, the brothers had cleared and cultivated three acres on which they had erected a greenhouse for "the preservation of their potatoes"; since that time, the brothers had become an indispensable provider of potatoes and seed to neighboring settlers, who, as recently as last spring, "would otherwise have had great deficulty [sic] to have procured seed." Reviewing the petition, Surveyor General Charles Morris approved an order of survey based on the endorsements of Baker and Morse, which, in his view, cast doubt upon Seaman's claim that the Argimeaus had not been included in the original warrant of survey; in addition, the deed that Seaman had signed with the Mi'kmaq for the land at Toney's Bay was, in his view, vitiated by the fact that it did "not appear to have been signed by all the Indians."⁶⁵ In the end, a compromise was worked out between Seaman and the Argimeaus, one which ultimately redounded on the latter: in 1810, four hundred and fifty acres of the land were granted to Stephen Seaman. The same

⁶⁵ I have not been able to find the correspondence with Seaman wherein these claims were originally made. See the petition of Lewis and Newell Argimeau, NSA, RG 20, Series "A," Vol. 30, Item 2.

grant stipulated that one-hundred and fifty acres were to be "sett off in the most convenient situations near to the spots or places where the Indians have heretofore been used and accustomed to occupy and erect wigwams, on which said one hundred and fifty acres of land so to be laid out is for ever hereby reserved and set apart for the Indians of this province and for no other use or purpose whatsoever."⁶⁶ Nested amongst claims issued to settlers in "free and common socage," the one-hundred-and-fifty-acre reserve would be just as vulnerable to incursion by settlers as other regions in Nova Scotia, even with a proviso that mirrored the permanency and exclusivity of that most secure form of tenure.

Shortly after Seaman received title to his land at Toney's Bay, he was subpoenaed to appear at the Court of Chancery.⁶⁷ After he refused to appear in person, having a solicitor appear in his stead, the complainants successfully petitioned the Lieutenant Governor to have the matter referred to a master of the court.⁶⁸ On May 3, 1811, Master George Henry Monk computed the principle, interest and costs on the mortgage at eight hundred and eighty-three pounds, four shillings and two pence, and ordered Seaman to pay the sum.⁶⁹ On June 16, 1811, the Lieutenant Governor decided to decree foreclosure proceedings against Seaman, and his holdings were subsequently put up for sale at public auction at Amherst on October 7, 1812. Two of Seaman's holdings, including the nine-hundred-and-fifty-acre lot, were purchased by merchant and surveyor, Thomas Roach, and his partner John Shannon Morse, while nothing was offered for the land at Toney's Bay.⁷⁰

After the sale of Seaman's lands in 1812, the details of the case become murky. In 1815, Seaman petitioned the Lieutenant Governor to intervene on his behalf, claiming that he had not been given

⁶⁶ Nova Scotia Department of Lands and Forests, Land Grant Registration Books, Book A, Pg. 64 ½ (NSA microfilm reel no. 13039).

⁶⁷ The subpoena was issued on August 21, 1810 and Seaman was served the writ of subpoena on September 21, 1810. See the Nova Scotia Court of Chancery Fonds, NSA, RG 36, no. 192, Doc 5.

⁶⁸ *Ibid.*, Documents 7-10.

⁶⁹ *Ibid.*, Document 11.

⁷⁰ The five-hundred-acre lot with the sawmill was purchased by one William Pipes for twenty-five pounds and five shillings. *Ibid.*, Document 14.

sufficient notice of the sale and had only learned of it "until after it was made, as the place where it took place is fifty miles distant from the said lands and the residence of your petitioner."⁷¹ But all was for nought. In 1817, it appears that Seaman, his wife and children were evicted from their land on the east side of Pugwash by order of the new owners, Roach and Morse. The following year, Roach and Morse mortgaged two hundred and seventy acres of Seaman's land to traders David and Henry Pinio, who immediately took up residence on the lot. The unresolved claims to the land festered until 1825, when the matter was referred to the Land Board in Amherst. The Board was required to investigate all aspects of the conflict and to establish the facts regarding the original deed acquired from the Mi'kmaq as well as all subsequent transactions. Both Seaman and Pinio addressed petitions to the board, noting the considerable improvements they had made on the land and pleading that they not be dispossessed. Alex Stewart and David McFarlane, the Land Commissioners in charge of the case, filed their first report to the Lieutenant Governor in 1826. Dissatisfied with the Board's handling of the case, Roach and Morse alleged that the Board had neglected to give them fair consideration. The conflict dragged on unresolved until 1827, when Surveyor General Charles Morris and J.B. Robie were tasked with finding a political solution to the problem. Seaman was required to furnish his copy of the Indian deed, which had not been formally registered; affidavits were solicited from various individuals, namely Justices of the Peace and prominent settlers, who lived with or knew Seaman when he resided at Pugwash Harbor in an effort to establish the truthfulness of his representation. In the end, it was decided that the land should be placed on auction again; a certain amount of the money made in the sale would be earmarked to compensate Seaman for his losses.⁷² At the sale the following year, Roach and Morse purchased

⁷¹ See the copy of Seaman's 1815 petition in James S. Morse's letter to Sir James Kempt, dated March 21, 1827, Cumberland County Land Papers, NSA, RG 20, Series "C," Vol. 20, Folder 1825-1827.

⁷² See, for instance, the May 30, 1828 letter from provincial secretary, Rupert D. George, to Stephen Seaman, NSA, RG 1, Vol. 146. George informs Seaman that the executive council had ordered that "the land in question be sold at public auction under the decree of [the Court] of Chancery, by the Hon Brenton Halliburton, one of the Masters of that Court at Halifax or Cumberland and at such time as he

Seaman's four-hundred-acre claim; Seaman received compensation for his lands, while Roach and Morse and Pinio secured title to their respective holdings.⁷³

Tellingly, although it was not bid on at the original chancery sale or re-offered for sale in the subsequent auction, the Mi'kmaw land at Toney's Bay was still alienated and sold to settlers shortly after the resolution of the Seaman mortgage debacle. On December 16, 1833, deputy surveyor and Justice of the Peace William Baker wrote to Commissioner of Crown Lands John Spry Morris to answer his queries regarding the status of the reservation. Baker recounted a slightly different version of events, in which the marsh on the cape was divided between the three parties – Roach, the Argimeaus and another settler named Wolf – who sought or claimed it. It was Roach who had surveyed the one-hundred and fifty acres for the Argimeaus. But according to Baker, much had changed since the lands were surveyed. 'Niol [sic] I am informed," he wrote, "is dead, and Lewes [sic] has for a number of years resided on the Prince Edward Island, and I think it probable will remain there, altho' he is frequently on the main." He added: "If the land is to be disposed of I should recommend to sell it at public auction."⁷⁴ The following year, John Spry Morris followed Baker's advice and put the land up for sale. He reasoned that the land was not being well used, if at all: "The whole lot [...] was reserved for the Indian but these having left that part of the province and it lying waste and I being satisfied that if suffered to remain so, it would gradually be taken possession of by the adjacent proprietors[,] I recommended it to be sold for

shall appoint; and that he be authorized to state at the sale that the title to the land will be confirmed by His Majesty, and completed to the purchaser before the purchase money shall be called for, and that after the sale being made the said Master is to report to His Excellency what part of the amount of the sale it would under all the circumstances be reasonable to allow you; and it was further ordered that if Messrs Thomas Roach & Jn S Morse should not assent to the said sale on these terms, that Judge Halliburton do report the same to His Excellency."

⁷³ James F. Smith, *The History of Pugwash* (Pugwash, N.S.: North Cumberland Historical Society, 1978), 15-16.

⁷⁴ William Baker to John S. Morris, December 16, 1833, NSA, RG 20, Series "C," Vol. 99, Folder 1833.

the benefit of the Crown."⁷⁵ The sale serves as a powerful emblem of the special role that commodification had in ushering in a very specific, and acquisitive, set of social relations.

Despite their differences, the local dispossessions of Antigonish, Pomquet and Pugwash all grew out of the spatial and class dynamics generated by commodification and alienation of land in the eighteenth and early nineteenth centuries. The social dislocation and distress of the Mi'kmaq remarked by contemporaries in the late eighteenth and early nineteenth centuries, then, were inextricably linked to the emergence of new rules governing the use of land. Although this connection was not lost on certain officials, distance and delay militated against a clear picture of the facts on the ground; the dominant response from the early nineteenth century on was to fit evidence of such distress into a pre-existing narrative of indigenous decline. Because they were viewed as evidence of the inevitable decline of the Mi'kmaq in the face of the advance of a superior culture, local dispossessions excited a humanistic concern for indigenous welfare, which was invariably expressed in terms of a paternalistic call to intervene to "ameliorate" or "improve" their condition, bringing it in line with British notions of industry and frugality. Likened to children, the Mi'kmaq would have to be treated sternly if their condition were to be ameliorated. Thus, at the turn of the century, in response to numerous accounts of Mi'kmaq distress, a committee of the house was struck to report on "the condition of the Indians in the province." The report noted the destruction of indigenous hunting grounds and their supplanting by white settlement as the prime factor occasioning "the distresses of these the original proprietors of the

⁷⁵ Morris' comments were written in response to a petition from Abraham and Stephen Seaman, who had belatedly become aware of the sale. The brothers alleged that proper notice of the sale had not been given, and they highlighted their prior interest in the land as grounds for being accorded special consideration. Morris rejected their demand for a resale, stating that they had "already received a Grant of so much of it as the Government thought them entitled to." See J.S. Morris' statement, dated April 27, 1836, on the April 20, 1836 petition of Abraham Seaman, Stephen Seaman, Hezekiah Seaman and others, Cumberland County Land Papers, NSA, RG 20, Series "C," Vol. 20, Folder 1835-6; the former reserve was granted to a man named Lewis Lewis for the sum of seventeen pounds and five shillings. See the grant to Lewis, dated February 9, 1836, Nova Scotia Department of Lands and Forests, Land Grant Registration Books, New Book 11, No. 37 (NSA microfilm reel no. 13014).

soil.” Such a startling admission was immediately qualified, however, with racialized references to the “natural indolence” of the Mi'kmaq and “the unhappy propensity of great numbers of them, to the vice of drunkenness,” as the ultimate causes of their continued dependence on government aid. The authors concluded that such aid would have to be made conditional if the Mi'kmaq were to be improved:

Under these impressions your committee cannot but be of the opinion that it is highly incumbent on the people of this province, to make exertions in behalf of those who originally were sole proprietors of the soil we now enjoy & whose rescourses [sic] for existence & support from the insular situation of this country are by the progress of our own improvements gradually circumscribed to the narrowest limits - and altho' all the pecuniary resources [sic] of this province would in all probability be found inadequate to the support of this remnant of the Mic Mac tribe in a state of idleness, & that their natural inveterate habits of indolence & precarious dependance forbid the hope of their being either universally or suddenly acclaimed to a state of industry & civilization, yet your committee are fully persuaded that by the adoption & faithful execution of a rational & judicious plan for locating these people in suitable situations & inducing them to settle by reasonable encouragement, & by withholding all public assistance for those who would not comply with the terms prescribed, that many, especially of the younger class, might be made useful members of society, & the condition of the whole be much ameliorated.⁷⁶

The committee recommended that a joint committee of the assembly and council be struck to determine the logistics of the settlement plan, and they further recommended that funds be directed to provide provisions to the Mi'kmaq in order to see them through the approaching winter. In January of the following year, the Joint Committee issued a circular to chosen correspondents in each county whose express purpose was to determine the number of the Mi'kmaq in each locality as well as gauge their “disposition to settle.” In particular, the committee wanted to gauge the local opportunities that existed for their profitable employment: for the men, this meant inducing them to make “Staves, Hoops, Shingles, Clapboards, Oar Rafters, Handspikes, and Laths,” as well as the planting of potatoes and selling of fish at market; for the women, it meant inducement to “Spinning and Knitting.” Above all, it seems, the committee wanted to gauge the proximity of the Mi'kmaq's hunting grounds and “usual places of abode” to markets and their infrastructure; subsistence activity on the land, such as the seasonal

⁷⁶ NSA, RG 1, Vol. 430, No 33 ½.

harvesting of eels in winter, was likewise assessed in terms of its potential value as a commodity in colonial markets.⁷⁷

Whether or not the Committee understood its roots, the distress experienced in Mi'kmaw communities was real. In Antigonish, where the Soldiers' Grant arrogated title to the Indian Gardens and other indigenous settlements with the stroke of a pen, reports of imminent starvation compelled the government to act. On December 10, the Joint Committee sent supplies of blankets, gunpowder, shot, salt, biscuits and corn to local gentlemen Edward Irish and Timothy Hierlihy, who were to distribute them according to need.⁷⁸ The gentlemen were urged to remind the Mi'kmaq that forthcoming relief would be contingent on their willingness and ability to cultivate the soil; likewise, settlement was to be encouraged in situ, as proximity to Halifax would provide greater access to alcohol and tend to undo the ameliorative effects of relief.⁷⁹ The following year, notwithstanding the intermittent provision of relief, the severity of the crisis showed no signs of abating: reports of Mi'kmaq relocating due to outbreaks of smallpox started to appear.⁸⁰ In July, the Joint Committee cited the widespread occurrence of smallpox (and, one assumes, the attendant dispersion of the Mi'kmaq) as the chief impediment to their being able to dispose of their duty to collect relevant information with a view to drafting up a plan of settlement.⁸¹ On October 17, 1801, one Joseph Marshall of Guysborough wrote to Committee member Michael Wallace to request relief for fourteen families of Mi'kmaq that had relocated from Antigonish to his district in an effort to escape the disease.⁸² Just as the Mi'kmaq at Antigonish and northeastern Nova

⁷⁷ NSA, RG 1, Vol. 430, No 48 ½.

⁷⁸ The committee also authorized the gentleman to purchase potatoes in order to provide relief where required. NSA, RG 1, Vol. 430, No. 30.

⁷⁹ The imperative to cultivate the soil was communicated in the stern, paternalistic language of an ultimatum: the Mi'kmaq would have to turn to industry as "it will be in vain to look to Government for an annual support, it being the Determination of the Legislature, that they shall cultivate the Ground, otherwise they will be abandoned to their state." NSA, RG 1, Vol 430, No. 30.

⁸⁰ See NSA, RG 1, Vol. 430, Nos. 50, 52, and 88, for instance.

⁸¹ NSA, RG 1, Vol. 430, No. 72 ½.

⁸² NSA, RG 1, Vol. 430, No. 36.

Scotia were undergoing the ramifying effects of a generalized social crisis, officials at Halifax showed no signs of departing from an official policy of exciting individual industry among them through incentives and rewards, and the selective distribution of relief.⁸³

More than any other factor, a reputed natural propensity for drunkenness was cited as evidence of the Mi'kmaq's nonage. Instances of Mi'kmaq selling their holdings for alcohol or "trifles" (whether money or other goods) were repeatedly invoked by officials as evidence that they were incapable of understanding what was in their own best interests; addicted to alcohol, they were being swindled of their holdings by unethical, acquisitive settlers. Although the ravages of alcohol were real, its role in dispossession was greatly exaggerated, and it was used as a self-justifying rationale for supervising and putting limits on Mi'kmaq ownership of land. Officials became convinced that the best way to assign land to the Mi'kmaq was to hold it in trust for their use, reserving title to the Crown and thereby ensuring that the land could not be improperly alienated. If this restrictive principle operated in the 1780s, reflected in the issuance of temporary licences of occupation, it was but one option among a plurality of tenure forms then available; a not inconsiderable number of warrants of surveys and grants in freehold were issued to the Mi'kmaq in the period.⁸⁴ In the early part of the nineteenth century, however, and in the years leading up to the creation of reserves in 1819-20, the increasing number of local dispossessions (particularly those that could be tied to commercial transactions between the Mi'kmaq and settlers) disabused officials of the advisability of issuing outright grants. In 1815, Surveyor General Charles Morris broached the subject head-on in a comprehensive report to the Lieutenant Governor on the government's plan to secure land for the Mi'kmaq. Referencing a petition for land

⁸³ On July 13, 1801, in the same report that acknowledged the lack of information on the Mi'kmaq due to the occurrence of smallpox, the Joint Committee recommended that the legislature "be authorized to have lands surveyed in suitable places ready for the accommodation of the Indians, that they be empowered to proceed to the location of some few families best disposed to settle as an example & encouragement to the rest." NSA, RG 1, Vol. 430, No. 72 ½.

⁸⁴ See, in particular, the discussion of this topic in Upton, *Micmacs and Colonists*, 149-152.

written by the Abbé Sigogne on behalf of Cape Sable Indians in which the Governor had expressed interest, Morris noted that the land in question had already been granted; an alternative lot might be surveyed for the purpose, but Morris counseled against issuing a direct grant: it ought to be "reserved for their use but not granted to them to be sold or transferred for rum or money as has heretofore too generally been the case thro' the Province."⁸⁵ Interestingly, as examples of this trend, he pointed to well-known cases in Pugwash, Antigonish and St. Margaret's Bay, among others. He mentioned the example of Pugwash again in 1820, in his report detailing the new "reservations for the use of Indians." Of the handful of reservations that survived from in the late eighteenth and early nineteenth centuries, the five-hundred-acre lot at St. Margaret's granted to Philip Bernard and Solomon and Tawmaugh in freehold tenure merited special comment:

It has been sought after with avidity by the German settlers, and I believe they have succeeded in part in the purchase of this land from the Indians, and having thus acquired a right to the land, the Indians are at perpetual variance with them about the land and fishery. Had the lands been granted in trust solely and exclusively for the Indians, and not transferable, then differences with others of a similar nature, at [Stuiac], Mahone Bay, Eel Brook, Pugwash and other parts of the province, might have been avoided, and those valuable situations secured forever for the support of these people.⁸⁶

In 1820, the systematization and consolidation of reserve lands virtually put an end to grants, ensconcing the principle of holding land "in trust for the Indians" for years to come. Surviving licences of occupations and grants were joined with new reservations, regularized into one-thousand-acre lots, ten holdings in all across the province. They were henceforth to be held in trust by the various custodes rotulorum, or Justices of the Peace, of their respective counties, each of whom was to protect the reserves and encourage settlement.⁸⁷ After 1820, reservation in trust was held to be the ideal response for safeguarding Mi'kmaw claims in contests over land, which, ironically, in many cases made Mi'kmaw

⁸⁵ NSA, RG 1, Vol. 430, No. 151.

⁸⁶ NSA, RG 1, Vol. 432, pp. 26-40.

⁸⁷ See the Minutes of His Majesty's Council at Halifax, May 8, 1820, Vol. 193, pp. 455-6; see also the original copy of Charles Morris' original report of May 7, 1820, NSA, RG 1, Vol. 432, pp. 26-40.

claims more vulnerable. On May 12, 1824, after learning about Reverend Thomas Trotter's exertions in measuring the improvements of the Pomquet Indians on his (and Campbell's and McWhinnie's) lot, gentleman and merchant Henry H. Cogswell wrote to acting-governor Michael Wallace to suggest a solution to the problem. Although initially taken aback at Trotter's effrontery in arrogating to himself the right to grant a temporary licence of occupation to the Mi'kmaq on his property, Cogswell was ultimately willing to reserve one hundred acres of his lot for their use. However, in keeping with the dominant view of indigenous indocility, Cogswell's offer came with conditions. Noting that "their general habits render them averse to labour upon the soil but to abandon the neighborhood where cultivation and improvement are variously prosecuted," Cogswell wrote that he preferred "giving them lease for a given term of years on an absolute deed, the Land to revert to me provided the Indians shall absent themselves from their residence upon it for two years."⁸⁸ The Executive Council resolved to have the Governor communicate with Cogswell about his offer; soon thereafter, an arrangement to reserve one hundred acres to the Mi'kmaq was secured.⁸⁹ Many years later, on March 19, 1842, Cogswell sold the right to his land to farmer John Sutton for one hundred and fifty pounds. Although the deed excluded the one hundred acres reserved for the Mi'kmaq from the sale, the condition seems to have held little weight with Sutton, who, shortly after registering the deed, sold the majority of his claim without including a similar condition respecting the reserved land.⁹⁰ Although there is little evidence to suggest that Sutton attempted to sell the Mi'kmaq reserve, or that the Mi'kmaq had to contend with

⁸⁸ NSA, RG 1, Vol. 430, 160g.

⁸⁹ See the Minutes of His Majesty's Council at Halifax, May 19, 1824, NSA, RG 1, Vol. 194, pp. 265-267. It is not clear how the reserve was effected (or if Cogswell's condition regarding residency was upheld).

⁹⁰ Antigonish County Registry of Deeds, NSA, RG 47, Vol. 10, Pg. 417. The description of the bounds of the lot were followed by the proviso regarding the reserve, conceived in broad, open-ended terms: "[...] it being expressly understood that this description shall not include any part of one hundred acres of the said original grant which the said H.H. Cogswell has reserved for the Indians or any part the Indians occupy or are in possession of – nor any lands which have been granted to other persons encroaching upon the original grant to the said H.H. Cogswell."

encroachments after ownership of the property switched hands, it would be foolhardy to suggest that the operative form of tenure – one embedded in, and dependent on, the exclusive yet transferable grant of another – did not make the Mi'kmaq more vulnerable to dispossession. As Daniel Paul has shown, this vulnerability played out belatedly in the transition to Confederation. When reserve lands were being transferred to the federal government in 1867, Commissioner of Crown Lands Samuel P. Fairbanks neglected to include the Cogswell reservation, which included a church and burial grounds. As Paul has it, "this omission caused the land to be illegally alienated in the early twentieth century, and today it still remains an outstanding claim for Paq'tnkek."⁹¹

Although tenure by trusteeship entailed real and potential vulnerabilities, the very act of officially surveying and laying out reserves as exclusive parcels of indigenous property, protected by law, seems, for a time, to have dissuaded settlers from making incursions. Granted, by the time the reserves were systematically consolidated in 1820, indigenous reserves and settlements of all kinds had been subjected to widespread encroachments, and most of the good land in Nova Scotia had been alienated to settlers and speculative concerns. In his 1842 tour of reserves in the western part of the province, newly minted Indian Commissioner Joseph Howe encountered some evidence of trespasses, but they were few and far between, occasioned primarily, in his judgment, by shoddy surveying and ignorance of the exact boundaries.⁹² Far more common were encroachments on tracts of land that had been issued

⁹¹ Daniel N. Paul, *We Were Not the Savages: A Mi'kmaq Perspective on the Collision between European and Native American Civilizations*, 2nd ed. (Halifax: Fernwood, 2000), 233-234. For a detailed account of the struggle of what later became known as the Summerside reserve, see in particular pages 237-8. Although Paul refers to Samuel Fairbanks failure to transfer the land as "an act of incompetence," it is (sadly) more probable that the reserve was forgotten because it was considered a de facto, temporary arrangement rather than a de jure reserve.

⁹² See, for instance, the passage (on page 16) in which Howe describes the reserve on the Wild Cat river in Queen's County: "Some slight trespass has been made on part of the rear, by a person of the name of William Hendry, but the greater part of it is untouched, covered with a fine ground of hardwood, and embracing a good deal of excellent soil." Howe's solution was to have the reserve surveyed. For an example of Howe's many encounters with unlocated families, see the passage (on page 22) in which Howe describes his encounter with the Luxies, "a family of Indians who have been settled

to individuals and families on a desultory basis and in various tenure forms – or that had escaped the government's detection and protection altogether – prior to 1820. Several of these tracts were grants, and at least one of them was included among the ten reserves sanctioned in 1820: the five-hundred-acre lot granted to Philip Barnard, Solomon and Tawmaugh in “free and common socage” in 1785 was encroached upon in 1809, gainsaying the counterfactual argument that the standardized issuance of grants to the Mi'kmaq would have provided incontrovertible protection of their interests.⁹³ By 1852, there were only two active encroachments on reserves in mainland Nova Scotia, at Shinimicas River in Cumberland County and at Gold River in Lunenburg County.⁹⁴ In the 1780s as in the 1820s, property ought to be read as operating as a set of relations with a particular spatio-temporal profile, facilitating certain forms of behavior while constraining others. By the 1820s, a tendency towards private property was dominant, and this was reflected in the acute constraints and limits placed on the ability of the Mi'kmaq to carry on a seasonal economy. In 1842, Robert Henry, one of the Justices of the Peace in Pomquet, touched on the heart of the matter in a letter to W.A. Hendry respecting the bounds of the reserves in his community. After looking over surveyor Alex Thomson's plans, he noted that the land had been reduced to “detached blocks,” a situation that immediately struck him as inimical to Mi'kmaq patterns of settlement and mobility. “There is no doubt that the Indians should be on the Harbour and have free access to it [...],” he wrote; “now they must necessarily trespass on the lands of others and in

for many years on a portion of an Island, that appears to have been granted to them, as I do not find it among the Reserves.” Although the family were engaged in agriculture, Howe found that they were unable to use the land advantageously, “partly because of their own erratic habits, partly because, there being no power to restrain such improprieties, they have been encroached upon and injured by their neighbors.” NSA, RG 1, Vol. 432, pp. 71-107.

⁹³ See the letter of provincial secretary Rupert George to surveyor general Charles Morris, dated May 20, 1809, in which he directs Morris to look into the encroachments on the grant. NSA, RG 1, Vol. 140, 60-61.

⁹⁴ By contrast, in Cape Breton, four of the six reserves were encroached upon – a testament to the divergent evolution of similar, albeit distinct, patterns of settlement and commodification there. NSA, RG 1, Vol. 431, No. 98 ½.

passing and repassing they are in the habit of throwing down fences and exposing the crops of the inhabitants." He added: "Whatever injuries in this way they do, has to be borne with lest worse might happen."⁹⁵ Henry recommended granting them Colonel Campbell's lot, but this was not likely to have solved the problem; by 1842, the Mi'kmaq of Pomquet had been forced to reconcile their seasonal economy with the demands of the colonial economy, employing various strategies – selling their labour, producing crops for both subsistence and sale – in order to survive.⁹⁶

Up until now, this chapter has focused on the dynamics of dispossession on mainland Nova Scotia. If the commodification of land qua free land grants proceeded apace on the mainland from the 1760s on, intensifying in the 1780s with the influx of Loyalists, the same cannot be said of the island of Cape Breton. Erstwhile home of the fortress of Louisbourg and a strategic site of military and commercial settlement under the French, the island became, together with Prince Edward Island, part of the British Empire in 1763, with the passing of the Treaty of Paris. Settlement, however, was proscribed until the island could be surveyed and a settlement plan developed. This proscription continued in effect until 1784, when both Cape Breton and what is today New Brunswick were declared separate colonies – a decision expressly made to provide living space for the incoming Loyalist colonists. Interestingly, despite

⁹⁵ See the letter from R.N. Henry to W.A. Hendry, dated January 29, 1842, NSA, RG 1, Vol. 432, pp. 125-126.

⁹⁶ On January 10, 1842, Robert Henry responded to the Lieutenant Governor's request for information on the Mi'kmaq in Pomquet with a long, detailed account of their character and improvements. Although Henry could hardly contain his enthusiasm for the Mi'kmaq's recent turn to agriculture, his optimistic predictions were based in a kind of political faith, and they belied the complex picture his report advanced. Of the one-hundred acres that the Mi'kmaq had "improved," forty were listed as "under hay," twenty-five were "ploughed" and thirty-five were "pasture land." But Henry acknowledged that this was but one strategy: they also subsisted by fishing and "making Baskets Brooms and other articles," and "in the spring they leave their wigwams or huts – go off to fishing stations and roam from place to place during the Summer." Perhaps most notably, Henry noted that the Indian Gardens were subjected to new imperatives: "They already possess a fine tract of meadow land called the Indian Gardens, the Hay from which they sell and divide the proceeds among them." NSA, MG 15, Vol. 3, No. 71; see also Henry's letter of April 21, 1841, which relayed much of the same information. NSA, MG 15, Vol. 3, No. 64.

the proscription of settlement, and its subsequent initial sparsity until the early nineteenth century, the fact that the island had, in effect, been held as a commercial reserve by the French and the English still had repercussions for indigenous dispossession. As John Reid has pointed out, both New Brunswick and Cape Breton had divergent patterns of dispossession, largely because the Mi'kmaq were able to maintain a hunting and gathering economy far longer than on the mainland as a result of the greater availability of land, or as Reid, quoting Indian Commissioner G.H. Monk, puts it, "back country."⁹⁷ Even still, commercial overhunting of wildlife, particularly moose, by resident and non-resident hunters imperiled Mi'kmaw sustenance patterns in the 1780s and '90s.⁹⁸ Thus, as in mainland Nova Scotia, commercialization preceded settlement, and when settlement commenced and increased in scale, similar patterns of social property relations and dispossession were promoted, albeit with distinct patterns. If the granting of insecure forms of tenure to the Mi'kmaq on the mainland made them particularly vulnerable to incursions from settlers who could claim to be "improving" the land in line with the requirements of the government's policies, the problem was arguably even more acute in Cape Breton, where rural communities were remoter from the centres of power and where discrepant forms of title were issued in greater number, and for longer periods, than on the mainland.

The rural community of Margaree, in Inverness County, provides a unique window into such dynamics.⁹⁹ Located on the coastal fringe of the northern peninsula of the island, Margaree formed part of the uncharted territory stretching from Canso to Cape North that British surveyor Samuel Holland

⁹⁷ John G. Reid, "Empire, the Maritime Colonies, and the Supplanting of Mi'kma'ki/Wulstukwik, 1780-1820," *Acadiensis* XXXVIII, no. 2 (Summer/Autumn 2009): 82-3

⁹⁸ *Ibid.*, 83-84.

⁹⁹ The provenance of the name "Margaree" is uncertain. The river was called Salmon River in the earliest documents from the eighteenth century. Later, documents started referring to "Marguerite" or "Margaree." The most common origin story holds that the "first" settler to the area, a French man named LeBlanc, christened the river after his wife, Marguerite. See John F. Hart, *A History of Northeast Margaree* (Margaree Centre, N.S., 1963), 5; Clara Dennis, *Cape Breton Over* (Toronto: Ryerson Press, 1942), 254.

labeled as "the Savage Country or Principal Hunting District" in his map of 1767.¹⁰⁰ Long before European settlement, the Mi'kmaq ventured into the interior reaches of the island by navigating its harbours, lakes and rivers, and the Margaree River was no exception. The Margaree River is in fact two rivers: the southwest branch, originating in Lake Ainslie, a large freshwater lake, meanders in a northeastern direction; the northwest branch, fed by the Highlands in the northeast of the peninsula, meanders in a southwestern direction; the two meet at Margaree Forks, and flow northward along a beautiful valley to form an estuary with the North Atlantic at Margaree Harbour.¹⁰¹ For a long time, the Mi'kmaq were undisturbed in their possession of the riverways. In the late eighteenth century, Acadians

¹⁰⁰ Stephen Hornsby, *Surveyors of Empire: Samuel Holland, J.F.W. DesBarres, and the Making of the Atlantic Neptune* (Montreal & Kingston: McGill-Queen's University Press, 2011), 136, 144-5; Reid, *Supplanting Mi'kma'ki*, 83; also of interest is J.F.W. DesBarres' 1767 map of the island, which depicts the same territory as "Indian Hunting Territory." As Michelle Lelièvre has noted, these maps should not be read as objective documents: "The map shows most of the northern and western coasts and interior of the island as "Indian Hunting Country." Read critically, however, Desbarres' map may more accurately reflect British aspirations for the proportions of indigenous and settler territories rather than on-the-ground reality." Lelièvre, 51-3.

¹⁰¹ There is evidence attesting to an early Mi'kmaw presence in Margaree in the small body of amateur work on the area. A number of accounts, for instance, detail the role of an "Indian guide" in directing, and safely transporting, the reputed first settler, James Ross, to the Margaree valley. See, for instance, Hart, 7-9; J.M. MacDougall, *A History of Inverness County* (Truro, N.S., 1922; repr., Belleville, Ontario: Mika Publishing, 1972), 424-425; Dennis, 240-1, 245. However, the best evidence of Mi'kmaw knowledge of the river comes from oral tradition and the Mi'kmaq language itself. The river itself was called *Wiaqajk*, a word that has been interpreted by Mi'kmaw elders Wilfred Prosper and Margaret Johnson, with the help of linguist Bernie Francis, as "the mixing place." Francis notes that "the name connotes a place of ochre but *wiaq* suggests blending." Trudy Sable and Bernie Francis, *The Language of this Land, Mi'kma'ki* (Sydney, N.S.: Cape Breton University Press, 2012), 52. The name would appear to be a reference to the confluence of the northeast and southwest branches at the forks.

Earlier transcriptions and translations of indigenous names for the river varied in terms of their accuracy. Henri Louis Joseph Buisson, better known as Father Pacifique, the Capuchin priest who served as a missionary among the Mi'kmaq of New Brunswick, transcribed the word as "Oiaqatj," which he took to mean "ochre." Linguist and missionary Silas Tertius Rand transcribed the word as "Weukuch." According to Rand, the mouth of the river was called "Oochaadooch." In the Francis-Smith orthography, the latter word has been rendered as *Wja'tujk*, which translates to "at the place where it is collected." See Père Pacifique, *Le Pays des Micmacs* (Ristigouche: Monastère de Saint-Anne de Ristigouche, 1935), 252; Silas Tertius Rand, *Dictionary of the Language of the Micmac Indians* (Halifax, N.S.: Nova Scotia Printing Company, 1888), 165; Mi'kmaq Place Names Digital Atlas, 2010, <http://mapdev.ca/placenames/#/>.

were permitted to settle in Cape Breton, and many moved to Chéticamp, a fishing village located fifteen miles north of Margaree Harbour on northwestern coast of the island. A few, however, settled along the eastern side of the river in the late eighteenth century.¹⁰²

In the 1790s, English settlement began in earnest. In keeping with Rusty Bittermann's research on the nearby rural community of Middle River, the first settlers in Margaree were relatively wealthy and well-connected. They were, almost without exception, merchants, Loyalist refugees and other well-placed individuals. The first grant in Margaree was made out to merchants Lawrence and Edward Kavanagh, who received five hundred and eighty acres on the eastern side of river on February 3, 1791 as part of a total grant of 2,780 acres spread out across the island.¹⁰³ This was followed, on March 3, 1791, with a grant to David Reily on the southeastern side of the northeast branch; on May 4, 1791, five hundred and twenty-five acres were granted to William Thompson on the northeast branch.¹⁰⁴ In what was the first of many such allotments, Thompson was also granted a town lot in Caermarthen, a fledgling township located on the western side of the harbour of the Margaree River.¹⁰⁵ Of the seven grants that would be made in Margaree in 1791 and 1792, five were accompanied by grants of town lots

¹⁰² It would appear that these settlers established usufruct to some of the best lands along the eastern (and, to a lesser degree, the western) side of the river in the late eighteenth or early nineteenth century. They were later given substantial Crown leases or grants of their holdings. See, for instance, the 1810 group grant of lots 5 to 11, totalling 3400 acres on the eastern side of the Margaree river, to William White [LeBlanc], Hilaire White, Charles Gallant, Honore Michel, Père Ursinore, Simeon Burke and John White, Nova Scotia Department of Lands and Forests, Land Grant Registration Books, Book C.B., No. 122 (NSA microfilm reel no. 13051). See also the July 11, 1810 Crown lease of two hundred and twenty-four acres to Marin White, Nova Scotia Department of Lands and Forests, Land Grant Registration Books, Book C.B., No. 130 (NSA microfilm reel no. 13051). Historian Père Anselme Chiasson discusses the post-1785 influx of Acadian settlers to Chéticamp and Margaree, highlighting both the social dislocation and material incentives that drew them to the island. Anselme Chiasson, *Chéticamp: History and Acadian Traditions*, 2nd edition (Wreck Cove, N.S.: Breton Books, 1998), 12-14.

¹⁰³ The locations of the other holdings were in River Inhabitants in Richmond County and the Harbour of Port Hood in Inverness County. Nova Scotia Department of Lands and Forests, Land Grant Registration Books, Book C.B., Pg. 28 (NSA microfilm reel no. 13051).

¹⁰⁴ *Ibid.*, 29; *Ibid.*, 34

¹⁰⁵ Thompson was granted Town Lot 3 in Block A. It would later be escheated, on November 7, 1817. *Ibid.*, 34.

in Caermarthen.¹⁰⁶ Although few documents attesting to Caermarthen's foundation survive, the evidence suggests that the earliest settlers in Margaree were united by common economic and class interests. In her book, *Cape Breton Over*, written in 1942, Clara Dennis conducted oral interviews with residents of the Margaree Valley about the community's early history. They were explicit regarding Caermarthen's connection to property and trade: "The very earliest comers, they tell me, settled around what is now Margaree Harbour and the site of a town was laid out there. But all that appears to be now known of that town, is its name, Carmarthen, and the isolated facts that a town square was designated half a mile from the water front, and that everyone who had a grant of a certain number of acres in the valley was given a town lot in Carmarthen."¹⁰⁷ This claim would appear to be borne out by the historical record; town lots were only given in conjunction with grants, and the latter ranged between four-hundred and sixty and five hundred and eighty acres.¹⁰⁸ As John Frederick Martin has shown in the case of seventeenth-century New England, lots of town land were allotted according to the original proprietors' respective "shares" – that is, financial contributions, conceived as investments in a commercial venture – at the town's founding; subsequent division of the town's undivided land worked on the same principle. In some cases, the number of acres allotted to each proprietor was exactly determined by his or her "estate," a share or contribution, variously defined.¹⁰⁹ Although there is not enough evidence to definitively establish the practice of dividing land by shares in Caermarthen, it is clear that the township served as a local nerve centre for a group of elite settlers with a cohesive class

¹⁰⁶ See the grants to George Hall, James Dean, George White, and William Cormie. *Ibid.*, 43-46.

¹⁰⁷ Clara Dennis, *Cape Breton Over*, 240.

¹⁰⁸ For instance, on May 4, 1791, George Hall was granted five hundred and twenty-five acres on the northeast branch of the river as well as Town Lot 2 in Block A of Caermarthen; on May 4, 1791, James Dean was granted five hundred and fifty acres at Margaree Forks as well as Lot 7 in Block A of Caermarthen; in August 1791, George White and William Cormie were granted town lots 5 and 6 in accordance with their respective grants of five hundred acres and four hundred and sixty acres. *Ibid.*

¹⁰⁹ John Frederick Martin, *Profits in the Wilderness: Entrepreneurship and the Founding of New England Towns in the Seventeenth Century* (Chapel Hill: University of North Carolina Press, 1991), 149-161. See, in particular, pp. 149, 153-4.

identity. The amount of property one held served as the grounds for admittance to Caermarthen, entitling one to a corresponding share in the town. As we will see, this function would have a profound influence on the settlement of the valley, serving as a structuring principle for settlement and community cohesion in the early nineteenth century.

After 1792, no new grants were issued in Margaree until the end of the first decade of the nineteenth century, when agricultural settlement began in earnest.¹¹⁰ Between 1804 and 1806, it appears that a number of retrospective grants were passed to early Acadian settlers who had established usufruct to the fertile alluvial lands at and downriver from the Forks. Grants to New England Loyalists Tiers Hart, Irad Hart, John Meloney and John Ingraham followed in 1809. The next year, a slew of grants were issued to a number of Leblancs who settled the fertile alluvial land further downriver from the Forks. Apart from the initial retrospective grants to Acadian settlers, each of the aforementioned grants was issued as a Crown Lease, an insecure, temporary form of grant that was adopted after 1790 as a result of the colonial government's decision to proscribe the issuance of free grants.¹¹¹ By the end of the second decade, Irish-born merchant and farmer Miles McDaniel would acquire a substantial number of tracts of land in northeastern Margaree, including half of William Thompson's lot on the Forks, acquired through escheat. Connecticut-born Loyalist Hezekiah Ingraham would also secure a grant nearby. These two settlers have been singled out as the valley's first two prominent farmers.¹¹²

¹¹⁰ This pattern was mirrored in the nearby community of Middle River, another "inland valley community organized primarily around the possibilities inherent in the exploitation of agricultural resources." There, too, agricultural settlement did not get underway until the "beginning of the second decade of the nineteenth century." Bittermann, "Middle River," 44.

¹¹¹ In mainland Nova Scotia, this policy lasted until 1807. In Cape Breton, it remained in effect until 1817. An insecure, temporary form of tenure, Crown leases would complicate questions of title in the nineteenth century, as we will see. Girard, Philips and Brown single out the moratorium on free grants – and their substitution with insecure forms of tenure, in particular – as the origin and one of the main drivers of the later widespread problem of squatting in Cape Breton island. Girard, Phillips and Brown, *A History of Law in Canada*, 600-606.

¹¹² Dennis, *Cape Breton Over*, 240.

With the increasing incidence of claims being made to the fertile intervale land of the Forks in the first two decades of the century, it was not long before conflict arose between the Mi'kmaq and incoming settlers. In 1810, a petition to Brigadier General Nicholas Nepean written on behalf of "Francis Coogu, an Indian," requested a Crown Lease for land at Margaree that the petitioner and "two other families" had occupied for over twenty years. In a clarificatory note on the margins, the petition's author, Provincial Secretary William McKinnon, identified conflict over rightful possession as the motive for securing title: because Coogu could not attend the November session of Council to make a representation – presumably on behalf of himself and the two families mentioned – McKinnon "made out an Instrument by Command of the Seal [of Cape Breton], during pleasure, to prevent their being molested."¹¹³ The source of the molestation was not in doubt: in the same year, thirty-six settlers from the valley signed a petition to Cape Breton Brigadier General Nepean requesting

That your Honor whould be pleased to reserve a certain piece of land for the use of the publick lying on the south side of the Margaree River beginning at the point of Certain Rappid near the Forks of said River, from thence to continue the corse of the river upstream to a certain bunch of Elm Trees standing on the Bank of said river, the distance being about seven chains more or less and one chain in bredth, this place being of material consequence to the inhabitants of Margree as it is the only place suitable for ketching gasparowes on which the Inhabitants depend for their winters fish.

Reviewing the petition, Surveyor General Thomas Crawley recognized the sought-after tract as "part of the Lot reserved by order of His Honor Brigadier General Nepean, for the Indians, who have resided on and cultivated parts of it nearly twenty years."¹¹⁴

¹¹³ See the petition of Francis Coogu, 1810, NSA, RG 20, Series "B," Vol. 3, No. 563; the Cape Breton Council Minutes indicate that Coogu was scheduled to present his petition in March 1810, but his appearance was postponed. See the Minutes of His Majesty's Council in Cape Breton, March 19, 1810, NSA, RG 1, Vol. 321.

¹¹⁴ See the petition of the Margaree Inhabitants. NSA, RG 20, Series "B," Vol. 3, No. 624. The petition is undated; however, Crawley's signature on the front of the petition is dated May 10, 1810, and the petition was likely drafted and sent a week or two before that date. Although this early request for a colonial commons was not acceded to, it evidenced a strong sense of group cohesion and communal purpose among Margaree's early settlers, which would come to buttress future claims against the Mi'kmaq. The petitioners represented a broad cross-section of class interests in the emerging community: many, like Murrang and Elier White, were farmers who would go on to secure Crown Leases

At around the same time that conflict arose over the Forks, references to the Mi'kmaw claim, which was called the "Gardens of the Indians" in ostensible reference to the aforementioned clearings and cultivation practices of the Mi'kmaq, began to appear in the plans of warrants of survey and grants.¹¹⁵ References to the claim also began to appear in the petitions of settlers who applied for contiguous parcels of land. On June 6, 1813, a young Irish-born Cape Breton coal miner named William Harrington petitioned Brigadier General Swayne for five hundred acres of land on the southwest side of the Forks, "bounding on Cameron on the one side, and an Indian on the other." The next day, Crawley approved the petition on the proviso that Harrington not "interfere with the Indians or the land reserved in that

for their holdings on the Forks; others, such as Ranald McKinnon, would come to be settlers of prominent standing and power in the community. A former military captain, McKinnon would receive a six-acre lot at Caermarthen in addition to a two-hundred-acre lot on the Margaree river in 1809. On the same day, he was appointed a Justice of the Peace for Margaree, further confirming the pattern of a general correspondence between status, property and power in this early community. See the Minutes of His Majesty's Council in Cape Breton, April 3, 1809, NSA, RG 1, Vol. 321. As often happened, McKinnon's holdings were formalized at a later date. For McKinnon's October 31, 1816 grant at Caermarthen, see the Nova Scotia Department of Lands and Forests, Land Grant Registration Books, Book C.B., No. 214 (NSA microfilm reel no. 13052). In addition, see McKinnon's petition for land on the southwest branch, May 10, 1815, NSA, RG 20, Series "B," Vol. 7, No. 1406.

¹¹⁵ Whereas the plan of the 1804 grant of Bazile Cormier, one of the earliest settlers at the Forks, depicted the surrounding land as so much vacant space, later plans drafted in the 1810s and 1820s began to include references to the "Gardens of the Indians." A wide, vaguely defined expanse of land on the west side of the Forks bordering the mouth of the southwest branch, "The Gardens of the Indians" were not bounded according to the exact estimates of the surveyor's compass, but their plotting on the map was still an important, if imprecise, marker of a recognized claim to territory. One such early – undated and unauthored – plan depicts land granted on the intervale situated downstream from the Forks (see Figure 2 in the Appendix). The land on the eastern side of the river bears the inscription "Granted to James Dean – now in the possession of Donald Mowatt," while the opposite bank bears the words "ungranted – about ten years in the possession of three families of Indians." It is possible to estimate the date of the plan's drafting by correlating it with other plans of the period. The fact that the plan depicts Bazile Cormier's 1804 grant of land on the southern side of the Forks, taken together with the correspondence of details – about the period of Mi'kmaw occupation and the number of their families – in a handful of other, datable sources, suggests that the document was drafted by Surveyor General Crawley in the early nineteenth century, between 1800 and 1805. See the undated, unsigned map of the Margaree river, marked "Relative to Indians," NSA, RG 1, Vol. 430, microfilm reel no. 15469. See, also, the plan (and other assorted documents) of Bazile Cormier's lot, drafted by Thomas Crawley, November 18, 1804, NSA, RG 20, Series "B," Vol. 1, No. 130. For an early depiction of the "Gardens of the Indians," see the plan (and assorted documents) of Beloni White's lot, April 26, 1810, NSA, RG 20, Series "B," Vol. 3, No. 642.

quarter.” Although a warrant of survey was issued a week later, Harrington must not have complied with the next steps of the grant process in the ensuing months, as the warrant was deemed “out of date before it was remanded.”¹¹⁶ Harrington would nonetheless remain in possession of the land for many years to come.

If Harrington’s possession was peaceably and legally secured, it nonetheless marked the culmination of sorts of a process of gradual, subtractive land capture, which encircled and enclosed indigenous space and limited indigenous ways of being on the land. Similar to what would occur in Pomquet, the Indian Gardens had slowly been encircled by the exclusive and virtually permanent claims of settlers, set out in discrete, precisely measured, delimitable parcels. As Cronon has shown regarding seventeenth-century New England, this process of commodification was not neutral: it was a fundamental transformation from which a whole host of ramifying permutations flowed.¹¹⁷ Although Harrington failed to secure title early on, he managed, by virtue of his possession, to secure another warrant of survey and a grant of one hundred acres for his lot, “Kilkenny,” in March and April 1818, respectively. Not long after receiving his grant, Harrington sold the land to merchant Miles McDaniel who, it appears, upon learning that the land adjacent was reserved for the Mi’kmaq, subsequently mortgaged it to blacksmith Archibald Chisholm and his son, farmer John Chisholm. Dated March 18, 1823, the mortgage required Archibald and John Chisholm to repay the sum of sixty-eight pounds and ten shillings over the next four years.¹¹⁸ As we will see in the next chapter, there is ample evidence to suggest that, upon securing their claim to the land, the Chisholms would not tarry in making significant encroachments on the adjacent reserve.¹¹⁹

¹¹⁶ See the June 6, 1813 petition of William Harrington, NSA, RG 20, Series “A,” Vol. 9, No. 1929.

¹¹⁷ William Cronon, *Changes in the Land*, 68.

¹¹⁸ See the Inverness Registry of Deeds, NSA, RG 47, Vol. D, No. 389.

¹¹⁹ One of the chief consequences of commodification, as Cronon noted, was the transferability of land “assessed on a unitary scale.” Cronon, *Changes*, 75. We cannot know why Harrington sold his lot. His decision may have been borne of hardship and a desire to try his luck elsewhere. Whatever the case, the transferability of land would have ensured him at least the possibility of a fair price for his lot as well

Not long after conflict erupted at the Forks, discord flared up two miles upstream on the southwest branch of the river. On April 8, 1811, Surveyor General Crawley wrote a letter to Brigadier General Nepean on behalf of a Mi'kmaw man named Hippolyte – or Paulette – Salome:

Dear Sir,

The bearer of this, Indian Paulette, has been with me to inquire about some land on the southwestern Branch of Margaree River, on which he wants to settle – I have examined the Plan of the River and find that the spot in question is vacant and unclaimed – If Paulette's story may be credited, there seems to be a desire to root the Indians out of Margaree, which would not be exactly just; and as the General has always shown an inclination to take them under his protection, will not, I trust, be permitted – It is very probable that neither the oppressors nor the oppressed are quite blameless, but mild measures are likely to produce better effects than those which are harsh – If the General thought proper, a written permission for the Indians to make their gardens of an Island and on the western Bank, opposite to the Island, about two miles and a half above the forks, would secure them from further molestation and prevent any more trouble.

I have given Paulette to understand that he must not expect more than twenty chains front for one family – He says that Mr. McKinnon threatens to destroy their contrivances for catching eels – to which I had nothing to reply, for I am ignorant of the law relating to the fishery – you, perhaps, can inform him what engines are lawful and what not –

I have the Honor to be,

Dear Sir,

Yours respectfully,

T. Crawley

Five days later, upon receipt of the letter at the Secretary's Office in Sydney, Provincial Secretary William McKinnon made out, on Nepean's behalf, an instrument of occupation for "Paulette and his associates."

Recognizing their desire to settle on the southwest branch, the instrument granted the petitioners

as the requisite resources to decamp afield. In general, a settler cutting his or her losses might pay a price below the land's potential value, affording merchants an opportunity to acquire land to resell at an inflated price. In this case, the use of a mortgage paid in instalments over four years may have enabled the Chisholms to purchase land that would have otherwise remained prohibitively expensive. In this sense, commercialization facilitated the transfer.

permission “[.] to make gardens not exceeding an extent of 20 chains front to 1 family during pleasure opposite to the island that lies about 2 miles and a half above the Forks of Margaree River.”¹²⁰

Together with Coogu's petition of the year before, the 1811 letter to Nepean provides rather disconcerting evidence of a unified effort by the inhabitants of Margaree to dispossess the Mi'kmaq of their lands. Crucially, it affords a rare glimpse into the material conditions and conflicting forms of land use that impelled conflict. Clearly, the Salomes had elected to settle at this site because it was propitious for fishing: the island served as an ideal location around which to place eel weirs and traps; the rich intervale allowed the Mi'kmaq to supplement fishing with the cultivation of a variety of crops. Scottish, Irish, Acadian and English settlers laid claim to the area for much the same reasons, albeit with different degrees of emphasis: the intervale was coveted for farming, and, as has been seen, an incipient gaspereau fishery was carried out from mid-April to June in order to supply residents with subsistence stores for the winter. The timing of Crawley's letter suggests that the disturbance might have occurred just as the Salomes and their kin were returning to the site to intercept spring-running eels.¹²¹ Notably, Crawley privileges the making of "gardens of an Island and on the western Bank," indicating the presence of extensive clearings. Although this may have been so, there is a sense in which it was incumbent on Crawley to highlight the making of “gardens” as the purposive activity most readily assimilable to British notions of improvement. If Salome's represented desire to settle was genuine, it might have been a tacit recognition that protection had to be sought on European terms. In any case,

¹²⁰ Thomas Crawley to William McKinnon, April 8, 1811, NSA, RG 1, Vol. 327, No. 42.

¹²¹ Although eels are more well-known for their annual spawning migrations from lakes to the ocean in the fall, they have also been known to migrate downstream in spring and summer, albeit in smaller numbers. Nietfeld acknowledges the possibility that the Mi'kmaq might have used weirs and traps to capture eels in spring and summer. Nietfeld, 79, 347. Likewise, Wicken points out that seventeenth-century observers in various parts of Acadia recorded upriver migrations of eels in early April and May. He also notes that the exact location of the village of Eel Brook in Kespukwitk [Yarmouth County] shifted in order to correspond with the location of eels. The village was occupied in early April and in the fall. The Salome site might have enjoyed a similar substantial or year-round occupation. Wicken, *Tall Sails and Tall Tales*, 57-8; 101.

the letter and the instrument of occupation were the first of many subsequent iterations of a legal claim to property. The land applied for – encompassing an alder island in the river and extending inland for two hundred chains – would appear in subsequent claims as a much larger, clearly delineated rectangle identified only as “Lot 7.”

Once established, Salome’s claim to land was, like the reserve at the Forks, quickly surrounded by other claims. Sometime after the turn of the century – likely around 1812, but possibly earlier – an English farmer named Philip Weybrandt settled on Lot 5 on the South West branch, two lots downstream from the lot granted to Hippolyte Salome and family. Although Weybrandt formally petitioned for the land, he would defer securing title for unknown reasons. In any case, all evidence suggests that he made improvements and resided on the lot for many years, eventually securing title in 1821. Land records indicate that he was the first grantee of the lot.

Although the exact date and circumstances of Weybrandt’s settling on the lot are unknown, his name is mentioned in land documents of the period earlier, and more often, than others. For instance, a petition from one Stephen McKinnon, dated 1816, requests a “lot of land on the S.W. branch of Margarie next to Philip Waybran.”¹²² Interestingly, the documents attesting to Weybrandt’s early occupation also attest to a significant indigenous presence on the adjacent lots. In 1812, a 21-year-old Irishman from the County of Tipperary named Patrick Power petitioned Brigadier General Nepean for “a vacant lot of Land situated in the N.W. side of the S.W. Branch of Margaree between the occupations of Phillip Weybrandt and Paul Jeroum, Indian, adjoining Phillip Weybrandt’s boundary.” Notable for referencing Weybrandt’s boundary – Weybrandt did not have a warrant of survey at this time, but his land must have been clearly demarcated with improvements – the reference also evinces a matter-of-fact recognition of the claim of Paul Jeroum, conceiving of ownership in equally exclusive and possessive

¹²² See the February 13, 1816 petition of Stephen McKinnon, NSA, RG 20, Series “B,” Vol. 7, No. 1407.

terms. The reference provides evidence that the indigenous presence in the area was not limited to Hippolyte Salome and his family; it is possible that the area served as an important summer village or a rendezvous site or base camp frequented by several families.¹²³ The petition is also a reminder of the power of certain discourses: Power concluded his petition by referencing the improvements he had made in the better part of the last year – a rote but necessary part of establishing the legitimacy of one’s claim to land vis-à-vis others.¹²⁴

The relatively late date of Weybrandt’s grant deserves more scrutiny, as it sheds some light on the dynamics involved in land ownership and contests for land in the early decades of the century. Although Weybrandt clearly occupied the land from an early date, making agricultural improvements to sustain his family as well as to secure his possession in line with government policy, he neglected to take the requisite steps to secure full title. Whether he lacked the financial means to do so, or considered the process secondary to more pressing needs, cannot be determined with any certainty. What is clear is that circumstances on the ground impelled him to act. In 1820, a Scotsman named John McKinnon petitioned for the lot “formerly occupied by Philip Waybrandt adjoining Patrick Power,” noting that “Philip Waybrandt who occupied this lot has left it and settled on another and never had any title to it.” While it is possible that Weybrandt had left the land, there is no way to verify the truth of McKinnon’s statements. In any case, from Crawley and Lieutenant Governor Ainslie’s standpoint in Sydney, the question of occupancy was of secondary importance: Weybrandt’s land was still technically ungranted Crown land. Presented with the appeal of a loyal, enterprising second-generation settler who promised to bring the land into cultivation, Crawley proceeded to grant the land to McKinnon on the proviso that

¹²³ This would seem to be in keeping with the situation at the Forks, which was variously described – by Provincial Secretary William McKinnon and Surveyor General Thomas Crawley, respectively – as providing sustenance for two or three families. See the September 23, 1812 petition of Patrick Power, NSA, RG 20, Series “B,” Vol. 5, No. 875.

¹²⁴ Ibid.

“it interferes with no previous claim.”¹²⁵ The fact that the only extant warrant of survey for Weybrandt’s land dates from the following year strongly suggests that Weybrandt was forced to pursue full title to fend off the competing claim. The warrant, dated July 23, 1821, underscored the “considerable improvements” he had made. The conditions in the land grants of the period forced settlers to make productive use of the land; cash-strapped, resource-poor settlers could only put off securing full title for so long, and in the event of counter-claims, it was their respective “improvements” that would be operationalized to determine their moral and legal claim to the land.¹²⁶

If the dynamics of compulsion and competition were crucial, even indispensable factors in determining the legitimacy of competing claims, they were not always pursued in the early years of settlement while good agricultural land was available for the taking. In the second decade of the nineteenth century, when settlement in the valley was noticeably increasing, several petitions were made for the land confirmed to Hippolyte Salome and his family. In 1814, John Cody, a twenty-four-year-old Irish immigrant, petitioned Major General Swayne for “a Lot of land on the SW Branch of Margaree River, opposite Patrick Power, in lieu of the Lot formerly granted him [..]” He and his wife had previously petitioned for and received a grant of land, which proved to be unfit for cultivation. Although a warrant of survey for the new lot was issued on June 28, Cody did not pursue title. Instead, he and compatriot Thomas Doody sought land further afield, between Margaree Harbour and Chéticamp. Surveyor General Crawley sought to find a practical way to have the men’s old warrants modified to accommodate their new arrangements. In a letter to Charles R. Ward, Esquire, dated June 23, 1819, Crawley noted the reason for the men’s decamping: “On looking over my memorandums, I find that the

¹²⁵ See the petition of John McKinnon, June 14, 1820, NSA, RG 20, Series “B,” Vol. 11, No. 2465.

¹²⁶ See Philip Weybrandt’s warrant of survey and assorted documents, NSA, RG 20, Series “A,” Volume 85, Item 2; Weybrandt’s whereabouts during these years cannot be verified with certainty, although certain sources attest that Weybrandt lived on the southwest branch for a time before moving to northwest Margaree and finally settling on Boularderie Island. See John F. Hart, *History of Northeast Margaree*, 146-7.

two men above mentioned, perceiving that the Lots on the River Marguerite for which they petitioned, would interfere with the improvements of an Indian Family, left the River and settled on the shore between the entrance of the River and Cheticamp."¹²⁷ At this early date in the settlement of the valley, respect for prior claims – even indigenous ones – could hold sway over newcomers, impelling them to travel great lengths to find alternative accommodations. Such a scenario would prove increasingly less feasible for immigrants as settlement increased and the best agricultural land was gradually taken up, foreclosing the options available for survival.

This period of flux would come to an end in 1826. On March 22, Duncan McRae, a fifty-year-old Scottish man with a wife and five children, petitioned for a lot of land on the southwest branch of the Margaree River. Noting that the lot previously offered to him had not worked out, and appealing to an ostensible connection with Kempt, McRae asked for "another lot which is lying at the disposal of the Crown, unimproved and unclaimed, having been deserted about nine years ago by one Polyte, or Hippolyte Salome, an Indian, who had no title to the same, as is believed." Noting that one McKinnon, a Frenchman, had briefly settled on the land after Salome's departure, and adding that "the said lot has even been claimed by the Indians in general, nor is there any other shadow of [possession] other than as above mentioned," McRae asked for the lot and the "woodland in rear thereof." Apparently convinced of McRae's claims, Kempt approved the petition, allotting McRae the two-hundred-acre lot and an additional one hundred and ten acres adjoining it. Crawley tersely noted the reasons for granting McRae's petition: "The Lot herein described appears to be at the disposal of the Crown. Polyte or Hyppolyte Salome an Indian, a former claimant, having left the country, and the Lot formerly [in] part a general Reservation for Indians."¹²⁸

McRae's petition succeeded for several reasons. The authorities were disposed to look kindly on an

¹²⁷ See John Cody's petition and assorted documents, NSA, RG 20, Series "B," No. 2105.

¹²⁸ See the petition of Duncan McRae, NSA, RG 20, Series "B," Vol. 14, No. 3153.

established settler with a family to feed and a lack of alternative arrangements. They were also committed to settling the empire with enterprising immigrants, and they looked favorably on the claim of any settler who demonstrated an ability and willingness to cultivate and improve the land. That this land had seemingly been “deserted” and left in an “unimproved” state by its former occupants was most likely a clinching factor. British conceptions of property, informed by normative assumptions regarding how land should be “improved” and made “productive,” could not recognize or accommodate seasonal modes of use and occupation that did not lend themselves to permanent, sedentary occupation and management, intensive cultivation and forms of future planning. Land left unattended, without visible signs of ownership, could be claimed by other settlers – as the diction in McRae’s petition indicates, one’s cultivation or improvement of the land was coextensive with one’s claim to it. Although it is not known where or how long Salome and his family had gone, or even if the land had lain “unimproved and unclaimed” as McRae had represented, the mobility required of the Mi’kmaq land tenure system left it open to challenge and usurpation.

On April 12, 1830, the warrant of survey for McRae’s land was issued. It encompassed the one-hundred-acre front lot of Lot 7, one hundred acres of woodland in the back, and an additional one hundred acres behind Lot 5, Philip Weybrandt’s lot. It is not known how McRae came to possess Weybrandt’s back lot, but it is probable that he, like Stephen McKinnon before him, applied for a lot that appeared vacant and uncultivated. But the likeliest explanation is that McRae simply purchased it from Weybrandt. Two years earlier, a Scottish settler named Donald McVarish petitioned for the two-hundred-acre lot, known as Lot 8, adjacent to McRae’s claim. A warrant of survey was issued on October

14, 1828 for "Lot No. 8 on the W side of the S.W. branch Marguerite to include half the island in front thereof provided the same is not included in the survey made for McRae."¹²⁹

As with other such usurpations, McRae's claim to the reserve did not go unchallenged. On December 18, 1834, a petition from Hippolyte's widow, Catherine Salome, and his eight children was presented at the Surveyor General's office in Sydney. The main body of the petition, written out on their behalf in highly formulaic language, with all the requisite nods to the petitioners' moral probity and material improvements, read as follows:

The petition of the Widow and Family of the late Paulette, or Hippolyte Salome, Micmac Indian,
Humbly shews,

That in the year 1811, the said Hippolyte Salome obtained from the Government of Cape Breton a licence of occupation for a certain lot of land, containing 200 acres, situated on the southwest branch of the Marguerite River, which the family continued to occupy occasionally till the year 1826, when Duncan McRae obtained, as the petitioners are informed, a warrant of survey for the same lot. The petitioners declare that neither the said Hippolyte nor themselves ever resigned their right to the said land, and that they are desirous of preserving it – that the said McRae does not occupy it, having absconded, after breaking out of jail where he had been placed for an attempt to commit murder, that he has no house thereon, and only mowed the hay from a part of the Lot on the island in the river, which the petitioners' family had cleared and used to cultivate – that the wife and family of the said McRae reside on a neighbouring lot, also claimed by the said McRae, who is in some part of the United States.

Your Excellency's petitioners humbly pray that they may not be deprived of the said property so lately held by their family, and that your excellency may be pleased to confirm their right to the same, or to direct that they shall receive a reasonable compensation for their loss.

The following year, after having presumably inquired into the details of the case, Surveyor General Crawley drew up an account of the competing claims, and forwarded it, along with the original petition, to Governor Colin Campbell for a decision. His account contained stunning details about the situation on the ground:

The land herein described has, with other spots in that vicinity, been occupied by several families of Indians, in their desultory way, [during] many years, but they are at last driven by continual

¹²⁹ See the 1830 warrant of survey for Duncan McRae, NSA, RG 20, Series "A," Vol. 116, Item No. 2; see the 1829 warrant of survey for Donald McVarish, NSA, RG 20, Series "A," Vol. 107, Item 2.

encroachments into a Nook of about 20 acres which has been laid out for them at the expense of government.

In 1826 Duncan McRae petitioned, while Paulette was in Newfoundland, for the Lot now claimed by his family. It wasn't then known that they had made any Improvements and McRae obtained 200 acres on the River, which included the House and Improvements of the Indians, but not the Island in front of the Lot. McRae was also to have, in addition, 100 acres in the rear. In 1827 he lodged his grant fees – in 1830 he obtained a warrant for the lower half of Lot No. 7 (Paulette's) and 200 acres in the rear. The return of survey has not yet reached this office.

The whole Lot (No. 7) and the island are still at the Disposal of the Crown – although Donald McVarish of Lot No. 8 obtained a warrant for half of the island provided it [was] not included in the survey for McRae. It does not appear that any survey has yet been made.¹³⁰

As a result of the petition, McRae's claim was definitively discredited and the Salomes' possession reconfirmed – albeit indeterminately.¹³¹ In a letter to Crawley dated March 17, 1835, Lieutenant Governor Colin Campbell confirmed the land to Salome's family and offered McVarish money or land in compensation for the loss of half of the island. McRae, however, was “deemed wholly undeserving of attention.”¹³²

Together, the petition and the results of Crawley's inquiry into the matter reveal striking details about the ways in which indigenous dispossession formed part of – but also diverged from – patterns of dispossession that affected settlers who petitioned for land as subjects of the Crown. From his seat in Sydney, located over seventy miles away from Margaree, Crawley would have had nothing but his memorandums, the details of the McRae petition and the local observations of his deputy surveyors to go on to determine the legitimacy and accuracy of McRae's claim to Lot 7. In determining the claims of

¹³⁰ See the December 18, 1834 petition of “the Widow and Family of the late Paulette, or Hippolyte Salome, Micmac Indian,” NSA, RG 20, Series “A,” Vol. 122, Item 1.

¹³¹ It does not appear that the Salomes were issued a grant. Although it was not specified in Campbell's response, the land was likely reserved in trust. The fate of the Salome reserve after 1834 is taken up in the following chapter in much greater detail.

¹³² *Ibid.*; see also provincial secretary Rupert George's reply to the petition, directed to the Surveyor General of Cape Breton, in which the reason for McRae's disfavour is made more explicit: “[...] but Duncan McRae's claim to the other half [of the island] is deemed wholly undeserving of attention, *on account of the circumstances under which he absconded from the island.*” [Emphasis added] NSA, RG 1, Vol. 149, 87-88.

multitudes of settlers, the land petition process was designed to ascertain all the important details regarding the settler's claim – their loyalty to the Crown, the amount of land previously granted to them, and their demonstrated willingness and ability to improve the land – in as expedient a manner as possible. Here, several details of McRae's claim appear to have been misrepresented or elided: the Salomes had not “abandoned” the land, but had occupied it “occasionally” in accordance with their needs, splitting their time between Margaree and Newfoundland; they had also “cleared” and “cultivated” the island, and erected a “house” on the lot, on or near the shore. These latter details appear to have been purposely omitted by McRae to strengthen his claim. They provide further evidence of the centrality of the discourse of improvement to securing title to land. On the one hand, Crawley seems to take a critical view of the settler encroachments that reduced Mi'kmaw occupation to a “Nook,” noting that the land was reserved at the government's expense.¹³³ On the other, he tacitly recognizes the legitimacy of the selfsame incursions, noting, in a mild mea culpa regarding the grant of a warrant to McRae, that “it wasn't then known that they [Salome and family] had made any Improvements.” The implication is that the land held in trust by the Crown for the Salomes and other Mi'kmaw families was still subject, in a de facto sense, to the imperatives regarding cultivation and improvement that applied to freehold tenure. In other words, Crawley implies that Salome's claim to the land would have been nugatory in the absence of the house and improvements. This strange admission appears to be of a piece with Crawley's apparently pejorative description of Mi'kmaw activity on the land as “desultory” – that is, lacking in purpose or regularity. Had McRae not absconded to the United

¹³³ This claim suggests that the lot in question was surveyed by Crawley's deputies on behalf of the Salomes, and that the fees associated with the survey were either paid by the petitioners or waived. As a critical first step in receiving a grant of land, the surveying of Lot 7 would have provided some form of assurance of title. If true, then, this detail would make Crawley's subsequent claim to have been unaware of any improvements inexplicable. As we will see, the evidence suggests that the lot was not properly surveyed until 1854, and then only to gauge the full extent of the land; no efforts were made to do anything but reserve the land in trust.

States, it is uncertain whether the Salome petition would have elicited as favorable a response as it did. The Mi'kmaq might “clear” and “cultivate” the land, but their manner of making improvements – “making gardens” – was distinguished so as to underscore its deviation from the norm. Mi'kmaw cultivation, like Mi'kmaw modes of occupation, was habitually set off and bracketed from the equivalent practices of settlers, which officials sought to promote. These perceived differences were then used to justify restricting Mi'kmaw ownership of the land on British terms.

Central to this chapter's argument has been the notion that the onset of commodification and economic imperatives preceded, and gave impetus to, large-scale dispossession of the Mi'kmaq. The arrogation of Mi'kmaw land by the British, the creation of townships and the issuance of “free” grants were instrumental in setting the stage for the wide-scale settlement that followed. Arguably even more important, though, were the economic imperatives – the imperatives to cultivate, improve and, in general, increase the productivity of land – that were encoded as conditions of settlement in land grants. Although such imperatives competed with a welter of sometimes contradictory or mutually exclusive policy priorities, they were the most important drivers of government policy in that they had the greatest effect in shaping the behavior of settlers vis-a-vis the land and each other. Competition and the compulsion to improve the land became important drivers of relations between settlers, and secondarily between Mi'kmaq and settlers, even if the desired end effect of these imperatives – the submission of land to the imperatives of profit, of the market – was not achieved in the period under study. As often as not, there was a chasm that had to be bridged between colonial policy and colonial reality on the ground. Economic imperatives did not have the immediate desired effect, generating a series of unintended effects that had to be dealt with in turn. This was perhaps most notable in the operation of the local county land boards, which were intended as local arms of Crown land policy but ended up spending an inordinate amount of time investigating and reporting on acrimonious conflicts over land between settlers and the Mi'kmaq. In some areas, such as Pomquet, the wholesale

commodification of land and its granting to absentee proprietors generated unique spatial and class dynamics among poorer settlers, and between poorer settlers and the Mi'kmaq, which played out on the fringes of a fundamentally altered land base. In Margaree, commercialization and the initial settlement of the community by merchant interests preceded agricultural settlement, and arguably had a determinative role in shaping contests over sought-after riverine areas whose resources were variously used for sustenance and sold in Atlantic circuits of trade. In many cases, the conflicts began with the commercial instruments of mortgages and deeds; although settlers could, and did, eke out something akin to a subsistence existence, by necessity, and as a result of colonial policy, claims were invariably conceived as private property – discrete, exclusive, permanent, divisible, and transferable as a commodity.¹³⁴

As Ellen Meiksins Wood has stressed, the ascendance of economic imperatives hinged on the destruction of alternative ways of relating to the land. In contests over land between Mi'kmaq and settlers in Nova Scotia, the former's subsistence economy of hunting, gathering and fishing was routinely targeted for extirpation by the latter. Of the handful of cases of conflict studied in this chapter, the majority took place along the coast near the mouths of rivers or further upriver, where the Mi'kmaq established their spring and summer villages and winter hunting camps. At Margaree, villages were strategically situated downstream from the confluence of the northwest and southwest branches of the river and further upriver on the southwestern branch in order to take advantage of spring and summer anadromous fish runs and the summer and fall migrations of eels, respectively; at Pomquet Harbor, Antigonish Harbor, and Pugwash Harbor, seasonal subsistence was split between semi-permanent villages on the coast and winter hunting camps located further inland. Established on the shoreline and

¹³⁴ For a brilliant elaboration of these aspects of private property in seventeenth-century New England, see the chapter “Bounding the Land,” in William Cronon’s seminal work, *Changes in the Land*, 54-81.

along the fertile estuarine plains of the mouths of rivers, the former provided the Mi'kmaq with access to a wide variety of aquatic and terrestrial resources year-round.¹³⁵ Here, they took advantage of the fertile estuarine and riverine soils to cultivate subsistence crops, proving that agriculture had become an important supplement to hunting and fishing. Almost without exception, these sites were popularly referred to as "Indian Gardens" – an informal designation tinged with exoticism and perhaps not a little contempt.¹³⁶ Still, the practices of cultivating plots at these sites could be assimilated to British notions of improvement, as is evidenced by their designation as such by gentlemanly authority figures such as Thomas Trotter and Thomas Crawley. Although these figures initially appealed to the discourse of improvement in order to safeguard indigenous property rights from the intrusions of settlers, they vacillated between recognition and differentiation, and when push came to shove, they cast Mi'kmaq practices as imperfect, insufficient, and finally as fundamentally antithetical to improvement. In most cases, the exigencies of encouraging "profitable settlement" and providing for impoverished subjects of

¹³⁵ The patterns of subsistence pursued at these sites conform in part to Bernard Hoffman's biseasonal maritime-centred model, but the examples from Margaree suggest a more differentiated pattern, lending credence to Ronald J. Nash's and Roger Lewis' models of flexible accommodation.

¹³⁶ In addition to the sites already discussed in Margaree, Pomquet and Antigonish, there was an Indian Gardens located close to Rossignol Lake in Queen's County, which conformed to the same spring and summer subsistence pattern split between fishing, hunting and the cultivation of small crops (mostly beans and Indian corn). At least two of these sites were home to French missions, complete with churches and burial grounds, suggesting that missionaries had played a key role in encouraging agriculture among the Mi'kmaq. Among historians of the period, only amateur archaeologist John S. Erskine has attempted to make sense of these particular social arrangements. He theorized that "an increase in fishing and in war led to the use of a few large summer encampments placed near the mouth of the harbours, instead of many small camps near the head, and that these grew under missionary influence into the semi-permanent settlements called "Indian Gardens" which later became reserves." Like Upton, Erskine attributed the decline of these large settlements to the disappearance of the French, and in this he was wrong. Nietfeld and Wicken, among others, have shown that the adoption of small-scale agriculture long preceded the missions. But, in this author's estimation, he rightly hits on the possibility of their being adaptations to more proximate changes and pressures. See J.S. Erskine, "Shell Heap Archaeology of Southwestern Nova Scotia," *Proceedings of the Nova Scotian Institute of Science*, Vol. 24, Part 4 (Wolfville, N.S.: 1959), 373; see also, J.S. Erskine, "Their Crowded Hour: The Micmac Cycle," *The Dalhousie Review*, Vol. 38, Issue 4 (1959): 451.

the Crown took precedence over the impulse to secure Mi'kmaw claims, which were viewed as an obstacle to the development of the colony.

Like the settlers who encroached on their lands, the Mi'kmaq responded to economic imperatives in distinct ways. There is strong evidence to show that they adapted their strategies of hunting, gathering, fishing – and, perhaps most importantly, cultivation – to negotiate the opportunities and constraints of the market prior to the official promotion of agricultural settlements on reserves from 1843. At Pomquet, the Mi'kmaq harvested hay on rich alluvial land to sell to surrounding settlers; in Pugwash Harbor, they sold potatoes, seed and timber. As Andrew Parnaby has shown, in the early nineteenth century, Mi'kmaq across the province supplemented their hunting and gathering economy with coopering and basketry.¹³⁷ The encouragement of these activities, which were held to be beneficial to the colonial economy, was officially sanctioned in the Joint Committee's questionnaires of the early nineteenth century; as the committee's queries stressed, the lands deemed most suitable for settlement were those which could supply the material for such trades, and which were connected to foreign markets.¹³⁸ While the Mi'kmaq showed tremendous resilience in response to these and other changing circumstances, by the second and third decades of the nineteenth century their capacity to cultivate their plots and to carry out a “mixed economy” was severely circumscribed. Those settlements which were not initially dispersed by a combination of commodification, encirclement and disease were forced to adapt to the gradual encroachment of settlers and the imposition of forms of private property on their lands. These forms of property promoted and solidified sets of relations that were inimical to the Mi'kmaq's mobile and seasonally attuned ways of being on the land. In 1819-20, efforts were made to protect indigenous lands, and for the most part, the reserves created were defended from

¹³⁷ Andrew Parnaby, *The Cultural Economy of Survival*, 69-98.

¹³⁸ As part of this reconnaissance of Mi'kmaw material patterns, the harvesting of eels for subsistence “in winter,” for instance, was viewed as just another possible input in the colonial economy. NSA, RG 1, Vol. 430, No. 48 ½.

encroachments, even though the tenure they were accorded was insecure. The “habitual places or resort” that the government selected as official reservations, however, were typically isolated from a larger constellation of interrelated sites in the expectation that the Mi’kmaq would settle and finally abjure their “roving ways.” Those claims outside of the reserve system that were spared encroachments, or that were reconfirmed in their possession after being dispossessed, maintained a perilous existence after 1820. As will be seen, the legacy of differentiation and dispossession of the first two decades of the nineteenth century would prove particularly harmful after 1827, as the imperial government moved to create a uniform system for generating revenue from Crown lands.

Chapter 3: Marginality and the Making of Capitalism in the Countryside: Dispossession in Margaree, Cape Breton, 1831-1860

If, from 1783 to 1827, “improvement” competed with a host of other policy priorities in British North America, its centrality to ordering relations on the land was not marginal in this period. As we have seen, it constituted a dominant – if not the pre-eminent – structuring principle in imperial and colonial attempts to shape the broader character of settler society. By the end of the second decade of the nineteenth century, however, imperial officials were dissatisfied with the free grant system and concerned to find new ways to make it answer to the demands of the domestic economy.¹ Recent experiences in Australia – particularly the experience with the Swan River settlement – had cast the problems of the free grant system into stark relief, and officials there had started experimenting with a mixed system of free grants and sale by public auction.² In Nova Scotia, a patchwork of mutually exclusive policies had yielded deeply unsatisfactory results: the governor's broad powers to grant land had resulted in the issuance of large tracts to speculators and absentee proprietors, effectively closing off vast areas of the land mass from settlement and cultivation while pushing smallholding settlers onto its margins.³ What is more, British officials sought an outlet for the emigration of the island's excess population of labourers. Thus, between 1827 and 1831, they instituted a new set of policies designed to respond to these deficiencies and demands. Free grants were to be replaced by sale by public auction as a uniform system of disposing of Crown lands. By introducing a minimum, or upset price, for land, public auction would, it was argued, promote the dual British objectives of encouraging settlement and generating profit from the wastelands: a sufficiently steep valuation of the land would attract only those settlers with the means and intention of “improving” their lots – providing, as it were, a structural

¹ See Peter Burroughs, “Wakefield and the Ripon land regulations of 1831,” *Australian Historical Studies* 11, no. 44 (1965): 453-4.

² Burroughs, *The Administration of Crown Lands*, 83-84; Burroughs, *Wakefield and Ripon*, 458.

³ Burroughs, *Admin of Crown Lands*, 87-88; see also Burroughs, *Wakefield and Ripon*, 457-8.

incentive to recoup sunken value through long-term investment and cultivation – while the element of competition would ensure that increasingly higher prices were paid for particularly valuable tracts of land.⁴

Central to the inspiration and design of this new system of granting lands were the theories of Edward Gibbon Wakefield. A London-born aristocratic gentleman and self-styled colonial reformer, Wakefield would pen a number of influential tracts on the ills of colonial policy in the second decade of the nineteenth century. Foremost among these were *A Letter from Sydney, the principal town of Australasia* and *A Sketch for a Proposal for Colonizing Australasia*, both published in 1829, in which he proposed a theory of systematic colonization as an antidote to the evils of the free grant system. According to Wakefield, imperial policy in the colonies had failed to foster settlement and raise revenue because land had been made too easily obtainable, resulting in a large number of landowners and an acute shortage of labour. Britain could solve her domestic problem of overpopulation and unemployment by encouraging emigration to the colonies, but in order for this emigration to achieve its desired ends, systematic controls would have to be put in place to reverse the mismatch between landowners and labourers. Wakefield advocated putting land up for sale at a “sufficient” – that is, sufficiently prohibitive – price such that a substantial number of prospective settlers would be deprived of the means to become landowners soon after their arrival in the colonies. By prohibitively raising the cost of land, Wakefield argued, many settlers would be forced to sell their labour to established

⁴ Burroughs, *Administration of Crown Lands*, 89-91. As Peter Burroughs has shown, the minimum price was designed to prevent the “flipping” of holdings by settlers soon after their arrival, or at a later date when the holdings had become more valuable to other settlers. See, for instance, pg 87. In effect, Burroughs shows how the “sufficient price” was held to work as part of an elaborate system of capitalist incentives: “It was thought unlikely that individuals would in future pay 2s.6d. an acre for land which they had no intention of turning to profitable use. In conformity with United States practice, officials in London now stated their faith in the principle that once an economic stimulus had been supplied, the individual should be left to work for the good of the community as a whole by increasing his own wealth. Under a system of sales, reliance could be placed upon the self-interest of the settler to bring his land into cultivation rather than upon his good faith in fulfilling the conditions of his grant.”

landowners, thereby providing the requisite manpower to increase cultivation and improve production upon their lots. Furthermore, the creation of an artificial pool of laborers would have series of knock-on effects: the availability of labor would attract capitalists and settlers from England, and the funds of sales could be earmarked to selectively promote their emigration to the colonies.⁵ Although Wakefield eventually advocated against public auction on the conviction that the sufficient price had to be moderate enough not to dissuade settlers with capital from investing in the colonies, the reforms of 1831 bore all of the hallmarks of his influence: they rested on the conviction that, if laborers were lacking in proportion to the number of capitalists in any given settlement, then they would have to be created through the imposition and maintenance of artificial conditions of scarcity. Here, then, was a set of economic compulsions, or imperatives, designed for settler colonies based on white settlement to complement those which had brought capitalism to Ireland and India.⁶

Although the effects of such reforms in Nova Scotia have been deemed – befittingly for a marginal colony of the British empire – negligible, they were not at all so in reality. The reforms worked exactly as intended, placing the cost of land well out of reach for most settlers, particularly on the island of Cape

⁵ For a thorough description of Wakefield's ideas, paraphrased here, see Peter Burroughs, *Administration of Crown Lands*, 84-86; Burroughs, *Wakefield and Ripon*, 457-459.

⁶ As Peter Burroughs has shown, Wakefield argued that the sufficient price ought to be “low enough to encourage voluntary emigration and allow settlers with capital to cultivate their purchased lands profitably” – a principle at odds with British officials' decision to adopt public auction as the best means of ensuring higher profits for land. Burroughs, *Administration of Crown Lands*, 86. My formulation of the problem as one of artificial scarcity here owes a debt to Jason Hickel. See, for instance, the chapter, “Where Did Poverty Come From? A Creation Story,” in *The Divide: Global Inequality from Conquest to Free Markets*, pp. 63-98, particularly page 80; Although the introduction of the reforms of 1831 in the settler colonies of Australia and British North America should not be too glibly compared to the imposition of economic imperatives in other colonies, such as Ireland and India, where they were imposed through violence and coercion, and resulted in untold casualties, neither should the adverse effects of their imposition be downplayed. The effects of such policies are far too often invisibilized, or downplayed as the indirect or unforeseen consequences of well-intentioned policies. Their continuity with and family resemblance to the programmes pursued in other jurisdictions, therefore, ought to be highlighted. See Mike Davis, *Late Victorian Holocausts: El Niño Famines and the Making of the Third World* (London: Verso, 2002).

Breton, where the provision of bad title and particular economic patterns of settlement from the Hebrides in Scotland created widespread conditions of insecurity. The prohibition on free grants issued in 1790 lasted until 1817 in Cape Breton, much longer than on the mainland, leaving settlers there with a comparatively greater number of insecure forms of title such as Crown leases. Similarly, due to financial constraints, surveys were unsystematically conducted on the island, resulting in ill-defined and overlapping claims to land. In the 1820s and 1830s, the majority of emigrants to the island came from Scotland. Most were impoverished Highlanders fleeing the enclosures in their communities across the Atlantic. These migrants arrived destitute, only to find that most of the good agricultural land had already been granted. As the price of land was prohibitively expensive, great numbers of them opted to squat on Crown land or the unescheated tracts of absentee proprietors. Others were forced to take up the marginal upland soil, popularly deemed the “backlands,” of established inland communities. In inland communities built around fertile river valleys such as Middle River and Margaree, the backlands were crowded and laid out in irregular patterns due to the diminishing availability of resources and the proximity of competing claims. Deprived of their own plots of good agricultural land, the backlanders were forced to work as seasonal labourers on the established farms of their predecessors. These conditions were exacerbated by unforgiving winters and occasional shortfalls in resources – in 1848, various communities on the island were afflicted by potato blight, and many perished of exposure and famine. In short, the imposition of artificial means of scarcity on impoverished emigrants in a country where patterns of settlement had already alienated much of the best agricultural land created untold misery, creating dynamics of poverty and class inequality that would persist for generations. If these results were the roughly predictable outcomes of a conscious policy of immiseration, the touted benefits of sale by public auction for colonial revenue failed to materialize: by the early 1840s, neither an increase in land sales nor in cultivation could be claimed by imperial officials, and something like the opposite of a balance between capitalists and laborers was produced: by 1837, the Surveyor General's

office estimated that 20,000 people – over half the island's population – were poor squatters.⁷

This chapter sets the conflicts between the Mi'kmaq and squatters in Cape Breton island in the first half of the nineteenth century within this context of increasing class conflict and immiseration. Similar to what transpired in mainland Nova Scotia, conflicts between settlers and the Mi'kmaq forced officials to develop a policy to protect indigenous lands, and between 1832 and 1834 six reserves were legally sanctioned for this express purpose at Chapel Island, Eskasoni, Malagawatch, Whycomomagh, Wagmatcook and Margaree. Unlike mainland Nova Scotia, however, the determination to make the Mi'kmaq into individual owners was not at first a central part of the settlement project; it only came to prominence much later, when officials were forced to deal with widespread encroachments on four of the six reserves. Taking the fate of two reserves – one legally recognized, the other not so – in the inland valley community of Margaree as its case study, this chapter aims to show how the economic policies of 1831 aggravated existing class conflict, giving rise to complex, three-way dynamics of exploitation between wealthy merchants, poorer farmers and the Mi'kmaq. As on mainland Nova Scotia, encroachments were a decidedly local phenomenon whose dynamics were sharply informed by the economic imperatives the imperial government sought to promote. Officials were slow to react to the emergence of conflict; to an even greater degree than in Nova Scotia, the distance and delay between locales ensured that official policy was reactive to events on the ground. Contrary to the common assertion that indigenous dispossession was first and foremost the result of a planned, conscious policy of assimilation and agricultural settlement on reserves, I argue that reserve policy was reactive to, and on the whole determined by, the local interactions between settlers and Mi'kmaq. By focusing on the process as it took place in Margaree, a community that was, by any estimation, marginal to the more “developed” centres in Cape Breton and on the mainland, I hope to give weight to the notion that the

⁷ Burroughs, *Administration of Crown Lands*, 99-100; Hornsby, *Nineteenth-century Cape Breton*, 54, 126. See also Girard, Phillips and Brown, 600-606.

dominance of new rules of reproduction is perhaps most effectively demonstrated by showing their operation in the place where they are least expected to be found. When, towards the close of the 1850s, government officials developed a concerted policy to transform the Mi'kmaq into individual property owners, Margaree was in effect passed over and the fate of its reserves decided based on the representations of local settlers, many of whom were implicated in the encroachments on its reserves. This outcome was, I contend, reflective of the primacy of social property relations in determining both the dispossession of poor settlers and the Mi'kmaq in Margaree and elsewhere on the island.

As a base from which resident merchants, propertied men from the community and their affiliates could conduct their business, the market town of Caermarthen was an important commercial hub connecting Margaree and its environs to the trade circuits of the Atlantic world. Situated on the western side of the estuary at Margaree Harbour, nestled along the northwestern coast of Cape Breton on the Gulf of St Lawrence, the town was well-placed to ferry farming goods and merchandise to and from Margaree and other inland valley communities predicated on agricultural development. In addition, it was the site of Margaree's first settlement: through the twin allocation of town lots and holdings situated further upstream in the river valley, it served a fundamental role in structuring subsequent settlement and social relations. Merchants enabled farmers to access much-needed capital on credit, which they typically paid back in instalments over time, in the form of goods and labor. Merchants thus extended their control over farmers through the mechanism of debt. What was more, economic power was crudely reflected in the informal distribution of political and judicial power: merchants and other property-holders at Caermarthen often doubled as the community's Justices of the Peace and local magistrates, wielding outsized influence over community affairs. As such, Caermarthen serves as a powerful example of what Daniel Samson has referred to as the “embedded dualities” of life at the local

level across Nova Scotia: the concentration of power in the hands of local merchants, and the webs of dependency and paternalistic social relations they gave rise to, ultimately hinged on their integration within a larger whole, namely, the political and economic networks of the Atlantic world.⁸

Although settlement connected to Caermarthen dropped off by the early nineteenth century, giving way to agricultural settlement of the valley, dual grants began again in 1813 with the granting of four and a half acres at Caermarthen and a lot on the southwest branch to Ranald MacKinnon, a Scotsman, and it would continue sporadically into the 1830s and 1840s.⁹ Foremost among the merchants in this period were Miles McDaniel and Henry Taylor. The former was an Irishman who, together, with Hezekiah Ingraham, a Loyalist refugee from Connecticut, established the first farms in Margaree at Margaree Harbour.¹⁰ Between 1811 and 1819, McDaniel acquired substantial holdings at Margaree Harbour, northeast Margaree and southwest Margaree, in addition to holdings in Cap Le Rond on Isle Madame located off southern Cape Breton. Certain of McDaniel's holdings in northeast Margaree, whether acquired through escheat or grant, would be amalgamated into large farms. From his base in Margaree Harbour, McDaniel provided Margaree's settlers with various goods and provisions on credit, which they would eventually, at a pre-determined settlement date, pay back in cash or kind.¹¹ Similarly, Henry Taylor was an English merchant with ties to the Royal Navy who moved to Margaree in the early part of the nineteenth century. By the 1830s, Taylor had acquired substantial holdings at Caermarthen and along the northeast branch of the Margaree. Like McDaniel, Taylor provided the residents of Margaree with various provisions on credit. He sold his wares as far afield as Middle River and

⁸ Daniel Samson, *The Spirit of Industry and Improvement*, 31-2.

⁹ MacKinnon would later become a Justice of the Peace. See Chapter 2, fn 114.

¹⁰ McDaniel would later lay claim to Ingraham's holding, Lot 1, in 1819, and Hezekiah Ingraham would receive a grant of the neighboring lot, Lot 2, in 1825.

¹¹ See the records of McDaniel's ledger books. Miles McDaniel, 1811-1819, Business Groups and Corporate Bodies, MG 14.83, Beaton Institute, Cape Breton University.

Chéticamp, an Acadian fishing village situated fifteen miles north of Margaree Harbour.¹² His influence did not stop there, as he became a Justice of the Peace and was instrumental in settling disputes in the community. In his capacity as magistrate, he recovered debts from the debtors listed in his merchant ledger books.

Given the outsized role these merchants played in Margaree, it is not surprising that one of them should have facilitated the transfer of land that would result in renewed encroachments on the Indian Gardens at Margaree Forks. Shortly after learning that the coveted alluvial land adjacent to his claim belonged to the Mi'kmaq, Miles McDaniel decided to sell his claim to Lot 16. On March 18, 1823, blacksmith Archibald Chisholm and his son, John, mortgaged the lot from McDaniel for sixty-eight pounds and ten shillings. In what was likely a concession to the modest resources of the mortgagors, the Chisholms were required to repay the sum – ostensibly without interest, in three instalments – within four years. Almost immediately after taking out the mortgage and deed on Lot 16, the Chisholms set about clearing and cultivating the Indian Gardens, planting crops of grain and clearing fields for pasture. Although the Chisholms would not register the mortgage and its accompanying deed of the same date until 1839 and 1840, respectively, it would appear that the mortgage was repaid on time.¹³ In any case, the generous terms of the mortgage clearly facilitated the Chisholms' capacity to secure title to Lot 16, and the certainty of securing title in the future likely emboldened the Chisholms to arrogate the fertile

¹² His merchant's ledger book records hundreds of names, many of whom are from Margaree. See the online scan of the 1835 ledger book of Henry Taylor, Robarts Library, University of Toronto, Accessed December 13, 2019, doi: <https://archive.org/details/margareeharbour11tay>

¹³ Inverness County Registry of Deeds, NSA, RG 47, Vol. D, No. 388-9; for the accompanying deed, see Inverness Registry of Deeds, NSA, RG 47, Vol. D, No. 513-15; a certificate of release of the mortgage was signed by McDaniel on October 15, 1842, and recorded at the registrar's office at Margaree three days later. Given the record of the Chisholm's long possession of the lot and the lack of further legal records regarding the mortgage, one can infer that the latter was paid well before it was registered. See Inverness County Registry of Deeds, NSA, RG 47, Vol. E, No. 14-2; for evidence that the Chisholms began clearing and cultivating the reserve land, see the July 11, 1859 petition of John Chisholm, petition papers for Grant 5720, Grant Book 29, page 96, Crown Land Information Management Centre, Nova Scotia Department of Lands and Forestry, Halifax, Nova Scotia.

land bordering their claim.

If, after 1823, the Chisholms were able to clear and cultivate parts of the Indian Gardens without encountering resistance, this was most certainly due to the fact that the Mi'kmaq were absent from the area for extended periods of time. The season for fishing having passed, it is not unreasonable to infer that the Mi'kmaq would have relocated to an area where hunting could be pursued.¹⁴ Whether or not the Chisholms were aware of the Mi'kmaq's claim, the absence of cultivation – or what the Chisholms would have recognized as legitimate cultivation and possession – would have been interpreted as a sign that the land was unused and unimproved, and therefore free for the taking. As we have seen, in a colony where the claims of settlers had to be adjudicated from afar based on limited knowledge of local conditions, such bloodless usurpations could be regularly sanctioned by the logic of improvement. The lack of recorded conflict in this period, then, is not necessarily evidence of an absence of conflict per se but perhaps a reflection of the fact that dispossession played out fitfully in the interstices of two fundamentally different modes of relating to the land. These interstices were as much the product of different organizations of time as of space. Returning to the site weeks, months or even years after their last occupation, the Mi'kmaq families who called the site home would have found it cleared and under cultivation. Short of outright violence, the only option available to them in such a scenario would have been to petition the Lieutenant Governor or his proxy to be reconfirmed in their possession.

In Cape Breton island, the figures who invariably fielded and attempted to resolve such requests were the Surveyor General of the island, Thomas Crawley, and his son, Henry W. Crawley. A captain in the Royal British Navy, Crawley served the executive council of Cape Breton in various capacities before being appointed the island's Crown surveyor in 1803. In the same year, he relocated his family to Sydney

¹⁴ Obviously, it is dubious whether seasonal patterns of Mi'kmaw land use can be neatly extrapolated from European land records, and it is likely that the Margaree Mi'kmaq, like their brethren elsewhere in the province, pursued a range of options in the face of increasing settlement and market penetration.

in order to undertake his considerable new responsibilities, which touched on all matters related to the surveying and granting of land on the island.¹⁵ A man of letters with an acute moral propensity and a humanistic concern for his “charges,” Crawley would, throughout the course of his tenure as Crown surveyor, go to unusual lengths to meet the demands of the island's residents, including, notably, the Mi'kmaq, whom he accorded a greater degree of respect as “the original owners of the soil.” Although Crawley often spoke of the Mi'kmaq with a kind of pity born of a fatalistic conviction that they were destined to “melt away before the fires that are lighted up by the agriculturalist,” he on more than one occasion vigorously defended their interests, intervening in land disputes and conflicts with settlers.¹⁶ In 1810 and 1811, it was Crawley who fielded the grievances of Francis Coogu and Hippolyte Salome and their respective families to administrator Nepean. He even went so far as to accompany Salome to survey the site of his proposed grant. As a testament to Crawley's efforts on behalf of the Mi'kmaq, historian and politician Thomas Chandler Haliburton would go so far as to pen a tribute in his *History of Nova Scotia*. On the issue of the protection of indigenous lands, he wrote:

The tribe of Cape Breton Micmacs is dwindled, as already observed, to the number of about three hundred; thus following the invariable law, which the ancient inhabitants of the new world seemed doomed to obey, wherever Europeans have fixed their ominous residence. Absolute extinction, however, will probably be averted, so long as the lands, now considered their peculiar property, be preserved inviolate to their use. There are five tracts possessed exclusively by the Indians, situated in distinct places at Escasoni, on the north side of the east arm of the Bras D'Or Lake; at the Indian Narrows, or entrance of the strait leading from the lake to St. Peter's, where they have a chapel on an Island; at the basin of the River St. Denys; at the mouth of the Wagmatcook; at the head of the basin of Whycocomagh; and a small tract at the Forks of the Marguerite River. From this enumeration, it will be perceived their established haunts are confined to the Bras D'Or and its rivers;

¹⁵ Richard Brown, *A History of the Island of Cape Breton* (Belleville, Ontario: Mika Publishing, 1979), 426.

¹⁶ Crawley to William Hill, December 29, 1829, NSA, RG 1, Vol. 430, No. 170. In his correspondence with provincial secretary Rupert George, Crawley referred, with some familiarity, to the indigenous inhabitants of the island as “my poor Indian friends,” and it would appear that intermingled feelings of duty and guilt informed Crawley's interventions on their behalf. In a letter to George on the pending preservation of indigenous lands in Cape Breton, Crawley confided, “I should be ashamed to meet any of their old men, to whom, I understand, the most unrestrained promise of a Grant was made.” Crawley to George, February 26, 1834, NSA, RG 7, Vol. 7, No. 95; Crawley to George, May 1, 1831, NSA, RG 1, Vol. 430, No. 178.

but they make summer excursions also to the harbors on the sea coast. The above named tracts were chosen by them for their potatoe grounds, and they reside there, for the most part, during winter. They may contain altogether eight or ten thousand acres; and during the infancy of the colony were left in possession of the Indians by tacit consent, while some fear of their vengeance remained to check the rapacity of the European settlers; and they have since been preserved to them, chiefly by the firmness of the Surveyor General of the Island, in discountenancing all applications for their lands, and by interesting each successive governor in their welfare. It is much to be desired, that these grounds were constituted their unalienable property by legislative enactment, or grant from the crown. The land will increase in value, as the surrounding country becomes appropriated, and these poor natives will find in agriculture a refuge from their impending fate, when no longer permitted to fish and hunt at large [...]¹⁷

Unsurprisingly, Crawley senior would pass on this sense of moral duty to the indigenous people to his son, Henry, who would be appointed Commissioner of Crown Lands on May 3, 1832.¹⁸ Together with his father, Henry would become instrumental in the efforts to preserve and protect indigenous lands leading up to and following the legal sanctioning of reserves on Cape Breton in the 1830s. Given his familiarity with indigenous issues on the island, Henry Crawley, together with local judge Edmund Dodd, would be appointed Indian Commissioners for the Island of Cape Breton in the 1840s after the passage of the “Act to Provide for the Instruction and Permanent Settlement of the Indians.”¹⁹ As part of his efforts to protect the reserves from encroachments, Henry repeatedly petitioned the government to give the Mi'kmaq the vote – a solution which he held would serve to empower the Indians, but which fell on deaf ears.

For all their efforts to promote the welfare of indigenous people on the island, the Crawleys could only provide a delayed response to events on the ground whose causes and conditions they dimly understood. With few exceptions, the indigenous settlements of the island were situated a great distance from the Surveyor General's office in Sydney; as a rule, when news of any given conflict reached them, the extent of encroachment was already well-advanced. The seeming silence surrounding

¹⁷ Thomas Chandler Halliburton, *History of Nova Scotia, Vol. 2* (Halifax: published by Joseph Howe, 1829; repr., Belleville, Ontario: Mika Publishing, 1973), 259.

¹⁸ NSA, RG 20, Series “C,” Vol. 55, Folder 3, 1840, General Returns.

¹⁹ NSA, MG 1, Vol 262B, No. 124.

Archibald and John Chisholm's usurpation of the Indian Gardens in 1823, then, was likely just as much a symptom of the isolation of Margaree from Sydney as it was of the fitful unfolding of discrepant sets of relations on the land. Of the six indigenous settlements on the island, Margaree was arguably the remotest – located eighty miles away, on the northern peninsula of the island separated by St. Patrick's channel, the community was poorly connected to other inland communities by roads and surrounded by impenetrable swathes of forest. What infrastructure did exist was designed to ferry goods to and from the northeastern coast at Caermarthen.

In any case, the first substantial conflict to reach the Surveyor General's office occurred in Whycomagh, a community in Inverness County bordering St. Patrick's channel on the northeastern Bras D'Or Lake. In 1821, Thomas Crawley was obliged to draw up tickets of location for the resident Mi'kmaq in order to protect them from Scottish settlers who had attempted to "seize on" their extensive shoreline possessions, "which they have occupied and cultivated, after their manner, more than forty years." In his letter to provincial secretary Rupert George dated November 5, Crawley requested permission to survey the lands in question so as to "remove all pretexts of ignorance of situation [sic] from those who, regardless of every principle of Justice, would deprive these inoffensive Savages of their Property."²⁰ Two years later, another conflict reared its head at Malagawatchkt in Inverness County, on the south shore of the Bras D'Or lake. Once again, Crawley was obliged to draw up a ticket of location for the Mi'kmaq after Scottish settlers "took possession [...] of a place cleared by the Indians about forty years ago and pastured their cattle on an ancient cemetery, the principal object of the love and amoration of those poor people."²¹ As before, Crawley requested permission to survey the

²⁰ NSA, RG 1, Vol. 430, No. 158.

²¹ NSA, RG 1, Vol. 430, No. 160.

Mi'kmaw claims so as to prevent further abuse. In each case, his proposal was met with approval from Lieutenant Governor James Kempt, but nothing of consequence was done to move the file forward.

Crawley continued to lobby for the preservation of indigenous lands, but official indifference, delays, and frequent turnover in government personnel brought his efforts to naught. By the end of the decade, he was anxious to take definitive action, and he took every available opportunity to move the file forward. In a series of letters to provincial secretary William Hill, he pressed the urgency of the matter, noting that the Mi'kmaq's sacred pilgrimage site, Chapel Island, was already held in trust for their exclusive use. Echoing Charles Morris' concerns regarding the Mi'kmaq's capacity to administer land, he demurred at the prospect of giving them full title, as it "would not be safe to place land at their entire Disposal; they would be cheated of the greater part in less than twelve months."²² To facilitate the task ahead, he drew up detailed sketches of the existing indigenous claims on the island, complete with descriptions, and forwarded them to the provincial secretary's office for Governor Peregrine Maitland's perusal. In 1831, his sketches having received approval from the office, he wrote to provincial secretary George to express his relief as well as his determination to see the matter through. He had written to Hill as recently as December, he noted, and had "begged him to propose to his Excellency that the boundary lines of the Indian Reservations should be traced by a surveyor to remove, at least, one pretext of plundering their Timber [...]" "If nothing better can be done for our Indians," he concluded, "tracing their lines by order of government might entitle them to defend their landed property."²³

²² See Crawley's December 29, 1829 letter to William Hill, NSA, RG 1, Vol. 430, No. 170; see also his letter to Hill dated June 22, 1830, NSA, RG 1, Vol. 430, No. 174.

²³ See his letter to George of May 1831, NSA, RG 1, Vol. 430, no. 178. In his letter, Crawley refers to a number of unanswered letters directed to Hill. Hill served sporadically as acting provincial secretary in the latter years of the decade. Crawley's enquiries were no doubt sidelined or forgotten as Hill and other officials struggled to master the files assigned to them. As well, Governor Peregrine Maitland was in poor health and largely incapable of carrying out his responsibilities at this time, a fact to which Crawley repeatedly alludes to in the correspondence. In 1832, the Lieutenant Governor took temporary leave from his duties and repaired to England.

This time around, the lobbying had its desired effect, and Crawley was authorized to survey lands for the exclusive use of the Mi'kmaq. He set about the task with enthusiasm. On September 3, 1832, he wrote to Sir Rupert George to report on his progress: surveys had been completed for the reserves at Eskasonick, Wagmatcook and Whycocomagh, at a total expence of eighteen pounds, twelve shillings and two pence. Others quickly followed. By July 24, 1833, both Chapel Island and Malagawatchkt had been surveyed. In keeping with its relative marginality, Margaree was tackled last.²⁴ When attention was turned to the Indian Gardens, then the only extant reserve in the community, according to official records – Lot 7, it will be remembered, had been assigned to Duncan McRae in 1826 – Crawley was forced to account for the encroachments of Archibald and John Chisholm. On January 29, 1834, he forwarded the completed plats (the plans of the land) and the description of the site to provincial secretary Rupert George, with the following accompanying note:

Dear sir,

In this packet you will find Plats and a Description of the last of the Indians Lands, ordered to be surveyed; reduced from an extensive Tract, before I could interfere to any purpose in their behalf, to barely 50 acres, and even of this small space a squatter has, in spite of all remonstrances and threats, taken possession of about four acres – I feel, however, great satisfaction at having made one step towards the security of the remaining possessions of the poor aborigines – If the Legislature should, in its wisdom, see fit to put the finishing hand to this work of Charity, a number of human beings may thereby be saved from the most abject misery.²⁵

Although vague in its particulars regarding the history of encroachments on the site, Crawley's letter suggests that his office had been aware of the more recent squatter for some time.²⁶ In the absence of

²⁴ The reserve was likely surveyed late in 1833. See Thomas Crawley's January 27, 1834 ledger of payments disbursed for surveys of Mi'kmaw lands, which lists a payment of 1£ 12s 6d disbursed to Revell "for laying out the Indian Gardens at Marguerite River." NSA, RG 1, Vol. 431, No. 7; see also deputy surveyor William Revell's letters to Commissioner of Crown Lands H.W. Crawley, dated May 10 and 20, 1834, in which he requests the money due him for "surveying Lot [sic] of Lishmans and also that of the Indians at the Forks here in the hands of the Surveyor General." NSA, RG 20, Series "C," Vol. 148, Folder "Crawley, H.W. – Cape Breton Co."

²⁵ NSA, RG 1, Vol. 431, No. 6.

²⁶ The reference to the reduction of "an extensive Tract [...] to barely 50 acres," which Crawley distinguishes from the additional encroachment of "a squatter," is clearly a reference to the state of the land when Francis Coogu petitioned Council to secure his possession in 1810. As for the squatter, there

corroborative historical records, it is impossible to determine when or how his office became aware of him, but given Margaree's relative isolation from Sydney and the Indian Gardens' status as the last reserve to be surveyed, it is not unreasonable to infer that the conflict had simmered unreported and unaddressed until government approval had given Crawley reason to begin the work of surveying.²⁷ If anything, the Crawley report shows that government authorities were ill-equipped to respond to such conflicts once they became aware of them: preoccupied with the routine issues of land administration, short on funds for surveys and other legal avenues of redress, and located far from the sources of conflict, they had to content themselves, at least initially, with warnings.

Four months after the completed surveys were submitted to the provincial secretary's office, they were laid before Council. On May 7, 1834, a total of 12,205 acres of land were "strictly reserved for the Indians, and considered as their exclusive property." Each reserve was entered into the record with its respective acreage noted: 2,800 acres at Eskasonick, 2,700 acres at Whykokomagh, 4,500 acres at Wagamatkook River, 1,281 acres at Chapel Island, 1,500 acres at Malagawaatchkt, and fifty acres at Marguerite.²⁸ Dated January 27, 1834, the particular plan and description for the Indian Gardens was made out to "Andrew Noel and family, Micmac Indians"; for the first time, the reserve was depicted as a small, rectilinear parcel notched into the western side of the Forks, its hard outer bounds formed by the compass lines of the contiguous grants of William Harrington and Marin White.²⁹ Together, the precise

is no evidence to suggest that ejectment proceedings or other legal options were initiated as part of the "remonstrances and threats" alluded to in the letter, which itself suggests that Crawley's efforts to dislodge him were not of long standing.

²⁷ Providing support for this inference, the earliest extant textual reference to the encroachment appears to be Crawley's August 11, 1833 letter to George, in which he refers to the "Remnant of the Indian settlement at Marguerite River, about 40 acres, the return of which I am in continual expectation of receiving." NSA, RG 1, Vol. 431, No. 6.

²⁸ See the Minutes of His Majesty's Council at Halifax, May 7, 1834, RG 1, Vol. 196, pp.71-72.

²⁹ There is an alternate plan, dated January 25, 1834, and bearing Crawley's signature, available at the Department of Lands and Forestry, Halifax, Nova Scotia. See the Duplicate Plan of Indian Gardens at Margaree Forks, Duplicate Plans, Grant 5720, Book R, pg. 205, Nova Scotia Department of Lands and Forestry, Halifax, Nova Scotia; see also the alternate plan of 1843, RG 20, Series "A," Vol. 129, No. 1. This

delimitation of the space and its exclusive assignment to a male titleholder attested to the thorough subjection of the Mi'kmaw claim to the emergent exigencies of private property; as an extension of the logic of "protection," a grant was issued to Noel the following year.³⁰ The legal preservation of the reserve complete, the Indian Gardens would lapse into obscurity again – at least for a time. As for the squatter on the reserve, there is no evidence to suggest that he was dislodged. In fact, it would appear that the authorities were convinced that in surveying and granting the lot to Andrew Noel, they had fully legitimated the Mi'kmaw claim and thereby set in motion a process of mutual recognition and accommodation that would be resolved of its own accord.

Not long after title to the Indian Gardens was confirmed to Andrew Noel and his family, the usurpation of Lot 7 was challenged by the widow and family of Hippolyte Salome. In addition to the

plan was likely drawn up in response to a May 26, 1843 request from William Mackay, acting Commissioner of Crown Lands and Surveyor General, for plans of the Cape Breton reserves. Mackay requested the plans on behalf of Joseph Howe, who required them in his capacity as Indian Commissioner. NSA, RG 1, Vol. 430, No. 189 ½.

³⁰ See Nova Scotia Department of Lands and Forests, Land Grant Registration Books, Book R, Pg. 205 (NSA microfilm reel no. 13022). Although the reserve is described as "containing 50 acres more or less," its outer boundaries are exactly described by compass lines and various natural features of the landscape; at the risk of belaboring the point, the reserved lands were, first and foremost, "set apart for the Indians of Cape Breton, in order to prevent any interference with their possessions." This is not a negligible difference from the equivalent process of laying out reserves on the mainland, which was much more concerned, in the formative phase, with inducing permanent settlement and cultivation. See the Minutes of His Majesty's Council at Halifax, May 7, 1834, NSA, RG 1, Vol. 196, pp. 71-2; the assignment of the land to "Andrew Noel and family, Micmac Indians," is further evidence of Crawley's claim that the area served as a gathering place for many families. The assignment of the land to various (male) individuals – Francis Coogu, Andrew Noel – over the course of the first half of the nineteenth century was evidently a formal requirement of granting land. See Chapter 2, fn 115; When the 1834 plans of the Indian Gardens are compared with the earliest recorded maps depicting an indigenous presence on the Forks, the extent of the reduction of the land base used by the Mi'kmaq is cast in stark relief. Crawley's assertion that the reserve was "reduced from an extensive tract [...] to barely 50 acres," then, would appear to be a fairly accurate assessment. In the earliest, undated map of the Forks (see Figure 2 in the Appendix), the representation of the Mi'kmaw claim extends upriver past the two islands in the stream, and extends inland to a great distance, encompassing the land that would be granted to William Harrington and Marin White, among others. Compare the undated, unsigned map of a river [Margaree] in RG 1, to Thomas Crawley's January 27, 1834 plan and description of Andrew Noel's reserve, NSA, RG 1, Vol. 432, pp. 208-9.

plaintive facts of their dispossession at the hands of Duncan McRae, the petitioners had presented the provincial secretary's office with the original licence of occupation for Lot 7 that Hippolyte had received from general Nepean in 1811, and it appears that this document was critical in returning a decision in their favour.³¹ Although Lieutenant Governor Colin Campbell resolved to have the Salomes "reconfirmed in their possession," no official order, survey or other instrument was issued to that effect; instead, responsibility for ensuring the Salomes' rightful possession fell to the Surveyor General. The task was not made easier by the fact that Duncan McRae had absconded from the island, leaving behind a family with an incomplete chain of title to the lands in dispute. As the Salome petition had made clear, McRae's wife and son, Janet and Alex, resided on "a neighboring lot, also claimed by the said McRae, and they are endeavouring to sell the land now sought by the petitioners, by the direction, as the petitioners are informed, of the said McRae, who is in some part of the United States."³²

In the years immediately following the petition, Janet and Alex McRae gave no indication that they were intent on selling their holdings on Duncan McRae's orders. On the contrary, it appears that they were more concerned with clearing up the title to the lands in question. In October 1836, Janet McRae entered into correspondence with Commissioner of Crown Lands, H.W. Crawley, in order to determine how she might secure a grant of the lands formerly held by her husband. On October 21, Crawley directed her to submit a formal petition to the Lieutenant Governor; she would have to explain her situation, establish the extent of her possession, and disclose any pre-existing or rival claims. He stopped short of advising her whether to take out a grant in her own name or her son's, noting only that if she

³¹ See December 18, 1834 petition of "the Widow and Family of the late Paulette, or Hippolyte Salome, Micmac Indian," RG 20, Series "A," Vol. 122, Item 1; see provincial secretary Rupert George's official response of April 17, 1835, addressed to Thomas Crawley, in which the original licence of occupation is explicitly cited in connection with the Lieutenant Governor's decision. NSA, RG 1, Vol. 149, pp. 87-8.

³² See December 18, 1834 petition, NSA, RG 20, Series "A," Vol. 122, Item 1.

opted for the former option, "it might fall into your husband's power."³³ Two months later, Janet and Alex McRae petitioned the Lieutenant Governor for a grant of the entirety of Lot 7, claiming to have made "great improvements" on it.³⁴ For the first time, they explicitly acknowledged the reasons for Duncan McRae's abscondence from the island, attributing it to "a scuffle" with "wicked neighbours, both French and Irish."³⁵ Inexplicably, they made no reference to their primary residence in the rear of Lot 5, the lot formerly granted to Philip Weybrandt, and the only pre-existing claim they deigned to mention was a dispute with neighboring settler Donald McVarish over the use of the island connected to Lot 7.³⁶ In response to these omissions, Crawley attached a long explanatory note to the petition, in which he detailed the history of the Salome claim to Lot 7. Among other things, he noted that one hundred acres of the lot were "part of a tract possessed by a division of the Micmac Indians for 50 or 60 years, at the least," adding that Hippolyte Salome "seemed to act as a sort of Chief among them."³⁷ Notably, Crawley clarified and complicated the dispute between McRae and McVarish over the island in the river: the original improvements on the island had been made by Hippolyte Salome and his family, and they were subsequently arrogated by McRae in spite of the fact that his warrant made no mention of the island.

With the pressure of bringing both claims to a satisfactory resolution weighing on their shoulders, the government bided their time before making a decision. Finally, on April 17, 1837, a warrant of use was

³³ NSA, RG 20, Series "A," Vol. 125, Item 1.

³⁴ Petition of Janet and Alex McRae, December 16, 1836, NSA, RG 20, Series "A," Vol. 126, Item 1.

³⁵ These details differ from those of other accounts. According to the author of the petition of the widow of Hippolyte Salome, McRae had been imprisoned for attempted murder, but had managed to break free and flee to the United States. See RG 20, Series "A," Vol. 122, Item 1.

³⁶ The petitioners neglected to mention McVarish's name, noting only that the dispute was satisfactorily resolved through the intermediation of Commissioner of Crown Lands, H.W. Crawley.

³⁷ December petition of Janet and Alex McRae, RG 20, Series "A," Vol. 126, Item 1. These details accord with Crawley's previous claim that the area once served as a "general Reservation for Micmac families." See pp. 100-1. They are also supported by fleeting references to Mi'kmaw ownership in the land records of the period. See, for instance, the reference to the lot of "Paul Jeroum, Indian" in Patrick Power's petition of September 23, 1812, RG 20, Series "B," Vol. 5, No. 875. Crawley's comments, if correct, appreciably broaden our conception of the importance of the site to the Mi'kmaq.

issued to Janet and Alex McRae for one hundred acres in the rear of Lot 7 and one hundred acres in the rear of Lot 5, reserving one hundred acres in front of Lot 7 and the island “for the Indians.”³⁸ But just two days after the decision was made, Janet McRae and her former husband's lawyer, John McRae, appeared at Port Hood to draft up a quitclaim deed for the selfsame lands. For the sum of seventy-five pounds, McRae’s husband intended to sell all his interest to Lot 7 to local farmer Angus MacDonald.³⁹ The sale was effected in the absence of full title to the land and in contravention of the recent decision to reserve the front lot and the island to the Mi'kmaq: the resultant indenture, registered two days later, referenced McRae's outmoded 1830 warrant of survey as the basis for the transmission of title, with the caveat that “the boundary lines will more fully appear at the period of obtaining a Grant for the said lands.” As such, the sale was a last ditch attempt to dispose of the lands on the most advantageous terms possible; having hedged their bets on the possibility of receiving a grant for the entirety of Lot 7, and lost, the McRaes moved to sell the land, including the front lot reserved for the Mi'kmaq, on the more favorable terms of the status quo ante.⁴⁰ In the end, Hippolyte Salome's widow had proved prescient in her concerns.

³⁸ See the decision scrawled on Janet and Alex McRae's petition, RG 20, Series “A,” Vol. 126, Item 1; see also the warrant of survey of the same date. *Ibid.* As there is very little surviving documentation respecting the claims, we cannot know how the decisions were arrived at, and what kinds of compromises they might have reflected. For Thomas Crawley’s plan of the reserve, see NSA, RG 1, Vol. 432, pp. 211. The plan of the lot, which is emblazoned with the words “Reserved for the Micmacs [sic] About 100 acres – (see the warrant to Janet McRae,” must have been drafted sometime after April 17, 1837 and before May 26, 1843, when William Mackay, acting on behalf of Joseph Howe, requested all of the plans of Cape Breton reserves from Crawley. For a high-quality image of the plan, see Figure 3 in the Appendix.

³⁹ As per the agreement, Janet McRae was to receive five pounds for remising the entirety of her claims and rights to dower.

⁴⁰ In the absence of positive evidence, we cannot know whether this technically illegal sale was effected with the connivance of local officials; in all likelihood, they were completely unaware of the Lieutenant Governor's recent decision respecting the indigenous land; an additional point of contention is the degree of Janet McRae and Alex McRae's involvement in the scheme to sell the lands. It is possible that there was a substantial degree of compulsion involved in Janet McRae's decision to follow through with the sale. Although Duncan McRae resided in the United States, intimidation could have been exercised through family and close contacts in Margaree, such as John McRae. Although Janet McRae's

What became of the McRaes? All evidence suggests that they left Margaree shortly after the quitclaim deed was effected. Just two weeks later, merchant Henry Taylor – who, it should be noted, had presided over the drawing up of the indenture in his capacity as Justice of the Peace – filed a suit against McRae in the Inferior Court of Common Pleas: McRae was to appear in Port Hood to answer to charges of trespass and absconding to avoid the payment of debt.⁴¹ Together with McRae's previous legal infractions, these charges would have provided strong incentives for the McRaes to refrain from returning to Margaree.

In important respects, the success of the McRaes' gambit and the ensuing silence regarding the transfer of the deed betray glimpses of the informal logic that animated the market in land in this period. Although the deed was formally registered, it was based on an outdated warrant that would have constituted a wholly deficient guarantee of legal title; the fact that it was nonetheless sought by farmer Angus MacDonald – and had passed the muster of Henry Taylor and other officials – suggests that a certain level of consensual informality – and not just duplicity and expediency – had allowed it to proceed. Although we cannot know what MacDonald did with the deed immediately after the transaction, the casual manner in which it was drawn up suggests at least the possibility of the existence of a larger informal network through which it could continue to pass, hand to hand, without being

side of the correspondence with H.W. Crawley has not survived, H.W. Crawley's reluctance to recommend a grant in her name for fear that "it might fall into [her] husband's power" suggests that contending interests were at play behind the scenes from an early date. NSA, RG 20, Series "A," Vol. 125, Item 1.

⁴¹ There is not enough evidence to establish the facts of the case, particularly as it regards the charge of trespass. The sum of the debt, however, roughly corresponds with the balance Janet McRae had accrued with Taylor for the provision of merchantable goods in 1835 and 1836. See the 1835 ledger book of Henry Taylor, Robarts Library, University of Toronto, pg. 135. Accessed December 13, 2019, doi: <https://archive.org/details/margareeharbour11tay>; the original date of the writ of attachment was April 13, 1837, which means that Taylor was actively in pursuit of McRae before McRae's quitclaim deed was recorded. There is no evidence – other than the proximate date – to suggest that the writ of attachment was connected with Angus MacDonald. See the May 3, 1837 writ of attachment, Inverness County Registry of Deeds, NSA, RG 47, Vol. D, No. 182.

registered. It would appear, then, that the McRae deed was a local instance of a widespread pattern – visible across Cape Breton island – of officials' connivance in the illegal sale of warrants of survey as de facto land deeds.⁴² In rural Margaree, as elsewhere, the evidence suggests that such informal systems emerge where the reach of the state (or government) and its laws is attenuated; mediated through kinship structures and other localized relationships, they stand in for features of the state or government that are present but poorly developed, or provide alternative ways of distributing resources in the event that established state institutions become prohibitive or exact burdensome costs.

Although some level of informality would have characterized the land market in Margaree from its inception, the reasons for its increase in the late 1830s are not far to seek: by this point, most of the fertile front lots along the river had already been claimed, with the result that incoming settlers were forced to settle on the stony soil of the uplands, amid an ever-diminishing number of cramped and irregularly defined “back lots.”⁴³ More importantly, the imperial government's inflexible policy of disposing of all land through sale by public auction placed the already prohibitive costs of acquiring land well out of the reach of a majority of incoming – and a not inconsiderable number of established – settlers, who were, on average, poorer than those who had come before them. Selling land on the black market, then, would have been an alternative way for poorer settlers to acquire land when enduring and artificial conditions of scarcity constrained their ability to acquire it through formal means. In such a climate, with innumerable claims being filtered through localized networks in response to all sorts of exigencies, the McRaes' complete dismissal of the Mi'kmaw claim to Lot 7 in their pursuit of compensation for their holdings might have been perceived as a reasonable, just and typical course of

⁴² Stephen Hornsby, among others, has offered evidence that officers of the Crown were heavily implicated in the illegal sale of Crown land. Apparently, even Justice Edmund Dodd illegally sold Crown land to squatters, giving sufficient pretext to settlers to ignore the letter of the law. See Hornsby, *Nineteenth-century Cape Breton*, 54.

⁴³ *Ibid.*, 48-9.

action. If anything, the McRae deed would have been considered unusual for the simple reason that it was recorded at all.⁴⁴

Whether or not the McRae deed or another informal sale was used to justify encroachment on Lot 7 in the 1830s and 1840s, it was the artificial scarcity of land in the period that provided immiserated settlers with the incentives to squat on ungranted Crown land or encroach on the established holdings of others. Correlatively, the same conditions of scarcity presented opportunities for merchants and wealthier farmers to take advantage of poor and middling settlers and increase their holdings. In the first half of the 1840s, these conditions would give rise to complex patterns of class conflict between merchants and poorer farmers that would in turn provide the impetus for poorer farmers to encroach on Lot 7. Although the transcripts left behind by the players involved provide few clues as to how the dispossession occurred on the ground, or how it was experienced by both dispossessors and dispossessed, the interrelationships that impelled the dispossession of Lot 7 can be gleaned by closely analyzing deeds and mortgages of the period and making several inferences regarding the social conditions that prevailed at the time.

In the 1830s and '40s, the lot immediately downstream from the Salome reserve, Lot 6, served as a home for the Scottish-born farmer Hugh McIsaac, his wife Penny and their children, Donald, John, Archy, Angus, Mary, Jessie, Margaret, Catherine and Ann. Originally from Moidart, Scotland, Hugh McIsaac

⁴⁴ As the Chisholms' mortgage to Miles McDaniel shows, deeds and mortgages were often registered well after they were made, if at all; in many cases, it would appear that registration was belatedly pursued to formalize transactions only when it became absolutely necessary to do so, either in order to sanction another sale or transfer of lands, or to clear one's name in a conflict. See, in particular, Hornsby, *Nineteenth-century Cape Breton*, 128. The costs associated with travelling to Port Hood to register a transaction might have been prohibitive for some settlers; The presence of a black market in land is difficult to prove as it primarily manifests itself in absences or lacunae in the historical record, and absences cannot establish material relations. However, a number of alternate historical sources – such as various items of correspondence or written acknowledgement – might be used to establish informal sales in the absence of land records.

spent some time in South River, Antigonish before moving his family to Southwest Margaree in 1822. Near the end of the second decade of the century, it appears that he petitioned for the lot of land his family had settled on; on December 1, 1827, an order of survey was issued to Hugh Mclsaac for “No. 6 on the south side of the southwest branch of the Marguerite River, containing less than two hundred acres” – an allotment of land just short of the standard allowance for married men.⁴⁵ However, like many emigrants before them, the Mclsaacs neglected to pay the requisite fees to secure a grant in the six months after the issuance of the order of survey – a telltale sign that the costs were too steep for them to afford. The possibility of re-applying for a second warrant was foreclosed in 1831, when the imperial government introduced sale by public auction as the sole means of granting land in the colony. In the intervening period, the Mclsaacs nonetheless maintained their possession, even going so far as to ensure that patrimony would be passed from father to eldest son: on October 16, 1838, Hugh deeded part of his property, the one-hundred-acre lower half, to Donald for the sum of eighty-five pounds. But in keeping with custom, it appears that the deed was only intended as security for the future, as it was not formally registered until 1852, and Hugh and Penny continued in possession of the lower half well into the '40s. Donald, meanwhile, took up residence on the rear half, which, in variance with the warrant, was extended into one hundred and fifty acres.⁴⁶

In the 1840s, the economic conditions on the southwestern branch of the Margaree were bleak. As elsewhere on the island, a confluence of natural and social factors had conspired to create generalized

⁴⁵ See the district sketch on the Mclsaacs in J.L. MacDougall, *History of Inverness County*, 417-8; See the order of survey directed to Thomas Crawley, Dec 1, 1827, NSA, RG 20, Series “A,” Vol. 99, Item 2; for Crawley’s explicit instructions regarding the disposal of land to married and unmarried men, see the Minutes of His Majesty’s Council at Halifax, November 1, 1820, NSA, RG 1, Vol. 194, 1-5.

⁴⁶ See the deed of Hugh Mclsaac to Donald Mclsaac, Inverness County Registry of Deeds, NSA, RG 47, Vol. H, No. 235 1.

conditions of want and deprivation among backland communities with restricted access to resources.⁴⁷

Although Hugh Mclsaac and his family had managed to secure a coveted front lot on the rich interval of the river, the timing of their arrival at the height of Scottish emigration to Cape Breton in the late 1820s and their limited material resources meant that they did not emerge unscathed in this period. On June 17, 1843, Hugh mortgaged his lot, the lower half of Lot 6, to Samuel Campbell, a relatively wealthy farmer and merchant who had begun the process of acquiring land on the southwest branch. Campbell's firm, Campbell and McDonald, fronted Mclsaac the sum of seventy pounds, twelve shillings, and one penny, on the condition that it was to be repaid, with accumulated interest, by May 10, 1847. In effect, the mortgage was collateral for a loan, which very probably served Mclsaac as a much-needed infusion of capital in tough times. The language of the resultant deed, which was registered a week later, provides a snapshot of the patchwork of contiguous land claims. In informal descriptive terms, the land was described as being "on the western side of the Lot of land presently in the possession of Hugh McDonald or the Indian Lot on the Eastern side by the lands in the possession of Donald Mclsaac being the other half of the Lot Number Six and in front by the South West River of Margarie [sic] [...]"⁴⁸

As the years passed, material conditions in much of Cape Breton took a turn for the worse. Starting in August 1845, crops across the island were afflicted with potato blight, a fast-spreading fungus with the potential to destroy entire crop yields. In Margaree, three quarters of the potato crop were destroyed, a loss that disproportionately affected backlanders who relied predominantly on potato cultivation for survival. In Margaree as elsewhere, whole communities faced destitution and starvation. Although we cannot know exactly how Mclsaac and his family fared in these years, surviving records indicate that

⁴⁷ In the 1830s, backland farmers all over the island had experienced a number of crop failures, which in many cases had resulted in destitution and starvation. See for instance, Hornsby, *Nineteenth-century Cape Breton*, 74.

⁴⁸ See the June 24, 1843 mortgage from Hugh Mclsaac to the firm Campbell & McDonald, Inverness County Registry of Deeds, NSA, RG 47, Vol. E, No. 223 1.

they were not unaffected.⁴⁹ Potentially poor or disastrous yields would have severely constrained Mclsaac's ability to return a profit with which to pay off his debt to Campbell and McDonald. In recognition of this fact, Mclsaac appears to have arranged an alternate arrangement with Campbell to dispose of the mortgage on his land and avert looming foreclosure. On August 15, 1846, he sold the one-hundred-and-fifty-acre rear lot – the selfsame lot on which his son Donald had been residing – to Campbell for the generous sum of two hundred and eighty pounds. When the arrangement was formalized two weeks later, the description of the land in the deed betrayed a remarkably changed configuration of claims on the ground: the rear lot was situated "on the northern side of a lot of land presently in the possession of Hugh McDonald on the southern side [being] the Indian lot now in the possession of Donald Mclsaac on the eastern side by the south west river [...]"⁵⁰

One dispossession, then, had led to another: at some point between June 1843 and August 1846, Donald Mclsaac was compelled to encroach on the Salome reserve.⁵¹ Faced with the prospect of either prematurely moving in with his parents on the front lot, or swelling the ranks of the squatters in the back lots, Mclsaac very probably felt as though he had no alternative but to take over the adjacent land. The decision would have seemed all the more natural if the reserve itself had appeared unoccupied and unimproved; its fertile intervalle was equally sought after by contiguous settlers, and an ex post facto justification could easily be made to the effect that the land's unexploited potential was an impediment to the settlers' subsistence in difficult times. Regardless of how Mclsaac came to justify the decision after the fact, his encroachment was, first and foremost, a direct response to exigent privation: it served

⁴⁹ I have not been able to locate records regarding the state of the Mclsaacs' farm or the types of crop they planted.

⁵⁰ See the August 28, 1846 deed from Hugh Mclsaac to Samuel Campbell, Inverness County Registry of Deeds, NSA, RG 47, Vol. F, No. 270.

⁵¹ As will be seen, subsequent documentation provides strong evidence that the date was circa January 1845. NSA, Land Petition Abstracts, Book 7, pg. 86.

as an outlet for, or a displacement of, the process of social sorting that had been initiated with Campbell's mortgage.⁵²

In important respects, the Mclsaac encroachment signals a significant shift in social property relations in the Margaree Valley. Unlike McRae's dispossession of the 1820s, there was no attempt to secure the land through legal means, no petition or warrant of survey to justify possession; the possibility of petitioning for the land as a subject of the Crown and a would-be improver had been foreclosed. Indeed, it is difficult to locate agency here; Mclsaac's encroachment was clearly not uncoerced, and there are no clear lines linking his dispossession of the Salomes to an incentive structure. Yet, an incentive structure clearly informed the interrelationships between settlers that issued in that dispossession. As a merchant with significant operating capital, Samuel Campbell was exactly the type of individual whose wealth and

⁵² All the foregoing is not meant to justify Mclsaac's usurpation of the lot, but rather to try and understand the underlying logic of dispossession as well as the self-justifying rationale that Mclsaac might have invoked in the circumstances; Much of the foregoing reconstruction is built, of course, on inferences made by comparing the information supplied in deeds and mortgages with known historical social conditions in Margaree. Unfortunately, there are few, if any, documents that can provide a detailed picture of the social relationships that characterized this part of the southwest branch in the '30s and '40s. While a number of alternate, more prosaic inferences might be drawn from the records I have studied – for instance, the generous sum paid for the rear lot in 1846 might be taken as evidence that the Mclsaacs were simply prudently disposing of one lot in order to better invest in another, more privileged holding elsewhere – the picture of the Mclsaacs' land acquisition in the period 1827-1855 is, as will become clear, one of progressive decrement and eventual extinction. This bird's eye view of attrition does not admit of an overall pattern of economic saving and reinvestment; Likewise, the absence of records of foreclosure proceedings brought against Mclsaac in the Court of Chancery would typically be interpreted as a sign of the proper and timely payment of Mclsaac's debt to Campbell and McDonald. In keeping with the informal character of land transactions in Margaree, however, it is entirely possible – and I would argue likely – that the 1846 sale of the back lot served as a negotiated disposal of the mortgage debt by other means. The proximate date of the sale before the due date of the mortgage supports this conclusion. Likewise, the fact that Donald Mclsaac had been resident on the upper lot up until a year before its sale suggests that the decision to encroach was unplanned and made under exigent circumstances. In depressed conditions, the costs of selling off one's established improvements – no matter how marginal – would have far outweighed the benefits of acquiring another, more fertile front lot: even assuming that the pre-existing improvements on Lot 7 were extensive, the labor and expense involved in clearing the land to build a farm would have been substantial. In the conditions of 1840s Margaree, such options would have been foreclosed to all but the most well-placed merchants and farmers. All signs thus point to economic compulsion and the pressure of adverse circumstances as the catalysts of change.

prosperity the government sought to promote with its reforms. He had spent time working as a trader in Mabou, and he was able to use this experience to his advantage when he set up a business in Margaree in 1836.⁵³ He was well-positioned, then, to take advantage of the artificial scarcity of land on the southwest branch of the Margaree in the 1830s and 1840s – as will be seen, his consolidation of the upper part of Lot 6 would provide a base from which to further acquire and concentrate property along the southwest branch, at Margaree Forks and at Caermarthen. The McIsaacs, on the other hand, were sorted into the losing camp; the precarity of their position was artificially maintained in order to provide opportunities for merchants and farmers like Campbell to expand their holdings. The contradictions of this opaque incentive structure were worked out on the ground in complex, unpredictable, and highly localized manifestations. Left to their own devices, settlers threatened with immiseration developed informal substitutes for distributing local resources.

In effect, although the impetus behind the dispossession of Lot 7 was indirect, it makes little sense to describe McIsaac's encroachment as an isolated or unintended effect of government policy; if anything, it was the predictable outcome of a utopian effort to create landless labourers through controlled immiseration. In this sense, the 1831 land reforms should be viewed as an extension of the social experiments that were undertaken on reserves in the first two decades of the nineteenth century. Both were top-down attempts to compel productivity from targeted groups through the control of artificial scarcity. On the reserves, productivity was coerced through the imposition of a system of rewards and punishments: food, implements and aid were rationed to "industrious" Mi'kmaq and withheld from

⁵³ Not much is known about Campbell's biography. He was the son of a Donald Campbell of Mabou, who had come from Lochaber in Scotland in 1810. J.L. MacDougall has the following to say about him: "This Samuel was about four years of age when he came to America. He had a smart way with him, even in his youth, and did a little business for himself at S.W. Mabou when quite a young man. In 1836 he moved to Margaree Forks where he continued mercantile business for some years, and afterwards became known as one of the finest farmers in Inverness County." J.L. MacDougall, *History of Inverness County*, 384.

those who neglected to settle and cultivate the land.⁵⁴ The want and suffering occasioned by such schemes was naturalized as a series of individual moral failures. Likewise, no sympathy was shown for settlers who, in desperation, squatted on unceded Crown land or the holdings of others in order to eke out an existence. Thomas Crawley, for instance, ascribed a certain rapacity and unscrupulousness to the Scots to explain their propensity to encroach on the reserves at Whycomomagh and Middle River.⁵⁵ But there was nothing natural about these schemes: they show us that capitalism was not a universal given; the conditions for its existence had to be created.

As before, it took authorities in Cape Breton a long time to react to the encroachment on Lot 7. Other, more significant events and developments engrossed their attention: in the late 1830s, repeated and extensive encroachments on the reserves at Middle River prompted the Surveyor General's office to turn to the Attorney General to formally eject the squatters; despite their removal, many returned to take up their illegal holdings again.⁵⁶ In the 1840s, partly in response to the widespread encroachments on reserves across the province, renewed efforts were made to protect indigenous lands and to encourage settlement and farming. In 1843, the Nova Scotia legislature passed "An Act to Provide for the Instruction and Permanent Settlement of the Indians," which, among other aims, provided for the "preservation and productive application for their [the Mi'kmaq's] use of the Lands in the different parts of the Province, set apart as Indian Reservations." Under the Act, the position of Commissioner of Indian Affairs was created to oversee the reserves and to "generally protect the said Lands from encroachment and alienation, and preserve them for the use of the Indians." Among other things, the Commissioner was empowered to provide English instruction to Mi'kmaw children and to divvy up

⁵⁴ For important work on certain of these schemes on mainland Nova Scotia, see Judith Fingard, "English Humanitarianism and the Colonial Mind: Walter Bromley in Nova Scotia, 1813-25," *Canadian Historical Review*, 54, 2 (1973): 123-151.

⁵⁵ In a letter dated May 16, 1837, Crawley referred to the encroachers as "unprincipled oppressors." NSA, RG 1, Vol 431, No. 37.

⁵⁶ See, for instance, NSA, RG 1, Vol 431, No. 37; NSA, RG 1, Vol 431, No. 38.

reserves into individual tracts for industrious families to settle and cultivate.⁵⁷ In his first two reports as Commissioner, however, Joseph Howe neglected to travel to Cape Breton to inspect the reserves there. In 1844, Supreme Court judge Edmund M. Dodd and Henry W. Crawley were appointed Commissioners of Indian Affairs for the island.⁵⁸ Tasked with the same duties as their counterpart on the mainland, they focused their first report on enumerating the settlements on the island. Although they were unable to visit all of the reserves in the first year of their superintendence, Judge Dodd had been able to visit "all the six settlements, including the small Reserve [sic] at Marguerite, during the summer of 1843." The reserves at Margaree, they noted, were the only settlements not attached to the Bras D'Or lakes – a geographic cause, perhaps, of their relative neglect. Of the six reserves on the island, all but one – "one of the small lots at Marguerite" – had been surveyed; nonetheless, four of the six reserves – Whycomagh, Wagmatcook, Malagawatch and Marguerite – had been encroached upon. The encroachments at Wagmatcook, or Middle River, were especially acute, as the squatters had refused to comply with the law even after repeated ejections. The Commissioners expressed their desire to take resolute legal action to stem the encroachments there, as failure to remove trespassers might embolden squatters elsewhere on the island. Complaints of similar encroachments had already been raised at Whycomagh and Malagawatch, and the Mi'kmaq at Margaree had been "driven off altogether" from their reserves.⁵⁹

Despite their recognition of the advanced state of encroachment at Margaree, Dodd and Crawley failed to take immediate action to restore the reserves to their rightful owners. This negligence may have been due, in part at least, to the fact that, as Commissioners, they were forced to balance what were in effect two mutually irreconcilable policy priorities: preservation and agricultural improvement.

⁵⁷ NSA, RG 1, Vol. 432, pp. 9.

⁵⁸ NSA, MG 1, Vol 262B, No. 124.

⁵⁹ JLANS 1845, Report dated 16 January 1845, Appendix No 16.

In 1845, they turned their attention to promoting settlement and cultivation on the island's reserves.⁶⁰ In their subsequent reports, calls for the protection of indigenous lands took a back seat to reports on the progress of education, settlement and the provision of seed and implements for farming on reserves. In their second report, dated December 24, 1845, then, they detailed the number of houses constructed at Chapel Island, Eskasoni and Wagmatcook, and referred to the considerable expenses of furnishing seeds and implements to those communities.⁶¹ Just as the Commissioners turned their attention to the promotion of agriculture, however, large parts of Cape Breton were afflicted with the potato blight. As a result, Crawley noted, the Mi'kmaq were forced to abandon the soil and "disperse over the country in search of subsistence."⁶² To his credit, as the effects of the blight worsened in the next couple of years, Crawley refused to pursue an authoritarian stance on improvement; he had the foresight to see that the blight was only a temporary setback, and he and Dodd successfully petitioned the government to provide the Mi'kmaq with provisions to see them through the harsh winters of 1846, 1847 and 1849.⁶³ During all this time, the complete dispossession of the Mi'kmaq at Margaree was left

⁶⁰ On a couple of occasions, Dodd and Crawley referred to the "annual diminution of their hunting grounds" as the chief cause of the Mi'kmaq's turn to agriculture – in their minds, the Mi'kmaq had no choice but to cultivate the land: the alternative was extinction. These and subsequent quotes suggest that the Commissioners saw "improvement" and "preservation" as two sides of the same coin. JLANS 1846, Appendix No. 18, dated December 24, 1845; see also, JLANS 1847, Appendix No. 15, January 2, 1847, in which the Commissioners justify their large expenses on agriculture in the following terms: "We have persevered in this course, with the conviction that it is one of the most effectual measures for the support and preservation of the remnant of the Tribe [...]"

⁶¹ Here, again, the furnishing of aid was restricted to those who fulfilled their obligations regarding settlement and cultivation, that is, to "the deserving and industrious": "With the view of encouraging their attention to the raising of crops, an allotment of potatoes and grain for seed was made in the last spring to such families as reside in houses and make use of the plough in cultivating their land," the Commissioners wrote. JLANS 1846, Appendix No. 18, December 24, 1845.

⁶² See the February 12, 1848 report of Indian Commissioners Dodd and Crawley, JLANS 1848, Appendix. No 36.

⁶³ JLANS, 1847, Appendix No. 15; JLANS 1848, Appendix No. 36; JLANS, 1849, Appendix No. 45. This response was in stark contrast to that of the Committee of Indian Affairs, which, in heeding Indian Commissioner Abraham Gesner's elaboration of the necessity of imparting temperance and thrift among the Mi'kmaq of the year before, concluded their 1848 review of expenditure accounts with a recommendation that "no greater part of the Provincial grant should be expended for provisions than is

unaddressed; needless to say, the reserves there were completely untouched by the first wave of agricultural transformations in the 1840s.

The situation on the ground in Margaree was not addressed again until 1849, when H. W. Crawley, reporting on the status of the reserves under his jurisdiction, mentioned "the addition of some families now in the vicinity of Sydney, who have been driven from their lands at Marguerite, and some few at Cape North [...]" Identifying the transgressors by name for the first time, he reported that the much-beleaguered Indian Gardens had "been altogether appropriated by one Chisholm, who refuses to allow the Indians any use of it"; likewise, the one-hundred-acre front lot and the island reserved for the Salomes on the southwest branch of the river were "now occupied by one McIsaac, to the entire exclusion of the Indians." As a number of reserves across the island were compromised, he advocated giving indigenous people the right to vote as a remedy to the land problem. In an appendix to his report, he identified the individuals who were scattered between Marguerite and Chéticamp: two Salomes, widow Catherine Hippolyte and her son Noel Hippolyte, were identified as residing at Marguerite along with Peter Julian and his family of five; Francis Hippolyte and his family of five, along with three other families, were identified as residing "at Cape North, and Cheticamp, or unsettled."⁶⁴

If the protection of reserves from encroachment was at first neglected in favor of pursuing the agricultural objectives of the 1843 act, Commissioner of Crown Lands Henry W. Crawley sought to effect a shift in priorities. By the early 1850s, settlers had encroached on almost every reserve on the island: in

absolutely required to prevent absolute want and starvation—and that the Provincial funds should be applied as far as possible in the shape of bounties on Crops and in assisting Indians in procuring Agricultural Implements, Stock, &c.—by which inducements to Agricultural industry would be held out, and the foundation laid for something like a permanent means of livelihood for these now miserable and dependent beings." Report of March 31, 1848, JLANS 1848, Appendix No. 88.

⁶⁴ Both Noel and Francis were identified by the diminutive of their father's name, "Pollet." The three other families listed in the latter category were those of Charles Matharin, John Ferris and Francois Joseph, each of which comprised four people. Crawley's report of February 1, 1849, JLANS 1849, Appendix No. 45.

Whycocomagh, encroachments had become such a problem that the Attorney General was once again called on to carry out ejectment proceedings against the trespassers. On August 20, 1850, Crawley wrote to Joseph Howe on behalf of Reverend Corteau, the local priest, to relay his and Mr. Corteau's frustrations regarding the government's unwillingness to do anything about the encroachments. In what would become a recurring plea to the authorities, Crawley reiterated his proposal to give the natives the right to vote in elections so that their cause could be championed in the legislature. In his letter, he persuasively elucidated the rationale for such a plan:

The representations made in my annual reports have failed to attract the notice of the Legislature to the helpless Indians. And the representatives of these counties will probably not interfere, because the aggressors are their supporters, while the Indians have no votes to give them. As you have always befriended these destitute and oppressed creatures, I put it to you (excuse the liberty) whether it would not be expedient as well as just that the government should interpose to procure a legislative enactment conferring on the Indians the same right as the other inhabitants, to vote at elections, in consideration of the large tracts of land held by them, or for them. As before suggested in my reports, such a measure would elevate the Indians – increase their self-respect and the consideration of their neighbors for them, incline the members to look on them as not beneath notice and thus conduce to the redress of their long-endured wrongs [...] ⁶⁵

Crawley hit upon on these themes again in his annual reports of February 18, 1851 and February 13, 1852, but his proposal was flatly ignored.⁶⁶ Instead, the Committee of Indian Affairs clove to the status quo ante, affirming its commitment to eject trespassers at Whycocomagh.⁶⁷

Meanwhile, change was afoot in southwestern Margaree. On March 5, 1852, Hugh MacDonald, the brother of Angus MacDonald, now deceased, sold his brother's claims to Lots 5 and 7 to merchant and farmer Samuel Campbell for two hundred pounds.⁶⁸ On the surface, the sale was just like any other: it

⁶⁵ NSA, RG 1, Vol. 431, No. 58.

⁶⁶ JLANS 1851, Appendix 64; JLANS 1852, Appendix No. 32.

⁶⁷ See the representations of the individuals affected by the violent depredations of Donald Morrison and Philip McDonald at Whycocomagh, appended to Crawley's report of February 18, 1851, JLANS 1851, Appendix 64.

⁶⁸ Hugh MacDonald to Samuel Campbell, recorded March 1852, Inverness County Registry of Deeds, NSA, RG 47, Book H, Pg. 239.

effected the legally binding transmission of one man's claims to another. But in key respects, the sale poses an anomaly for the historian who wishes to reconstruct the actions and motives of individuals on the ground. First of all, it raises the question of whether Angus MacDonald, or his brother, cleared and settled part of Lot 7 after securing the quitclaim deeds to the lots in 1837. In light of Donald Mclsaac's encroachment on the front lot in the early '40s, and the subsequent efforts by officials at Sydney to inquire into the facts of the matter, the dearth of references to any other claim in the official correspondence of the period offers fairly compelling negative evidence against such a scenario. Still, given the extent of the terrain in question, it is certainly possible that MacDonald had carved out a discrete or overlapping material claim to the land.⁶⁹ Whatever the case, for Campbell, the sale represented a further inroad onto the most fertile stretch of land on the southwest branch of the river, considerably extending the breadth of his acquisition of the rear of Lot 6 by some five hundred and ninety-four acres. Although the deeds themselves were a void form of title, Campbell most assuredly sought them in order to cement his claim to the land by removing any pretext of former claims. He must have also been aware of Mclsaac's adverse possession of Lot 7; if anything, the warrants of survey would have provided him with a form of legal leverage against Mclsaac's prior occupation of the land.

It would seem that these developments evaded officials at Sydney; in any case, proactive measures to dislodge Mclsaac and Chisholm from the reserves were not forthcoming. In late September of 1852, after receiving word from the Attorney General that several reserves in Cape Breton were still compromised by squatters, Commissioner of Crown Lands John Spry Morris wrote to Howe for permission to order surveys of the reserves in question so that the extent of the encroachments could be ascertained. Assent was received, and an order was issued in October to survey the two reserves

⁶⁹ MacDonald may have made an initial, abortive attempt to settle the land shortly after acquiring the deeds; he may even have settled the land long enough to come into conflict with Mclsaac. In the absence of more definite evidence, we can only speculate as to the possibilities.

affected – Margaree and Whycomagh.⁷⁰ But, for reasons that must remain obscure, the order was delayed: deputy surveyor John Murphy returned his accounts nearly two years later. Murphy surveyed fifty acres at the Forks and one hundred acres on the southwest branch, and it appears that no conflicts arose with Chisholm or McIsaac.⁷¹

By the time Murphy had submitted his accounts, John Spry Morris, Abraham Gesner and H.W. Crawley had already been replaced as Commissioner of Crown Lands, Indian Affairs Commissioner, and Commissioner of Indian Affairs for Cape Breton, respectively. Morris' replacement, James B. Uniacke, had served for years as the province's first premier while doubling as Attorney General. Gesner's replacement, William Chearnley, was a retired military officer.⁷² A relative unknown, James McLeod was appointed Indian Commissioner in Cape Breton on an interim basis. As a result of these changes in personnel, the impetus for protecting indigenous lands was checked, and policy pulled in different directions. If Abraham Gesner had held that the decline of the Mi'kmaq could be arrested and even reversed through amelioration, Chearnley saw no reason to be optimistic about their "mendicant state." In his first report as Commissioner, he struck a decidedly pessimistic tone, disclaiming the Mi'kmaq's aptitude to settle and casting their tendency to migrate from one place to another as irrational. Like many officials before him, he saw the Mi'kmaq as essentially child-like and incapable of understanding what was in their own best interests; accordingly, he advocated for a more authoritarian form of intervention on their behalf. The idea that the Mi'kmaq's interests could be advanced by giving them the

⁷⁰ NSA, RG 1, 431, No. 62.

⁷¹ See deputy surveyor of Inverness John Murphy's "Account of the surveying and reporting on the Indian Reserves at Margaree and Whycomagh by order from John Spry Morris Commissioner of Crown Lands dated 2nd of October 1852," June 28, 1854, NSA, RG 20, Series "C," Vol. 58, Folder 1854. The surveys were conducted in March and April 1854. James Cody and Donald McVarish were listed as the axemen who helped survey Lot 7.

⁷² He had once served as the lieutenant commander of the Chebucto Grays, a rifle battalion established in Halifax in response to the Crimean War.

vote or granting them lots in freehold tenure struck him as absurd. In response to one such petition, Chearnley elaborated a complex scheme for dealing with squatters:

I cannot agree with that part of the petition lately forwarded by the Indians of this province to our most gracious sovereign, praying that they may hold lands by the same tenure as the white man does. As we have so many instances of valuable grants, formerly given to the Indians, having been parted with for a trifle, unfortunately the grants that were given to many of the heads of families have passed from them. These grants were, generally speaking, of value, situated at the mouths of rivers, and have been surreptitiously taken by white folks. I would advise that all the occupants of those grants be at once obliged to shew title to the lands in question, (lengths of holding not being allowed as a plea to title.) If a proper title cannot be shewn, they surely are the property of the Indian. If the Indian families to whom they have been granted are not living, they then are the property of the province. By those lands being either sold, or those residing on them placed under rent, and the monies payed into the treasury for the benefit of the Indians at present living, I think it would amply provide comforts for the few of the Micmac tribe left, and who are fast passing away. I will instance one grant on the Bay of St. Margaret's, which was valued at six hundred pounds, as it is said was parted with for a few gallons of spirits.⁷³

In many respects, Chearnley's reflections provide stark evidence of his ignorance of the subject. As an exegesis of the causes of aboriginal dispossession, his reflections read as though they were written at the turn of the century. Indeed, his diction and argumentation – even his reference to whites' swindling of one of the freehold lots granted to the Mi'kmaq at St. Margaret's Bay – uncannily mirror erstwhile Surveyor General Charles Morris' report on reserves of 1815, a document which itself exemplified a dubious appreciation of the dynamics of dispossession at a local level. Here, the old fears regarding the Mi'kmaq's alleged propensity to trade away their land for alcohol or trifles appear as a stock argument substituted for actual knowledge of local conditions. At the very least, they show the persistence and power of certain discourses to shape policy. At the worst, they show that Indian policy was a self-fulfilling prophecy, a utopian project whose optimistic predictions bore little relation to empirical conditions. The prospects for reforming the Mi'kmaq through agricultural pursuits having proved more elusive than anticipated, only the converse picture could now hold for Chearnley: his scheme is at once a practical solution to squatting and a chronicle of a death foretold; he cannot imagine any other use to

⁷³ Report of William Chearnley, Commissioner of Indian Affairs, March 3, 1854, JLANS 1854, Appendix No. 26.

which reserves might be put to serve the Mi'kmaq's interests than to permanently usher them offstage to make way for settlers. Although Chearnley's scheme betrayed a fuzzy logic, it would prove particularly influential in the years to come.

Unlike Chearnley, Uniacke brought a wealth of experience to bear on his new position. Early on, he showed a readiness to engage with squatters and to protect indigenous lands. But he nonetheless followed Chearnley's lead. On May 24, 1854, on Captain Chearnley's request, he wrote to the provincial secretary's office to authorize proceedings under section 11 of the Crown Lands Act against an encroacher on the reserve at Ingraham's River. In the same letter, he referenced complaints from Crawley and Corteau regarding trespasses at Wagmatcook, Whycomomagh and Margaree. In a decidedly more compassionate tone, he highlighted the Middle River squatters' poverty as a mitigating factor, and recommended that their holdings be safeguarded. Nevertheless, he concluded by calling for legislation that would make it a criminal offence to encroach on reserve land.⁷⁴ The following month, he reported on the reserves in Nova Scotia and identified each reserve that had been affected by encroachments. In Cape Breton, four out of six reserves – Whycomomagh, Malagawaatchkt, Margarite and Wagamatkook – were now afflicted by trespassers. The encroachments at Wagamatcook, he noted, were in no small part due to the lack of systematicity in surveying land in the island – the settlers there could claim, in good faith, that they had unwittingly overstepped their bounds in the absence of proper surveys having been made. Taking this situation as representative of the island as a whole, he echoed Chearnley's call for a policy that would allow the government to sell contested tracts of reserve land to squatters on an ad-hoc basis. The proceeds would be put into a fund “for the benefit of the Indians,” while the remaining land would be vested in the Commissioner of Crown Lands so as to better protect it. Again, such actions

⁷⁴ NSA, RG 1, Volume 431, Nos. 82 and 83.

would, he noted, have to be reinforced by legislation that would make it a criminal act to make further encroachments on the reserves.⁷⁵

While Chearnley and Uniacke were outlining the broad parameters of a new Indian policy, the Margaree reserves were still in limbo, and local dynamics shifted imperceptibly according to their own logic. If John Murphy's surveys had alerted Chisholm and Mclsaac to the government's plans to restore title to the Mi'kmaq, neither wrote to officials to inquire into the details or to pre-emptively defend their claims.⁷⁶ On the southwest branch, the material conditions that had compelled Mclsaac to encroach on Lot 7, now transmuted, issued in a final loss of property. On March 15, 1855, Donald Mclsaac deeded his inheritance, the half of Lot 6 on which he had been raised by his parents, to merchant and farmer Samuel Campbell for the sum of five shillings, completing a process of foreclosure that had started with Hugh Mclsaac's mortgage in 1843.⁷⁷ In August, Campbell purchased four town lots in Block B at Caermarthen town for the sum of ten pounds, eighteen shillings and nine pence – the going uniform price. The following year, Mclsaac set about consolidating what little of his property remained. On September 29, in apparent tacit recognition of the improbability of securing title to his possession of the Salome claim, he petitioned for the one-hundred-acre lot directly behind it, which he described as “in its wilderness state and ungranted.”⁷⁸ The land was surveyed by John Murphy shortly thereafter, and it

⁷⁵ See the report of June 9, 1854, NSA, RG 431, No. 98 ½.

⁷⁶ There is virtually no information on John Chisholm's activities in this period.

⁷⁷ The deed recorded at Port Hood gives little indication of who owned the adjacent lands: other than mentioning James Coady's claim to lands in the rear of Lot 6, it references Campbell's previous purchase of Hugh Mclsaac's upper lot but makes no mention of Lot 7. Although we cannot know how Mclsaac and Campbell came to arrange the disposal of the front lot, it is very probable that Campbell's purchase of the quitclaim deeds for the neighboring lots, 5 and 7, provided him with the necessary leverage to compel Mclsaac to cede his inheritance to the front of Lot 6. Assuming that both parties accepted Campbell's superior claim to Lots 5 and 7, then Mclsaac may have offered to cede the front of Lot 6 in return for being allowed to keep his holdings on Lot 7. Such an arrangement would have made practical sense, as the front of Lot 6 would have otherwise remained an enclave amid Campbell's expanded holdings.

⁷⁸ Petition of Donald Mclsaac, September 29, 1856, NSA, RG 20, Series “E,” F 3659.

was granted to McIsaac the following year for the same price Campbell had paid for the town lots at Caermarthen.⁷⁹ The erstwhile conditions of insecurity that had enabled Campbell to establish a foothold on the southwest branch had given way to conditions that enabled him to use his accumulated capital to secure further holdings on even more favorable terms. In the years to follow, Campbell's total holdings would expand considerably.⁸⁰

If the government were committed to preserving the reserves in this period, no apparent steps were taken to arrest developments on the ground. In March 1856, the Committee of Indian Affairs rebuffed a petition from residents of Whycomagh calling for the sale of reserve lands. Predictably, they reiterated Chearnley's and Uniacke's previous recommendations for protecting the reserves from trespassers.⁸¹ If the idea of selling contested tracts of reserve land to squatters circulated in popular and official channels, it had not yet achieved currency or legitimacy as a strategy for solving the crisis of Indian lands. But this would soon change. In April 1857, the Committee of Indian Affairs continued to stress the importance of fiscal restraint and parsimony. Echoing a memo from Chearnley, they stressed that the entire annual Indian Grant was, in effect, "an act of charity from the legislature to the necessities and comforts of the Indians."⁸² As such, they argued, it had to be parsimoniously distributed based on an exact statistical enumeration of the Mi'kmaq in the province. The distribution of blankets and other goods needed to be rationalized to ensure that needs were met and the costs of

⁷⁹ Nova Scotia Department of Lands and Forests, Land Grant Registration Books, Vol. A, pg. 135 (NSA microfilm reel no. 13031).

⁸⁰ For an illustrative map of Campbell's holdings, see the Crown Land Index Sheet 114 at the Crown Land Information Management Centre, Nova Scotia Department of Lands and Forestry, Halifax, Nova Scotia. See, too, James H. Austen's July 5, 1781 map of southwestern Margaree, Plan No. B-14-11. For acquisitions by grant, see Nova Scotia Department of Lands and Forests, Land Grant Registration Books, New Book 30, Pg. 248 (NSA microfilm reel no. 12986); *ibid.*, New Book 21, Pg. 174 (NSA microfilm reel no. 12997); *ibid.*, New Book 43, pg. 140-1 (NSA microfilm reel no. 12970); *ibid.*, New Book 38, pg. 38 (NSA microfilm reel no. 12975); *ibid.*, New Book 44, pg. 73 (NSA microfilm reel no. 12969); *ibid.*, New Book 42, pg. 8 (NSA microfilm reel no. 12970).

⁸¹ Report of the Committee of Indian Affairs, March 1856, JLANS 1856, Appendix No. 63.

⁸² Report of the Committee of Indian Affairs, April 13, 1857, JLANS 1857, Appendix No. 63.

administration lowered. The objectives of settlement would be advanced by earmarking the remainder of the grant to individuals who improved the land.

In the same year, the government underwent personnel changes that would contribute decisively to expediting the question of what to do with Indian lands. In December, Samuel Prescott Fairbanks was appointed Commissioner of Crown Lands. A lawyer by training, Fairbanks had served the government in various capacities, including as a civil servant and a member of Parliament, before being appointed provincial treasurer in 1845. It appears that up until his appointment as Commissioner, his employment had been precarious at best; his position was suspended at various points due to squabbling among parties who wanted to use the post for political patronage.⁸³ There was nothing in Fairbanks' past to suggest that he had any experience or familiarity with the Mi'kmaq.

Several months after his appointment as Commissioner, Fairbanks had occasion to delve into matters related to the reserves. In a letter to the provincial secretary dated April 29, 1858, responding to the Lieutenant Governor's request for a return of the province's Indian reserves, Fairbanks forwarded Uniacke's report of 1854 with comments. Noting that the reserve lands were coveted by squatters, he reported a high incidence of complaints regarding encroachments. He emphasized the desirability of delegating an official to act as the guarantor of the reserves, and, to the point, he requested instructions for the execution of his duties under Section 11 of the Crown Lands Act.⁸⁴ In July, he followed up with another letter advocating that the reserves be protected. In response, the Council in Halifax tasked Fairbanks with writing a report on the "extent and condition of the Reserves – what portion are illegally occupied and by whom." They confirmed that he ought to have title to the reserves vested in his person

⁸³ John G. Leefe, "FAIRBANKS, SAMUEL PRESCOTT," in *Dictionary of Canadian Biography*, vol. 11, University of Toronto/Université Laval, 2003–, accessed September 12, 2019, http://www.biographi.ca/en/bio/fairbanks_samuel_prescott_11E.html.

⁸⁴ NSA, RG 1, Vol. 431, No. 88 ½.

under Section 11 of the Crown Lands Act, and ordered him to undertake the requisite surveys in order to lay the ground for that eventuality.

In August, in reply to inquiries from the provincial secretary regarding further encroachments at Wagmatcook, Fairbanks stated that there were “two courses open for remedy: the one to dispossess these Intruders altogether, which would require the interposition of the Attorney General, & the other to enter into compromise, requiring payment of the value of the land, in its present or original state.”⁸⁵ In preparing his response, Fairbanks had brushed up on the history of the reserve, which no doubt would have cast the efficacy of the option of ejectment in a dim light. Having read and forwarded on Uniacke’s 1854 report on reserves the year before, Fairbanks would have also been familiar with the largely untested proposal to sell contested tracts to squatters. Both of these options would have been foremost in his mind in the ensuing months as he deliberated over the execution of his report.

More than providing an ad-hoc policy, Fairbanks report of February 5, 1859 sought to re-evaluate the objectives underpinning reserve policy and to discharge the question of native lands once and for all. If the purpose of reserves was to facilitate a transition from hunting and gathering to agriculture, Fairbanks averred, then the reserve policy could not be held to be a success. Despite the many efforts of the government to preserve the integrity of the lands so that the project of acculturation could proceed undisturbed, the experiment of “improving” the condition of the Mi’kmaq had failed. “I think it must be apparent,” he wrote, drastically undercutting the optimistic prognostications of the likes of Gesner and Howe from previous decades, “notwithstanding all that has been done for them, that these efforts have worked a very little change for the better – a few families have settled upon the lands, but the greater number adhere to their old habits, whilst the great body of the reserves not only retard the general settlement of the country, but are entirely unproductive for the purpose they were designed.”

⁸⁵ NSA, RG 1, Vol. 431, No. 99.

According to Fairbanks, because the depredations of the reserves were often done unwittingly, as in Wagmatcook, by squatters who invariably ended up improving the reserves, a policy of selling the encroached-upon land ought to be considered. First, the state would “compromise” with the squatters who were amenable to purchasing their tracts. Their lots would be valued and sold and their tenure perfected. Second, the government would be empowered to “sell such portions of these lands as are unoccupied by the Indians, and where it is not probable that any settlement would be formed by them – the proceeds of sales in all cases to be paid into the treasury, and to bear interest after a reasonable time from the payment; the interest accruing thereon to be applied in the first instance for the support of the indigent and distressed, and secondly in the way of encouragement to those who would become actual settlers, and abandon their roving habits.”⁸⁶ In effect, Fairbanks' proposal concretized Chearnley's and Uniacke's earlier proposals. Here again were all the hallmarks of a utopian scheme that had turned in on itself: mixed with a deep pessimism regarding the prospects of “settling” the Mi'kmaq was a determination to see the improvement project through via other means, repackaged as a gradual, pragmatic solution. He ended his report with a request to translate his proposal into legislation.

The legislature took up Fairbanks' request with alacrity. Just a month after his report, legislation, titled “An Act Concerning Indian Reserves,” was drafted. Among other things, the act gave the Governor-in-Council the power to order surveys of the reserves for the purpose of determining the quality and extent of “improved lands,” including encroachments. The Act gave the government the power to appoint commissioners who would be responsible for surveying and protecting the reserves. In accordance with Fairbanks' recommendations, the commissioners could use their discretion to sell or lease contested parts of reserve land to squatters if such an action was deemed justified by circumstances; in the absence of such justification, or in the event that an arrangement between parties

⁸⁶ Crown Lands Report, Department of Crown Lands, February 5, 1859, JLANS 1859, Appendix No. 7.

could not be made, the onus was placed on the commissioners to remove the intruders. The commissioners would collect the rent or consideration money from purchasers and place it in a fund where it would accrue interest at the rate of six per cent a year. The money collected would, in order of priority, be earmarked for “the relief of indigent and infirm Indians” or the promotion of settlement and cultivation on reserves. The costs of surveys would be paid out of the fund. Encroachments made on reserves after the passage of the act would be prosecuted.⁸⁷

Despite the speedy passage of the act, the government took its time developing a policy to implement it. As time passed, news of the bill’s passage excited the hopes of settlers across Nova Scotia. By March 1860, Fairbanks had to stave off requests for land by explaining that he had, as yet, received “no instructions from the Government for the sale of any part of the Indian Lands.”⁸⁸ In fielding such letters, Fairbanks was obliged to point out that it was his duty to protect the reserves and to prosecute those who dared trespass on them.

Well before the passage of the act became common knowledge, circumstances compelled one of the trespassers in Margaree to appeal to the authority of government. On July 11, 1859, John Chisholm petitioned Lieutenant Governor Mulgrave for the reserve land in his possession at Margaree Forks. In a detailed letter, he established the facts of his and his late father Archibald’s long-term possession of Lot 16 on the southwestern side of the Forks. In addition to their lot, he explained, the petitioners had cultivated the small forty-acre lot to the north of theirs, “said to be a reserve,” holding it “in undisturbed possession [...] for upwards of thirty seven years.” Their possession of the small lot had only recently

⁸⁷ *An Act concerning Indian Reserves*, S.N.S. 1859, Ch. 14.

⁸⁸ See, in particular, Samuel P. Fairbanks to John McKay, March 6, 1860, Commissioner of Crown Lands Fonds, NSA, Commissioners’ letterbooks series, Vol. 2, 671. On the very same day, Fairbanks sent a similar letter to a Mr. Henry Bishop in response to his queries regarding the sale of lands in Whycomagh. S.P. Fairbanks to Henry Bishop, March 6, 1860, Nova Scotia Commissioner of Crown Lands Fonds, NSA, Commissioners’ letterbooks series, Vol. 3, No. 4.

been contested by “two or three Indians” who demanded its return. Because it had been cleared for pasture and cultivation, the land was “now partly under Crops of Grain, good pasture, and Hay,” and had “become of value to the petitioner.” He continued: “The period occupied by the petitioner, and the deceased Archibald Chisholm, surely entitles him to the protection of Government, and he therefore humbly submits that your Excellency in Council will recommend that a Grant should be issued in the Petitioners favour for this small piece or tract of land on his paying the usual fees as in like cases.”⁸⁹ Entirely sidestepping the question of whether he and his father knew the land in question was reserved for the Mi’kmaq when they first started cultivation, Chisholm pointedly emphasized what had become, in conditions of widespread insecurity and informality, the litmus test for determining one’s moral claim to land: length of occupation and extent of improvements.

On July 30, Fairbanks fielded Chisholm’s concerns. He noted that a grant could not be issued until the government appointed Commissioners to evaluate the claims of intruders. But he assured Chisholm that he would get his chance to defend his claim and “have justice done.”⁹⁰ In the same month, in keeping with his efforts to arrive at an exact figure of the Mi’kmaw population in Nova Scotia, Captain Chearnley commissioned New Brunswick Indian Commissioner Moses Perley to enumerate the indigenous population on Cape Breton Island. Perley’s report, dated August 8, set the number at five hundred and seventy-six individuals. His breakdown of families by district listed three heads of families – perhaps the same three individuals who interacted with Chisholm at the Forks – as residing at Marguerite: Peirre Julien, James Pacques and Charles Maturan.⁹¹

⁸⁹ See the petition of John Chisholm, July 11, 1859, petition papers for Grant 5720, Grant Book 29, pg. 96, Crown Land Information Management Centre, Nova Scotia Department of Lands and Forestry, Halifax, Nova Scotia.

⁹⁰ S.P. Fairbanks to John Chisholm, July 30, 1859, Nova Scotia Commissioner of Crown Lands Fonds, NSA, Commissioners’ letterbooks series, Vol. 2, No. 212.

⁹¹ Mr. Perley’s Report, August 8, 1860, JLANS 1860, Appendix – Indians.

The government set things in motion shortly thereafter. On August 22, 1859, Sir Charles Tupper wrote to Fairbanks to inform him that he would shortly be appointed Commissioner of Indian Reserves under the auspices of the Act. In the meantime, Fairbanks was to travel forthwith to Cape Breton "with a view to collect all necessary information and facilitate the execution of the duties of your office and as far as possible settling the particulars and times of the agreements for sale or leasing of the reserved lands." Tupper directed Fairbanks to seek out the expertise of former Indian Commissioners, Judge Edmund Dodd and Henry W. Crawley, both of whom had intimate knowledge of the natives on the island.⁹² Four days later, Fairbanks was formally appointed Commissioner in Council.

Twenty-eight days later, Fairbanks published his report on the Cape Breton reserves. In a sweeping tour of the island, Fairbanks had travelled first to Sydney to converse with Dodd and Crawley, then to Middle River and Whycomomagh to meet with the Mi'kmaq and the intruders and to assess the legitimacy of the latter's claims. In Middle River, he identified three different "classes" of settlers, the first of whom had the longest claim to reserve lands. This group had unwittingly extended their improvements onto the reserve before surveys had been made. Given their relative innocence and the comparatively small extent of their trespasses, Fairbanks recommended that they be allowed to purchase their holdings at the price of five shillings an acre. The other classes, on the other hand, had recently and knowingly carved out substantial parts of the reserve. To the extent that the claims of these settlers were to be considered at all, Fairbanks argued, they ought to be charged a much higher rate per acre. At Whycomomagh, Fairbanks encountered a patchwork of settlements made by respectable individuals, some of whom had rented their lands from the Mi'kmaq. Most of these settlers deserved to receive grants, too. After visiting Whycomomagh, Fairbanks addressed the situation at Margaree:

⁹² NSA, RG 1, Vol. 159, Nos. 341, 342.

There are two parcels of land, one containing 100 acres, and the other about 50 acres, situate on the Marguerite river, the former occupied by Donald McIsaac, and the latter called the Indian Gardens, by John Chisholm. I did not visit these lots as they were considerably out of my way, and all the information required as to their value, was obtained by the deputy surveyor, who promised to see the parties and endeavour to make some arrangement with them.

Once again, the Margaree reserves were deemed too distant and too marginal to merit firsthand treatment. For reliable information on the state of the reserves – including details on the land's potential productive value and the worth of the encroachers' improvements – officials would continue to rely on local intermediaries.⁹³

Fairbanks noted that the final prices for the lots belonging to each class of settlers would have to be determined by officials. He concluded his report with his thoughts on the utility of reserves. While he was dubious of giving too much credence to racialized theories of Mi'kmaw decline, he was, like Chearnley, pessimistic about the results of the agricultural experiment. However, while pointing to various success stories, he argued that the experiment had failed because the Mi'kmaq had been denied “the powerful motives for exertion which are prompted by the possession of property, by a feeling of security that they can enjoy the fruits of their earnings, and by the knowledge of the fact, that their children are to profit by improvements they contribute to make.” In his view, reserve land ought to be divided into lots, each of which would be valued and sold. The Mi'kmaq were not at fault for the failure of reserves – they had simply not been taught to organize their reserve land in the right way – as individual, or private, property.

Fairbanks made the distinction between reserve land and private property clearer in his conclusion, criticizing the utility of the present method of holding land in trust for the natives:

⁹³ Fairbanks likewise had difficulty reaching Malagawaatchkt, and so he directed a surveyor to visit it to determine its value. As Eskasoni and Chapel Island were free from encroachments, they were not considered; the surveyor mentioned is an apparent reference to the deputy surveyor for Inverness County, John Murphy, who had surveyed both reserves in March and April 1854. See page 143, fn 71, in this chapter.

I think I express a general feeling, entertained in the island, that it is time these lands should be made available for settlement, that the reserving of such large tracts unimproved is injurious, and retards the progress of the country. If it be the policy of the Legislature to escheat those tracts which are held by individuals without performing the conditions of the grant, it follows that the same policy ought to apply to lands which are not only left without improvement but fail to accomplish that object for which they were reserved – the expectation of improving the comfort and condition of the Indians. I must not be understood as recommending an immediate but gradual sale. If disposed of with judgment, they will produce a large amount.⁹⁴

Taken together, Fairbanks comments amount to an eclectic mix of old and new prejudices. His comments regarding the Mi'kmaq's potential to become property holders unwittingly echo the optimistic prognostications of Indian Commissioners from the 1840s – a fact that might have been due in part to his unfamiliarity with the Mi'kmaq and his ignorance of past policy. But, in addition to repeating what had been said before, there is a sense in which he is straining to find a convenient way to frame past failures so as to vindicate the rational kernel of Indian policy. He suggests that past efforts failed only because the purity of their objectives had been diluted in practice by placing restrictions on the Mi'kmaq's full ownership of land. And while his comments on escheat can be read as a cynical effort to invoke the standard tropes of improvement in order to justify indigenous dispossession, his expressed desire to divide entire reserves into individual lots suggests that he hoped to renew the improvement project by returning to its individualist roots. This entailed universalizing private property and casting the Mi'kmaq's deviation from the norm as something that could, and ought to be, remedied. If pursued in the right way, the project of dividing the reserve lands would not only make the land more productive – the ultimate goal of improvement – but would improve the Mi'kmaq through a process of individuation and cultural refinement. As all previous Commissioners knew, such changes to traditional Mi'kmaw culture implied massive breaks with the past, but they were represented as gradual and piecemeal in keeping with a conception of improvement as measured and rational. All of this suggests – and subsequent developments will show – that the policy of selling contested parts of reserves, as it was

⁹⁴ Samuel P. Fairbanks' report of September 19, 1859, JLANS 1860, Appendix – Indian Reserves.

envisioned, was not just a “practical” solution to the problem of squatting, but also a form of what anthropologist James C. Scott calls “miniaturization” – the reproduction of a utopian project on a reduced scale with a view to refining its principles, and reducing the gap between theory and reality.⁹⁵

Despite Fairbanks' gestures towards visions of transformative change, the impetus to move the project forward in an official capacity was lacking. In the following months, the onus fell again on Fairbanks to draft policy particulars. In November, Fairbanks wrote to the provincial secretary to request the services of John L. Tremain, esquire, a respected Justice of the Peace at Port Hood, to help facilitate the particulars of the sale and leasing of lands with settlers on the reserves in his vicinity.⁹⁶ In December, Fairbanks released a series of recommendations pertaining to the reserves on the island, which were later adopted verbatim by the Committee of Indian Affairs. In Middle River, the first class of settlers were to pay seven shillings six pence per acre for their encroachments on Indian land and one shilling per acre for infringed crown land; several settlers of the second class were also required to pay a rate of five shillings per acre for the land they had taken from the natives as well as a similar rate for infringed crown land. The third class of settlers were to be ejected altogether. Similarly, in Whycomomagh, the “respectable” settlers who had encroached on native land in ambiguous circumstances were given favorable rates to purchase; the more recent, more brazen intruders were to be ejected. Much of the land was to be divided into town lots that were to be independently valued and sold off to actual and prospective settlers. Finally, with regard to the trespassers at Margaree, starting with Indian Gardens,

⁹⁵ James C. Scott, *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven: Yale University Press, 1998), 4. Although Scott was largely concerned with “high modernist” projects from the twentieth century, his concept is arguably equally applicable to visions of capitalism in the eighteenth. He sees miniaturization as proceeding from a faith in a utopian scheme that is “unscientifically optimistic about the possibilities for the comprehensive planning of human settlement and production.” He defines miniaturization as follows: “The carriers of high modernism, once their plans miscarried or were thwarted, tended to retreat to what I call miniaturization: the creation of a more easily controlled micro-order in model cities, model villages, and model farms.”

⁹⁶ NSA, RG 1, Vol. 431, No. 104.

the committee recommended "giving the Indians the front, bounding on South West River, for convenience of fishing, (17 or 20 acres) of little other value; and to confirm the remainder to John Chisholm, at 5s. per acre." They added: "The lot occupied by Donald Mclsaac, who bought from McRae, to be sold to him for 5s. per acre, reserving to the Indians the Island, unless it should be very inconvenient to separate it from the farms."⁹⁷ The reserves had been rescued from oblivion only to be reduced to a shadow of their former extent.

As Fairbanks had passed over Margaree in his tour of the Cape Breton reserves, his decision to sell the majority of the holdings to Chisholm and Mclsaac must have been based on evidence collected by his deputy surveyors or gleaned from former Indian Commissioners Henry W. Crawley and Judge Edmund Dodd. Certainly there is nothing in the description of the geography and material uses of the reserves – the significance of the Indian Gardens for fishing, for instance, or the significance of the island for the Salomes – that could not have been obtained from Dodd and the Crawleys or from previous correspondence on file. To all appearances, the Mi'kmaq were not made parties to the decision to sell the reserves. Given the duration and extent of the dispossessions – the Salomes, it will be recalled, had been identified as residing in faraway Chéticamp in 1847 – officials might have considered the abandonment of the reserves a *fait accompli*. In that case, the decision to set aside fragments of the former reserves might have been conceived as a strictly *pro forma* exercise. On the other hand, as the early history of Lot 7 shows, “abandonment” was a culturally constructed term. Although we cannot know for certain whether the Mi'kmaq continued to frequent the Indian Gardens and Lot 7 as they had done in the past, it is entirely possible that they persisted in the face of threats, making substantial clearings. In such a scenario, the reduction of their lands to fragments might equally have flowed from Fairbanks' determination to reorganize reserves according to the criterion of productivity. The small size

⁹⁷ Samuel P. Fairbanks' December 3, 1859 memo on the Cape Breton reserves, NSA, RG 1, Vol. 431, No. 105; Report of the Committee of Indian Affairs, JLANS 1860, Appendix – Reports of Committees.

of the reserve at the Indian Gardens, then, might have been a functional expression of its value conceived in unitary terms.

Perhaps the most revealing detail in the report, however, is the claim that Donald Mclsaac “bought from McRae.” As a standalone claim that cannot be corroborated in other historical sources, it lends support to the conclusion that Fairbanks gathered information on the reserves from a select few local intermediaries. Although we cannot know if it is accurate, it provides some grounds to believe that an informal sale of Lot 7 was in fact made. Assuming that it is accurate, we can infer a number of possibilities. The most plausible scenario is that Mclsaac arranged an informal sale with Samuel Campbell, the merchant who had purchased the warrants of survey for Lots 5 and 7 from Hugh MacDonald in 1852. In 1855, Mclsaac deeded his inheritance, the lower half of Lot 6, to Campbell for five shillings, and it is possible that he negotiated the sale in return for Campbell's acquiescence to his adverse possession of Lot 7. Certainly, the trivial sum offered for the lot suggests that it was a pro forma exercise to transfer legal title to Campbell; it might have been accompanied by an informal deed for Lot 7, and money may have passed from hand to hand. Given that deputy surveyor John Murphy had been despatched to the area the year before to survey the bounds of the reserve, the decision not to register the transaction might have been a calculated move by both parties to avoid scrutiny. Alternatively, Duncan McRae's wife and son, Janet and Alex McRae, might have sold their 1837 warrant of use for the one hundred acre rear of Lot 7 to Mclsaac, or McRae himself might have arranged to sell his invalidated quitclaim deeds to both Mclsaac and Angus MacDonald. We can speculate as to whether the McRaes might have represented the land as including the island and the one-hundred-acre front of the lot, but the fact remains that neither scenario would alter our picture of the impetus for dispossession. Whatever the case may be, the claim that Mclsaac “bought from McRae” provides further evidence of a distinctly subterranean dynamic of dispossession in post-1831 southwest Margaree.

Although the parameters for effecting sales of the reserves were in place, efforts still had to be made

to bridge the physical as well as cultural distance between Margaree and Halifax. On February 6, 1860, John Chisholm wrote to Fairbanks acknowledging the reply to his petition and inquiring into the status of his grant request. In his reply, Fairbanks pointed Chisholm to the report on reserves that had just been published, adding that the surveying of reserves was complete; even so, Fairbanks indicated that pressing the issue would have to wait until William Young's newly elected Liberals had taken up the reins of government. In June, Fairbanks was instructed to take action on the Wagmatcook reserve. In August, local teacher John Munro wrote to Fairbanks on Chisholm's behalf to inquire about the grant. Fairbanks replied that Chisholm would "receive a grant as applied for, upon the same terms with other parties." The government, he noted, had been informed of his situation.⁹⁸

In late September, John Chisholm sent a final letter to Fairbanks with an enclosed petition to the Lieutenant Governor. Therein, Chisholm summed up previous correspondence with the Commissioner of Crown Lands and highlighted the Commissioner's recommendation that the petitioner be given a grant of the major part of the reserve at the rate of five shillings per acre. Then he laid out his grievances:

The Petitioner is now called upon to represent to your Excellency in Council, that any interference on any reserve to the Indians as recommended by the committee to these lands or any grant thereof has already turned out a very great loss to the petitioner as well as to the Neighborhood by dogs generally kept by Indians for they invariably when coming to encamp, bring with them these dogs who destroy the flocks of sheep – This destruction has greatly increased within these two years, for many years previously an Indian was seldom seen on the reserve.

The Petitioner as well as his neighborhood are also seriously injured by the depredations of Indians by the destruction of fence poles being pulled down and burnt for fire wood in addition to which many other liberties unwarrantably are used. This source of destruction was reported to your Excellency personally when at Margaree last year, by a respectable Magistrate then living, who was well acquainted with all the depredations committed by this unsettled tribe of Indians.

Chisholm went on to reference government statistics on the number of Mi'kmaq in Margaree, pointedly observing that, although the government listed three families as settled there, their presence at the

⁹⁸ NSA, RG 20, Series "C," Vol 3, 172.

Forks in 1859 was limited to “a very few weeks only.” Most took up residence in Chéticamp, a fishing community far north of Margaree, for the majority of the year. Chisholm concluded with a request that the entire reserve be granted to him. This request was followed by the supportive signatures of various “freeholders and other inhabitants of Margaree” who also attested to the various ravages to property caused by the Mi’kmaq. In his cover letter to Fairbanks, Chisholm reiterated this request, stating that the actions of the Mi’kmaq precluded the possibility of sharing the same land.⁹⁹

After a protracted period of ten months, the government finally moved to put arrangements in place for the squatters. In its annual report in 1861, the Committee of Indian Affairs recommended that the government and the Commissioner of Crown Lands tackle the question of the reserve lands. On January 15, Fairbanks released his annual report as Commissioner. Among other things, he suggested that, given the discrepant soil quality on the island and the attendant difficulties in determining a uniform rate per acre, the task of valuating and reporting on the reserve lands should fall to local officials. Fearing that the valuations of officials might exceed the squatters’ ability to pay, Fairbanks recommended that the government arrange to have certain settlers pay off their debts over time, with interest. In such cases, grants would be held back until settlers paid off their balances. As for the Mi’kmaq, their lands would, as planned, be divided into lots, with each lot assigned to the head of a family. But instead of giving Mi’kmaq family heads an absolute grant of property in freehold tenure, Fairbanks argued, they should receive a lease of the land with a prohibition on its alienation to non-Mi’kmaq. Here again was the old

⁹⁹ The petition is rich in details regarding the role of community players in the conflict. The “respectable Magistrate” might have been Judge Edmund Dodd. The signatures included the names of powerful individuals such as Justices of the Peace Samuel Campbell, Henry Taylor and Sam Laurence. Chisholm’s cover letter to Fairbanks even references a meeting between Chisholm and Fairbanks in Halifax wherein Chisholm was reassured that a grant was to be received upon the payment of the usual fees. Such contacts no doubt went a long way in influencing the outcome of Chisholm’s grant. They were part and parcel of an integrated system of supports that benefitted white, property-holding settlers at the expense of the Mi’kmaq. See the 1860 petition on John Chisholm, petition papers for Grant 5720, Grant Book 29, pg. 96, Crown Land Information Management Centre, Nova Scotia Department of Lands and Forestry, Halifax, Nova Scotia.

fear that the Mi'kmaq were constitutionally incapable of knowing what to do with property; if one did not put conditions on the use of the land, Fairbanks thought, the Mi'kmaq would simply sell it for alcohol or trifles. A total volte-face from his previous comments, Fairbanks' recommendation shows that the stated rationale for dividing the reserves was secondary to the need to revive the old gradual civilization scheme from the 1840s.¹⁰⁰

In the summer, in accordance with Fairbanks' proposal to work through local officials, Deputy Surveyor William Hendry was dispatched on a round trip through Port Hood, Mabou, Margaree, Middle River and Baddeck with the express mission of arranging terms of sale with squatters. After visiting with surveyors in Port Hood and Mabou, Hendry joined Judge Edmund Dodd and Lieutenant Governor Mulgrave at Margaree Harbour. He stayed the night, taking time to sit with Judge Dodd and go over his notes on the Indian reserves. In the morning, he walked all the way to Margaree Forks to meet John Chisholm and make arrangements for the sale of the reserve land. While there, he had time to canvas the land in contestation. The description that found its way into his letter to Fairbanks painted a picture slightly at variance with the claims of Chisholm's 1860 petition:

This lot as you are aware is said to contain 50 as. I travelled over it and do not think it contains as much. It is entirely cleared of wood but not under cultivation. The soil is of an excellent quality and worth much more than \$1.00 the acre; but as the legislature have agreed to that sum, the poor man who has expended labour on it should have the benefit of the low price. I have agreed with him that he is to have a title from the Government on payment of \$12. – two acres to be reserved on the bank of the river as a fishing and camping ground for the use of the Marguerite Indians. Judge Dodd has approved of this arrangement. Chisholm requests about a fortnight to raise the money; at which time I will send such document as will enable you to report in favour of this man having his title confirmed by grant from the Crown.

¹⁰⁰ This kind of incoherence is not untypical for utopian schemes based on a form of political faith. Most analyses of such systems focus narrowly on creeds and belief systems in the twentieth century and on. See, for instance, Michael Burleigh's work on the so-called "political religions" of Nazism, fascism and Stalinism. I argue that such analysis can be, and should be, extended to ideologies in the nineteenth century. Some might argue that such an equivalency is misplaced, but I argue that the ideology underpinning agricultural transformations was every bit as destructive as these ideologies. It is easy to fall into the trap of downplaying the destructive effects of these ideologies by accepting their self-image as gradual, incremental, deliberative and rational.

After finalizing matters, Hendry acquired a horse from Chisholm and travelled upriver to Lot 7. In stark contrast with the decision to maintain a small two-acre reserve at the Forks, Hendry determined that the entire reserve ought to be sold to Mclsaac. Like Chisholm, Mclsaac would pay the full sum of the grant in two weeks' time.¹⁰¹

Hendry's letter provides further evidence that Fairbanks and his deputies exclusively relied on the advice of a few local sources – namely, Judge Dodd – as well as previous reports and the testimony of the squatters themselves in order to arrive at their conclusions regarding the reserves. There are no indigenous interlocutors in the account of his fact-finding mission. When addressing Mclsaac's lot, Hendry matter-of-factly states that "the Indians do not want the island." He offers no source for his claim, noting only that the island "is intervale, and Judge Dodd approves of selling it with the upland."¹⁰² Likewise, the drastic reduction of the Indian Gardens from around fifty to two acres appears to have been a policy decision made in Halifax and at Margaree Harbour without indigenous input. Ultimately, it was the relative marginality of the reserves, both in terms of distance and value, and their thoroughgoing dispossession outside the remit of the government, that allowed officials to make these decisions. Unlike the situations at Wagmatcook and Whycomomagh, where Mi'kmaq and settlers contested each other's claims in close proximity to each other well into the 1850s, officials probably saw the absence of the Mi'kmaq from the area – what was in fact their displacement – as a sign that they had few stakes or connections to the land.

In accordance with what was agreed to, Mclsaac submitted a formal petition to Mulgrave on July 27, 1861. Fairbanks approved the petition on August 21, recommending a grant of the lot on the payment of

¹⁰¹ William Hendry to Samuel P. Fairbanks, July 4, 1861, NSA, RG 20, Series "C," Vol. 60, Folder July-Dec 1861.

¹⁰² In his final report in 1862, Hendry acknowledged Judge Dodd's explicit role in arranging the terms of John Chisholm's grant. JLANS 1862, Appendix 30.

a balance of one-hundred and twenty pounds.¹⁰³ On September 6, Fairbanks approved Chisholm's 1860 petition. On September 20, both Mclsaac's and Chisholm's petitions were approved by command by provincial secretary Joseph Howe. On December 20, 1861, John Chisholm received a grant of twenty-eight acres of Indian Gardens for the sum of fifty pounds. According to the agreement made with Hendry, two acres were reserved for the Mi'kmaq. Mclsaac's grant did not pass in the same period as planned, probably because the issuance of the grant was contingent on the payment of a balance of one hundred and twenty pounds, which Mclsaac was unable to pay in one instalment.

In his final report on the Cape Breton reserves, dated February 8, 1862, William A. Hendry made no mention of any outstanding payment. Instead, he recounted his trip to Margaree and reported that both Chisholm and Mclsaac had paid for their lots and received their grants.¹⁰⁴ According to Hendry, the case was closed. In the years leading up to Confederation, neither Hendry nor Fairbanks nor any other official in the Crown Lands and Indian Affairs departments would make a reference to Mclsaac or Chisholm again.

What, then, happened to Mclsaac's grant? In an island where squatting was universal, it seems that the informality of social relations in Margaree was allowed to prevail over formal legal procedures. Again, the marginality of distance and value aided and abetted things. Once arrangements had been put in place for Mclsaac and Chisholm, the two were quickly forgotten. After 1862, energy was invested in disposing of the much more substantial and valuable lands at Wagmatcook and Whycomomagh. At these reserves, Fairbanks' and Hendry's aspirations to turn natives into property-holding subjects by dividing

¹⁰³ As Mclsaac's petition papers have not survived, all of this information, including details confirming the length of Mclsaac's occupation of the lot, come from petition abstracts recorded by the province.

¹⁰⁴ In his report, Hendry lists Chisholm's and Mclsaac's respective petition numbers – namely, 5423 and 5424 – as well as the respective price that each paid for their land: fifty pounds and one-hundred pounds. It is possible that Hendry had simply assumed that Mclsaac had paid his fees. There is no extant record of a grant in Mclsaac's name at the Crown Land Information Management Centre, Nova Scotia Department of Lands and Forestry, Halifax, Nova Scotia.

their land into individualized lots were given more explicit formulation. In his report of February 8, Hendry painstakingly undertook to value all of the encroachments of each class of settlers in Middle River and Whycomomagh. The planned division of the land into lots, he remarked, was a well-established practice in Ontario. He was convinced of the benefits that would result from the policy even if the natives were not: paternalistically, he chalked up opposition to division to ignorance which could, with intervention and guidance, be gradually overcome: “In the business of cultivating soil and accumulating property the Indian is but a child, and requires aid and protection until he can go alone.”¹⁰⁵ Hendry saw native relationships on the land as an antiquated form of holding property “in common.” Even though Hendry ascribed this form of tenure to the Mi’kmaq as a defining characteristic (or a constitutional defect) of their race, he held firm in the conviction that the Mi’kmaq could be reformed through education and example. In particular, the trust fund established from the sale of reserve lands could serve as an instrument for bringing about a gradual transition from common to individual property:

From the sale of lands not occupied, or of any tangable [sic] value to the Indians, a fund of six or seven thousand dollars may be raised, which, with judicious management and proper economy, could be laid out in the erection of homes for each family, to be held under conditional leases or grants, securing to each the enjoyment of his own labour and the certain possession of property, which could not be interfered with by others of the tribe, – encouraging habits of self-reliance and individual exertion, which could gradually grow into feelings of independence and citizenship.¹⁰⁶

Both Fairbanks and Hendry hoped to draw from the trust fund established from the sale of reserve lands to fund their plan to divide reserves into lots – after all, it had been established for the express purpose of providing relief to the sick and supporting indigenous efforts to settle and cultivate the land. But by 1863, Fairbanks was well aware that the trust fund was not working as planned – a substantial number of former squatters were behind in their payments.¹⁰⁷ Still, Fairbanks maintained a rosy view of the fund’s potential. In his view, the settlers only needed some time to pay the full sums; the money,

¹⁰⁵ See the undated Report of the Committee of Indian Affairs, JLANS 1862, Appendix 30 – Report of Indian Committee.

¹⁰⁶ Ibid.

¹⁰⁷ See the Crown Land Office’s February 9, 1863 report on Indian Affairs, JLANS 1863, Appendix 16.

when received, would generously provide for the welfare of the natives.¹⁰⁸ In the same year, scaling down his earlier predictions, Hendry cheerily projected that the sale of reserve lands would generate a total of \$4813, even though only \$1549 had been placed in the treasury to date. Despite their optimistic predictions, the fund would never quite reach the level expected: by December 31, 1864, the balance at credit stood at \$1067, reduced from an initial sum of \$1666; by 1 April 1866, it stood at \$1198.11. Ruing the negligible increase in the last two years, Fairbanks advocated publishing a circular that would force the settlers to pay their outstanding balances. By April 1867, the fund stood at \$1790.70, and Fairbanks was again forced to report that a substantial amount was still outstanding; settlers from Victoria and Inverness counties in particular were well behind in their payments. By the time of Confederation, then, the policy of pre-emption and alienation of reserves had failed spectacularly to achieve one of its primary goals: to improve the lives of the Mi'kmaq. The "gradual" increase in the trust fund which Fairbanks and Hendry had envisioned failed to materialize, whereas the alienation of Mi'kmaw land had been undertaken swiftly and in a wholesale fashion: by 1864, 10,457 acres remained of the 12,205 acres which had been reserved for the Mi'kmaq thirty years earlier.¹⁰⁹ By December 31, 1866, the number had declined to 9580 acres – a twenty-five per cent reduction of the land base.¹¹⁰

Because of their marginality, the Margaree reserves could be extinguished in a wholesale fashion. Lot 7 was completely extinguished, while the Indian Gardens were all but extinguished – reduced from fifty acres to a narrow enclave of two acres. Ostensibly the result of executive fiat, this state of affairs was made possible by a half century of neglect. Located far from the centres of power and accorded little

¹⁰⁸ "There will soon be a fund in hand," he wrote, "sufficient to aid those who are willing to farm, in purchasing seed and stock; and it will not be the fault of those who are thus generously disposed to make those provisions for their welfare, if in future the condition of the Indians throughout the province is not changed for the better." *Ibid.*; see also the Crown Land Office's February 1, 1864 report on Indian Affairs, JLANS 1864, Appendix 37.

¹⁰⁹ See the Crown Land Office's February 1, 1864 report on Indian Affairs, JLANS 1864, Appendix 37.

¹¹⁰ See the Crown Land Office's December 31, 1866 report on Indian Affairs, JLANS 1867, Appendix 6.

priority by officials, the reserves received none of benefits of the government's protectionist policies and were left all the more vulnerable to local conflicts. The precarity of their situation only increased with the introduction of sale by public auction in 1827 and 1831. Here was a *laissez faire* policy par excellence: the express intention was to raise the price of land above what most settlers could afford and thereby artificially create a source of labor to attract foreign capital to the colony; once a sufficiently restrictive price was put in place, the rest was supposed to work itself out on the ground. Such a policy could not but produce a number of complex, unanticipated and initially imperceptible effects. On the southwest branch of the Margaree, previous patterns of inequality and class conflict intensified, spilling over into Lot 7. Likewise, at the Forks, the protections of freehold tenure counted for little as insecurity and informal possession proliferated. In keeping with previous patterns of neglect, both dispossessions were left unchallenged for more than a decade before anything was done to secure the reserves. Of course, similar eruptions, responding to the same incentive structures, broke out on the other reserves in the same period. Over time, the short-term effects of the policy led to long-term changes that transformed the way the overall system functioned and constrained the ability of the government to respond.¹¹¹ This dynamic is perhaps most clearly discernable in the government's belated, and ultimately ineffectual, response to the growing problem of squatting, which it treated as a legal problem that could be solved through legal means. By the end of the first half of the century, efforts to revive and deepen the on-reserve agricultural schemes were completely undercut as the government was forced to devise a solution to the "universal" incidence of squatting on the Crown lands of the island. Here again, the disposal of the Margaree reserves was treated as an afterthought; decisions were made based on the representations of local officials and even the squatters themselves – a testament to the primacy of the local in shaping dispossession. The story of the Margaree reserves provides a unique window onto

¹¹¹ For one, the adverse impacts of the policy had long term generational effects on families.

the operation of the government's incentive structures in a remote region, disclosing a relatively unclouded glimpse of the logic of social property relations that drove dispossession elsewhere on the island.

At and after Confederation, the informality of social relations at Margaree continued as before, determining how land passed from hand to hand. In 1867, Mclsaac sold his claim to a seventy-acre part of Lot 8 to Alexander McDugal, a settler from Broad Cove Marsh. The land was situated behind Lots 9 and 10 on the western side of the river and comprised part of the land allotted to Donald McVarish in 1828; as such, it was partly contiguous with Lot 7. Mclsaac had purchased the land from Duncan McDonald of Golden Grove in 1839, although the transaction was not registered formally until 1864. By 1871, in his well-known map of Margaree, Ambrose Finson Church plotted McDugal's and Mclsaac's residences alongside each other within the bounds of the "Indian Reserve."¹¹² This anomalous reference to a reserve that no longer existed was probably just a local survival; in mapping the area, Church likely relied on the knowledge of locals for whom the reserve still existed in memory and who, ignorant of Mclsaac's pretensions to the land, continued to refer to the lot as the "Indian Reserve." Other grants and documents from the period completely omit reference to the indigenous presence in the area.¹¹³ On June 8, 1876, Donald McVarish, the Scottish farmer who resided on Lot 8 and who for a time was embroiled in the competing claims to the alder island attached to Lot 7, deeded the entirety of his one-hundred-acre lot to farmer Hugh McFarlane for one dollar. As had become standard, the deed described

¹¹² McDugal's inclusion in the reserve could have been a simple mistake – the land that McDugal purchased from Mclsaac was situated one lot over from Mclsaac's, in Lot 8, formerly occupied by Donald McVarish. See the inset on Margaree on Ambrose Finson Church's Topographical Township Map of Inverness County, NSA, Map Collection, 239-1883/89.

¹¹³ In the same year that Church completed his map, Samuel Campbell received his grant for Lot 6 – the land is described and situated vis a vis "Donald Mclsaac's land"; James H. Austen's plan of the same represents Lots 7 and 8 as belonging exclusively to Donald Mclsaac and Roderick McVarish, respectively. Inverness County Registry of Deeds, NSA, RG 47, Book 43, 131. Several additional maps of the area drafted by Austen and others in the 1870s on represent Mclsaac and McVarish as the exclusive titleholders of the land.

the lot in terms of its position vis-à-vis neighbouring claims: to the south was newcomer James Carroll's lot, to the west lived the heirs of Donald Gillies, and in the north were "the Lands of Donald Mclsaac." As one deed among many, certain to be superseded many times over in the future, it was just another snapshot of the shifting patterns of ownership on the Margaree, evincing both patterns of change and continuity – patterns from which traces of the Mi'kmaw presence on Lot 7 had now been thoroughly extinguished and expunged.

Postscript

Years after Confederation, on January 27, 1883, Indian Agent D. M. Mclsaac, stationed in River Inhabitants in Inverness County, sent a memo and a letter to L. Vankoughnet of the Department of Indian Affairs on behalf of the Mi'kmaq, writing, "Sir, I beg leave to inform you that Indians from Whycomagh and Margaree come hither requesting me to write to the Department to ascertain whether a Grant of Land made by the Nova Scotia Government twenty years ago of fifty acres of Ind. Lands to a John Chisholm of Margaree Forks in this county can be broken." Probably ignorant of the previous extent of the Mi'kmaw claim, he added, "The Land in question was adjoining & part of the small Indian Reserve of 2 acres reserved for the Indians of Margaree Forks." On February 9, the Assistant Deputy of Superintendent General Vankoughnet replied, asking Mclsaac to determine whether the two-acre reserve was included in the grant of fifty acres to Chisholm – which, as we know, it was, presenting a potentially intractable, Kafkaesque problem for those Mi'kmaq who wanted to base their claim on the erstwhile reserve.¹¹⁴ The letter is a stark reminder that the Mi'kmaq had an entirely different conception of and relationship to the land, a "time immemorial" claim to harvest its resources, one which was thoroughly, but not completely, subjected to another mode of production. Mi'kmaw relations to the land were resilient.

¹¹⁴ Library and Archives Canada, RG 10, Vol. 1967, File 5163-2.

Today, the Indian Gardens is called Margaree Reserve No. 25 and it is administered by the federal Department of Indigenous Affairs. It is a two-acre box of land on which stands a small wooden cabin. The title to the land was transferred to the federal authorities. In 1957, based on a number of instruments passed in the mid-eighteenth century, the Minister of Indian Affairs created the new band, 28 Wagmatcook, under Section 17 of the Indian Act. Margaree Reserve No. 25 was allotted to the new band, which also was given jurisdiction over Wagmatcook 1 and Malagawatch 4, the latter of which is shared by all of the Mi'kmaw nations in Nova Scotia. The reserve is still used for fishing.

Lot 7, on the other hand, is completely extinguished. On April 18, 1896, Donald Mclsaac deeded one hundred and fifty acres of his front lot, as well as a fifty-acre patch of land that he had acquired on Lot 8, to his sons, Archibald and Hugh Mclsaac, for the consideration of eight hundred dollars. Two days later, he deeded the one-hundred acre back lot and the remaining fifty-acre strip of his front lot to farmer James McNeil for two hundred dollars.¹¹⁵ In both cases, the owners would convey their holdings to their kin later in the twentieth century. Since the land was never granted to an individual, instead passing unchallenged from one generation of squatters to another, the Nova Scotia Crown decided to release interest in the land in the 1980s.¹¹⁶ That informal possession of the land has continued, through generations, to the present day.

¹¹⁵ Deed from Donald Mclsaac and his wife to Archibald and Hugh Mclsaac, recorded July 1, 1896, Inverness County Registry of Deeds, NSA, RG 47, Book 9, Page 544; Deed from Donald Mclsaac and his wife to James McNeil, Recorded July 1, 1896, Inverness County Registry of Deeds, NSA, RG 47, Book 9, Page 546.

¹¹⁶ Official land documents bear testimony to this fact, being emblazoned with the name of the certificate of release, "Certificate 746." "Certificate 746," covers Lots 7, 8 and 9.

Conclusion: Subjugating Subsistence, Creating New Needs

This thesis has argued that aboriginal dispossession in Nova Scotia was part of a global process of capitalist incorporation of the countryside, involving historically unprecedented transformations in the organization of land, labor and resources. For many, this claim may appear counterintuitive, if not ridiculous. Today, Antigonish and Margaree, to take but two examples, are far from bustling hubs of industry; those familiar with their small-scale character might balk at the suggestion that they are, or were, the sites of significant capitalist transformation. They did not have anything resembling the highly capitalized tobacco plantations of the colonial Chesapeake colonies, the large cotton plantations of the Mississippi delta, or the massive river valley factories and workhouses of Scotland and England. Yet these small, largely rural subsistence settlements were still incorporated into that rapidly changing, increasingly more interdependent world in myriad and unique ways.

From the beginnings of European colonization of the northeastern Maritime region, commercialization preceded, and then complemented, settlement: the two became inextricably entwined. The first colonization ventures in Mi'kma'ki were directed by conglomerations of private interests backed by monarchical states. For many, settlement was an afterthought to the pursuit of the fisheries and fur trade, both of which had been prosecuted by an assortment of private European interests for more than a century. The Mi'kmaq became important actors in the fur trade in particular, adapting their hunting, fishing and gathering system to take advantage of opportunities for trade and status enhancement. Indeed, the Mi'kmaq arguably retained uncontested, decisive control of their traditional territories well into the seventeenth century, when imperial rivalries and war began to intrude more forcefully than before. As John Reid has pointed out, imperial efforts at colonization simply refused to “take” until the eighteenth century, dissolving into disputes between the private interests that served as the proxies of European imperial Crowns. However, the impetus towards

commercialization remained strong even as nominal imperial authority over the region switched hands, as demonstrated when the French reclaimed control of Acadia from Thomas Temple's New English regime in 1670 and were soon forced to come to terms with the colony's economic ties to New England. From the beginning, the global inhered in the local, and it had a determinative influence on how subsequent settlement was structured.

Although the Mi'kmaq adapted their traditional lifeways to incorporate opportunities to trade with and acquire prestige goods from Europeans, they were not unaffected by some of the more damaging and intrusive aspects of commercialization. As William Wicken has shown, the increasingly more frequent onshore and offshore presence of New Englanders in southwestern Nova Scotia often proved intrusive enough to cause the Mi'kmaq to retreat further into the interior.¹ Likewise, as John Reid has demonstrated, the absence of concentrated immigration and settlement was no buffer against dislocation: commercial hunting in Cape Breton, long held as a commercial reserve by the French, had as destructive an effect on indigenous subsistence patterns as settlement – if not more so. This potential for disruption and even destruction of indigenous lifeways was perhaps most vividly illustrated by the Beothuk, whose response to the increasing presence of commercial activity on the coasts of Newfoundland was to retreat further inland, thereby ceding territory and critically endangering the basis of their subsistence economy.²

Settlers were just as vulnerable to the effects of commercialization. As Rusty Bittermann has shown in the case of Middle River, the first immigrants to settle towns and villages were often those who had, or were able to acquire, access to resources and capital. As firstcomers, they laid claim to the best resources and disproportionately influenced the manner in which the rest were divvied up among those who followed in their footsteps. Often, they were, or became, powerful officials and merchants who

¹ Wicken, *Tall Sails and Tall Tales*, 265-6, 272.

² Pastore, 56-7, 67-9, 71.

combined political influence with economic power. In the case of the town of Caermarthen, at what is now Margaree Harbour, early farmers and merchants – often they were both – established a centre of influence where wealth and power were parlayed into the accumulation of property and prestige, typically in the form of town lots and positions of influence in the wider community. The wealthiest farmers and merchants were both a boon and a bane to subsequent settlers and farmers, advancing them much-needed goods and tools on credit to help them get off the ground, and using their political power to squeeze them when debts had to be collected or property protected, paid for and passed on. As others have pointed out, these merchants received their goods from, and were generally sustained by their connections to, a broader North Atlantic market.

Placed within a broader perspective, the commercialization of the Maritimes necessarily loses some of its lustre. The Maritime colonies were not subjected to massive experiments in plantation agriculture, but they were still part of a larger network of acquired overseas territories that together served to enable the historically unprecedented “transformation of the global countryside” in the sixteenth, seventeenth, eighteenth and nineteenth centuries. In describing the genesis and character of “war capitalism,” the violent insertion of private European interests into local and global trade networks, which he views as a prelude to the emergence of industrial capitalism, Sven Beckert highlights the critical role of “privatized violence” in maintaining European states’ tenuous control of overseas possessions. It was private actors who largely determined the form, nature and scope of these increasingly more interconnected local and global transformations.³ Seeing as these attempts at seizing control of local production ran into complications, often falling short of their aims, it is not always clear why the conflict and instability characteristic of the Maritime region ought to be singled out as exceptional. Clearly, as John Reid has shown, the constant shifting of imperial political and economic

³ Sven Beckert, *Empire of Cotton: A Global History* (New York: Alfred A. Knopf, 2014), 30-31, 33, 37.

regimes in Mi'kma'ki in the seventeenth century had a decisive influence on subsequent events, but the prioritization of commerce over settlement was not unique to these attempts at colonization, and cannot, in and of itself, be relied upon to explain the region's "underdevelopment." As other scholars have pointed out, the much-remarked-upon "occupational pluralism" that characterized and still characterizes the Maritime region was, to a certain degree, a feature of all British settler colonies where "traditional" and "modern" economic modes were pursued together in order to forge an existence in the countryside.⁴

From their inception, then, the predominantly rural, subsistence-based communities that formed the core of settlement in British North America were structured by the commercial interests of the broader North Atlantic world. But commercialization did not necessarily mean capitalism. Although land and labor in the Americas were subjected to the influences and transformations of an emergent capitalism to widely varying degrees from at least the late sixteenth century, and especially so after 1780 with the take-off of industrial capitalism in parts of Britain around 1780, capital made few inroads in the northeastern region of empire until after the end of the Seven Years' War, when the British introduced policies for the "profitable settlement" of the colony. Amid the settlement of New England planters and a land boom fueled by speculative interests, which alienated large swathes of Mi'kma'ki, the British introduced land policies that aimed to bring the contours and character of settlement in line with the dictates of "improvement." This system, which was intermittently enforced, was known as the "free" grant policy: it mandated the parcellation of Mi'kma'ki, now held to be an immense reserve of Crown lands, to prospective settlers on the basis of their loyalty as British subjects. The policy was largely a

⁴ John Lutz has aptly referred to the persistence of both traditional and modern economic modes under capitalism as "the moditional economy." Citing the work of Ruth Sandwell, Daniel Samson, Gérard Bouchard and José Igartua, Lutz concludes that the moditional economy was "shared by rural Canadians everywhere." John Sutton Lutz, *Makúk: A New History of Aboriginal-White Relations* (Vancouver: University of British Columbia Press, 2009), 23-4.

misnomer, however: petitioning for a grant was a protracted process involving the payment of substantial fees, fees that often exceeded the ability of settlers to pay – a situation exacerbated by the imperial administration's unsuccessful attempts to generate revenue by experimenting with systems of public sale. Settlers were also required to “improve” – that is, bring under profitable cultivation – a certain number of acres by a certain time or their claim to the land would be rescinded. This impulse to generate revenue from Crown lands eventually gave rise to the singular pursuit of sale by public auction in 1827 and 1831, a disastrous policy whose worst aspects were trimmed away by various colonial administrators until its eventual abrogation. If the goals of “improvement” were somewhat inarticulately phrased under the free grant system, the same cannot be said of sale by public auction, which was explicitly framed as an attempt to swell the ranks of wage laborers – and thereby attract foreign capital to the colony – by artificially restricting the availability of land.

At heart, these policies were concerted attempts to shape certain kinds of behaviour and in so doing create certain kinds of people. They combined incentive structures with disciplinary forms. Settlers were compelled to improve their lands on the pain of losing them. Stringently defined productive outcomes were to be carried out over a definite period, investing economic compulsion with a significant element of time discipline.⁵ In a sense, land was treated as a kind of investment, and grants were analogous to a form of credit that had to be repaid in the future with quantifiable productive output.⁶ In much the same way, the imperial administration's later attempts to generate revenue through sales treated settlers as raw human material that could be acted on to elicit or coerce productivity. Under the policy of sale by public auction, attaching a “sufficient price” to Crown lands was calculated to deprive settlers

⁵ The classic work on this subject is E.P. Thompson's brilliant article, “Time, Work-Discipline, and Industrial Capitalism,” *Past & Present*, Vol. 38, Issue 1 (December 1967): 56-97.

⁶ This conception of land arguably reached its apogee in the 1860s, when Commissioner of Crown Lands Samuel P. Fairbanks approvingly cited escheat procedures in developing his rationale for the division and sale of unproductive indigenous lands.

of the means of acquiring land, forcing them to pursue waged work on established farms. It was thought that such a system would bring about a more profitable capital-wage labor ratio among what were predominantly smallholding communities, in the process attracting foreign capital to develop the colony. In their drive to increase productivity, these policies bear a structural resemblance to the techniques of labor management and control that were developed and systemized on plantations and in factories elsewhere in the British Empire. They also demonstrate a recognition that the conditions for capitalism needed to be created. Imperial officials attempted to bring about capitalism through the cultivation of artificial scarcity and the creation of new needs. In order to create new needs, “traditional” patterns of subsistence had first to be destroyed, or at least made subservient to a new logic. This “preserve-and-destroy-dialectics of capitalism” targeted both indigenous and Euro-American forms of subsistence, albeit in distinct ways.⁷

Indeed, the instances of indigenous dispossession studied in this thesis show that indigenous and settler dispossession were often imbricated processes. Both the “free” grant and the post-1831 periods were characterized by certain patterns and modalities of dispossession that affected the Mi'kmaq and settlers in remarkably similar ways. Under the “free” grant system, dispossession could be effected through legal means, as when settlers, in their capacity as subjects of the Crown, petitioned for lands that lay “unimproved” and “unsettled.” Such forms of legal dispossession were common tactics in situations where several settlers had an interest in the same plot of land. (Title was ultimately of secondary importance compared to improvement.) The Mi'kmaq, too, were obliged to appeal to the Crown in order to secure plots of land, and their holdings were often subject to the same kind of counterclaims. Of course, indigenous claims were particularly vulnerable to legal usurpation as

⁷ Capitalism’s drive to create new needs has been richly discussed in Marxist historiography on capitalism. See Marx’s *Capital*, Part 8, “So-Called Primitive Accumulation,” 873-940; John Sutton Lutz’s apt phrase neatly captures these tendencies. John Sutton Lutz, *Makúk*, 25.

indigenous forms of land use and occupancy were not recognized as “improvements.” Beginning under the “free” grant policy, “squatting” became an acute problem, and while it had many causes, the wholesale alienation of land to absentee proprietors and speculative interests and the prohibitive costs of grants and experiments in sales were the most disruptive factors. Mi'kmaq and poor and middling settlers alike were subject to the spatial dislocation occasioned by large grants, but it was the interests of poor settlers which were most often upheld in disputes with the Mi'kmaq in the interstices of these spaces. Again, it was Mi'kmaw mobility and land use patterns that were deemed antithetical to improvement. Finally, the introduction of sale by public auction drastically increased the insecurity of settlers, leaving many without the means to acquire or secure land; the result was that vast numbers of them squatted on Crown lands, including indigenous reserves. The insecurity generated by this policy greatly increased the potential for certain confluences of social and natural conditions to result in dispossession, which refracted through settler communities in unpredictable ways. Crucially, it left poorly defined and protected reserves much more vulnerable to incursions.

At least two important conclusions about indigenous dispossession can be drawn from the foregoing. First, class and class formation are essential to understanding the impetus and dynamics of dispossession. Not all indigenous dispossession can be related to class differentiation, but it was clearly an important driver and determinant. It should be taken into account to counter some of the more Manichaeian formulations of settler colonialism as a singular structure or process pitting settlers against natives. Secondly, while indigenous dispossession was informed by particular intra- and inter-class dynamics, concepts of race and racial differentiation were key features. If Mi'kmaq and poor and middling settlers alike were subjected to forms of economic and class differentiation, poor and middling settlers benefited from a network of institutional and social supports that were not available to the Mi'kmaq. Differences in land use and occupancy were naturalized and subsumed under a racial logic: the Mi'kmaq were conceived as a “vanishing race” that was scarcely amenable to “improvement”; they

were likened to children who had to be disciplined and guided with a firm hand if they were to survive the transition to agriculture. In keeping with this self-fulfilling mythology, the Mi'kmaq were accorded insecure forms of property, which further differentiated them from settlers and further imperiled their lands. More insight into the nature of these processes might be gained by framing them as instances of an emergent “racial capitalism.” A number of promising scholars aligned with this theoretical framework are now elaborating the ways in which race and racialization were constitutive features of capital accumulation.⁸

Both of these features of dispossession came increasingly to the fore as imperial and colonial officials grappled with the contradictions their policies produced. Land policies were resisted on the ground, as was evidenced by the growing number of settlers who opted not to pursue full title to their lots. As often as not a counterclaim had to be made before a settler decided to secure his or her property by legal means. On the whole, settlers did not respond to incentives and legal coercion in ways that imperial authorities anticipated, resulting in a disjuncture between policy goals and effects. This disjuncture was aggravated by time and distance: outside of Halifax and Sydney, a local pluralism prevailed, and imperial and colonial policy regarding the protection of indigenous lands was largely reactive in character. Officials such as the Crawleys, who genuinely sought to protect indigenous lands, were often unable to act until it was too late. Others were too far removed from centres of conflict to

⁸ See, in particular, Brenna Bhandar, *The Colonial Lives of Property: Law, Land, and Racial Regimes of Ownership* (Durham: Duke University Press, 2018); Peter James Hudson, *Bankers and Empire: How Wall Street Colonized the Caribbean* (Chicago: University of Chicago Press, 2017); and Kris Manjapra, “Plantation Dispossession: The Global Travel of Agricultural Racial Capitalism,” in *American Capitalism: New Histories*, ed. Sven Beckert and Christine Desan (New York: Columbia University Press, 2018). For works that have explored some of these issues *avant la lettre*, in a Nova Scotian context, see Harvey Amani Whitfield, *Blacks on the Border: The Black Refugees in British North America, 1815-1860* (Burlington, Vermont: University of Vermont Press, 2006), James W. St. G. Walker, *The Black Loyalists: The Search for a Promised Land in Nova Scotia and Sierra Leone, 1783-1870* (Toronto: University of Toronto Press, 1992), and Anya Zilberstein, *A Temperate Empire: Climate Change in Early America* (Oxford: Oxford University Press, 2016).

have an appreciation of what was happening on the ground. Local dynamics of dispossession were, on the whole, poorly understood, and remedial actions tended to be framed in terms of a racialized logic. Reserves themselves became the spatial equivalents of states of exception, which were poorly protected and ultimately subjected to the imperatives of “improvement” in a de facto sense.

Ultimately, the contradictions of commodification resulted in a widespread increase in squatting, one of many “unintended effects” of a policy of controlled immiseration. While squatting was prevalent on the mainland and the island of Cape Breton, it was a larger problem on the island due to the fact that settlement occurred later there and was characterized more by the influx of settlers, particularly Scottish settlers, in comparatively more precarious conditions. The harm done by the government's policies is illustrated by the fact that squatting was still a widespread problem on the island in the late nineteenth century.⁹ By the middle of the nineteenth century, the government was forced to face the intractable problem they had created; they were obliged to reconcile theory with reality, to come to terms with forms of use and occupancy that were widely discrepant from the ideal. As authorities negotiated the basis on which claims would be advanced or rejected, Mi'kmaw forms of subsistence remained liminal, if they were registered at all.

⁹ Hornsby, *Nineteenth-century Cape Breton*, 128.

Bibliography

Primary sources

Manuscript sources:

Beaton Institute, Cape Breton University, Cape Breton

- Manuscript Group 14: Business and Corporate Bodies

Library and Archives Canada, Ottawa, Ontario

- Manuscript Group 23: Canada, Army
- Record Group 10: Indian Affairs

Nova Scotia Archives, Halifax, Nova Scotia

- Department of Lands and Forests Fonds, 1738-1989
 - Land Grant Registration Books, 1730-1958, microfilm Places: Nova Scotia: Crown Land Grants
- Manuscript Group 1: Papers of Families and Individuals
- Manuscript Group 15: Ethnic Collections
- Nova Scotia Commissioner of Crown Lands Fonds, 1749-
 - Commissioners' letterbook series, 1852-1911
- Record Group 1: Commissioner of Public Records Collection
 - Indian Series, Volumes 430-432
 - Minutes for His Majesty's Council at Halifax, 1749-1867
 - Minutes for His Majesty's Council in Cape Breton, 1784-1820
 - Provincial Secretary's Letter Books, Vols. 139-162A
- Record Group 5: Records of the Legislative Assembly of Nova Scotia
- Record Group 20: Lands and Forests
 - Series "A," Land Petitions, 1775-1799; 1800-
 - Series "B," Cape Breton Land Papers, 1787-1864
 - Series "C," Cape Breton Land Grants, Correspondence, 1827-1905, Vols. 54-78

- Series "C," Crown Land Correspondence, 1835-1903, Vols. 99-147
- Series "C," Crown Lands Correspondence, 1858-1911
- Series "C," Crown Lands Surveyors' Letters, Vols. 148-154
- Series "C," Land Grants, County Papers, Vols. 13-50, 85-93
- Series "C," Miscellaneous Papers, Vols. 94-98
- Series "E," Escheat and Forfeiture Records
- Record Group 36: Nova Scotia Court of Chancery Fonds, 1749-1855
- Record Group 47: Nova Scotia Registry of Deeds Fonds
- Journals of the Legislative Assembly of Nova Scotia (JLANS, on NSA microfilm):
 - Votes of the House of Assembly, 1758-1763
 - Votes and Journals of the House of Assembly, 1764
 - A Journal of the Votes of the Lower House of Assembly, 1765
 - Journals and Votes of the House of Assembly, 1766-1784
 - Journals and Proceedings of the General Assembly of the Province of Nova Scotia, 1785-7
 - Journals and Proceedings of the House of Assembly of Nova Scotia, 1758-1867

Nova Scotia Department of Lands and Forestry, Halifax, Nova Scotia.

- Land Grant Registration Books Series, 1730-1958

Legislation:

"An Act Concerning Indian Reserves." March 30, 1859, Statutes of Nova Scotia.

"An Act to Provide for the Instruction and Permanent Settlement of Indians." March 9, 1842, Statutes of Nova Scotia.

Secondary sources

Bailey, Alfred Goldsworthy. *The Conflict of European and Eastern Algonkian Cultures, 1504-1700: A Study in Canadian Civilization*, 2nd edition. Toronto: Toronto University Press, 1969.

Bartlett, Richard H. *Indian Reserves in the Atlantic Provinces of Canada*. Studies in Aboriginal Rights, No. 9. University of Saskatchewan Native Law Centre, 1986.

- Bell, D.G. "Was Amerindian Dispossession Lawful? The Response of 19th Century Maritime Intellectuals." *Dalhousie Law Journal*, 23 (2000): 161-182.
- Beckles, Hilary. "The concept of "white slavery" in the English Caribbean during the early seventeenth century." In *Early Modern Conceptions of Property*, edited John Brewer and Susan Staves, 572-84. London: Routledge, 1996.
- Beckert, Sven. "Cotton and the Global Origins of Capitalism." *Journal of World History*, Vol. 28, No. 1 (March 2017): 107-120.
- . *Empire of Cotton: A Global History*. New York: Alfred A. Knopf, 2014.
- . *History of American Capitalism*. Washington, D.C.: American Historical Association, 2012.
- . "The New History of Capitalism." In *Capitalism: The Reemergence of a Historical Concept*, edited by Jürgen Kocka and Marcel van der Linden, 235-250. London: Bloomsbury, 2016.
- Beckert, Sven and Seth Rockman. "Introduction: Slavery's Capitalism." In *Slavery's Capitalism: A New History of American Economic Development*, edited by Sven Beckert and Seth Rockman, 1-27. Philadelphia: University of Pennsylvania Press, 2016.
- Bhandar, Brenna. *The Colonial Lives of Property: Law, Land, and Racial Regimes of Ownership*. Durham: Duke University Press, 2018.
- Bittermann, Rusty. "Middle River: The Social Structure of Agriculture in a Nineteenth-Century Cape Breton Community." Master's thesis, University of New Brunswick, 1987.
- . "The Hierarchy of the Soil: Land and Labour in a 19th Century Cape Breton Community." *Acadiensis*, Vol. 18, no. 1 (Autumn 1988): 33-55.
- Bittermann, Rusty, Robert A. MacKinnon, and Graeme Wynn. "Of Inequality and Interdependence in the Nova Scotian Countryside, 1850-70." *Canadian Historical Review*, Vol. 74, No. 1 (1993): 1-43.
- Brebner, John Bartlet. *New England's Outpost: Acadia before the Conquest of Canada*. New York, NY: Burt Franklin, 1973.
- . *The Neutral Yankees of Nova Scotia: A Marginal Colony during the Revolutionary Years*. New York: Russell & Russell, 1970.
- Brenner, Robert. "A Critique of Neo-Smithian Marxism." *New Left Review*, no. 104 (1977): 25-92.
- . *Property and Progress: The Historical Origins and Social Foundations of Self-Sustaining Growth*. New York: Verso, 2009.
- . "Property and Progress: Where Adam Smith Went Wrong." In *Marxist History-writing for the Twenty-first Century*, edited by Chris Wickham, 49-111. Oxford: Oxford University Press.
- . "The Social Basis of Economic Development." In *Analytical Marxism*, edited by J. Roemer, . Cambridge: Cambridge University Press, 1986.
- Brody, Hugh. *Maps and Dreams*. Vancouver: Douglas & McIntyre, 1981.
- . *The Other Side of Eden: Hunters, Farmers and the Shaping of the World*. London: Faber and Faber, 2001.

- Brown, Richard. *A History of the Island of Cape Breton*. Belleville, Ontario: Mika Publishing, 1979.
- Brownlie, Robin and Mary Ellen Kelm. "Desperately Seeking Absolution: Native Agency as Colonialist Alibi?" *Canadian Historical Review*, Vol. 75, No. 4 (December 1994): 543-556.
- Buckner, Philip and John G. Reid, eds. *The Atlantic Region to Confederation: A History*. Toronto: University of Toronto Press, 1994.
- Burroughs, Peter. "The Administration of Crown Lands in Nova Scotia, 1827-1848." *Collections of the Nova Scotia Historical Society* 35 (1966): 79-108.
- . "The Search for Economy: Imperial Administration of Nova Scotia in the 1830s." *Canadian Historical Review* 49, 1 (March 1968): 24-43.
- . "Wakefield and the Ripon land regulations of 1831." *Australian Historical Studies* 11, no. 44 (1965): 452-466.
- Cahill, Barry. "Record Keeping in a Provincial Regiment: The Strange Case of the Loyal Nova Scotia Volunteers, 1775-1783." *Archivaria* 26 (1988): 81-90.
- Chaplier, Mélanie and Colin Scott. "Introduction: From Beavers to Land: Building on Past Debates to Unpack the Contemporary Entanglements of Algonquian Family Hunting Territories." *Anthropologica*, Vol. 60, No. 1 (2018): 30-44.
- Chaplin, Joyce E. *An Anxious Pursuit: Agricultural Innovation and Modernity in the Lower South, 1730-1815*. Chapel Hill: UNC Press Books, 2012.
- Chiasson, Anselme. *Chéticamp: History and Acadian Traditions*. 2nd edition. Wreck Cove, N.S.: Breton Books, 1998.
- Chute, Janet E. "Frank G. Speck's Contribution to the Understanding of Mi'kmaq Land Use, Leadership and Land Management." *Ethnohistory* 46 (1999): 481-540.
- . "Mi'kmaq Fishing in the Maritimes: A Historical Overview." In *Earth, Water, Air and Fire: Studies in Canadian Ethnohistory*, edited by David T. McNab, 95-113. Waterloo, Ontario: Wilfred Laurier University Press, 1998.
- Clark, Andrew Hill. "New England's Role in the Underdevelopment of Cape Breton Island During the French Régime, 1713-1758." *Canadian Geographer*, 9, 1 (1965): 1-12.
- . *Acadia: The Geography of Early Nova Scotia to 1760*. Madison: University of Wisconsin Press, 1968.
- . "Titus Smith, Junior, and the Geography of Nova Scotia in 1801 and 1802." *Annals of the Association of American Geographers*, Vol. 44, No. 4 (December 1954): 291-314.
- Clegg, John J. "Capitalism and Slavery." *Critical Historical Studies* Vol. 2, No. 2 (Fall 2015): 281-304.
- Craig, Béatrice. *Backwoods Consumers and Homespun Capitalists: The Rise of Market Culture in Eastern Canada*. Toronto: University of Toronto Press, 2009.
- Craig, Béatrice, Judith Rygiel and Elizabeth Turcotte. "The Homespun Paradox: Market-Oriented Production of Cloth in Eastern Canada in the Nineteenth Century." *Agricultural History*, Vol. 76, No. 1 (Winter 2002): 28-57.

- Cronon, William. *Changes in the Land: Indians, Colonists and the Ecology of New England*. New York: Hill and Wang, 1983.
- Davis, Mike. *Late Victorian Holocausts: El Niño Famines and the Making of the Third World*. London: Verso, 2001.
- Dennis, Clara. *Cape Breton Over*. Toronto: Ryerson Press, 1942.
- Domar, Evsey D. "The Causes of Slavery or Serfdom: A Hypothesis." *Journal of Economic History* 30, no. 1 (1970): 18-32.
- Drayton, Richard. *Nature's Government: Science, Imperial Britain, and the 'Improvement' of the World*. New Haven, Connecticut: Yale University Press, 2000.
- Ells, Margaret. "Clearing the Decks for the Loyalists." *Canadian Historical Association Annual Report* 12, 1 (1933): 43-58.
- Erskine, John. "Evidence of Early Man on Cape Breton: Incomplete History of Cape Breton Indians." *Cape Breton's Magazine*, No. 14 (1976): 11-13.
- . "Shell Heap Archaeology of Southwestern Nova Scotia." *Proceedings of the Nova Scotian Institute of Science*, Vol. 24, Part 4 (Wolfville, N.S.: 1959), 339-375.
- . "Their Crowded Hour: The Micmac Cycle." *The Dalhousie Review*, Vol. 38, Issue 4 (1959): 443-452.
- Fingard, Judith. "English Humanitarianism and the Colonial Mind: Walter Bromley in Nova Scotia, 1813-25." *Canadian Historical Review*, 54, 2 (1973): 123-151.
- Francis, Bernie and John Hewson. *The Mi'kmaw Grammar of Father Pacifique: New Edition*. Sydney, N.S.: Cape Breton University Press, 2016.
- Francis, Rosalie Marie. "The Mi'kmaq Nation and the Embodiment of Political Ideologies: Ni'kmaq, Protocol and Treaty Negotiations of the Eighteenth Century." MA thesis, Saint Mary's University, 2003.
- Girard, Philip, Jim Phillips, and R. Blake Brown. *A History of Law in Canada, Volume One: Beginnings to 1866*. Toronto: University of Toronto Press, 2018.
- Gould, Gary P. and Alan J. Semple, eds. *Our Land: The Maritimes: The Basis of the Indian Claim in the Maritime Provinces*. Fredericton: Saint Annes Point Press, 1980.
- Graeber, David. *Toward an Anthropological Theory of Value: the False Coin of Our Own Dreams*. New York: Palgrave Macmillan, 2001.
- . "Turning Modes of Production Inside Out: Or, Why Capitalism is a Transformation of Slavery." *Critique of Anthropology*, 26, 1 (2006): 61-85.
- Greer, Allan. "Commons and Enclosure in the Colonization of North America." *American Historical Review* 117, 2 (April 2012): 365-386.
- . "Dispossession in a Commercial Idiom: From Indian Deeds to Land Cession Treaties." In *Contested Spaces of Early America*, edited by Juliana Barr and Edward Countryman, 69-92. Philadelphia: University of Pennsylvania Press, 2014.

- . “Land, Property and Colonization: Some Conceptual Issues.” Paper delivered to the Workshop, “Property in the Making of the Portuguese Empire,” Lisbon, 13 November 2013.
- . *Property and Dispossession: Natives, Empires and Land in Early Modern North America*. Cambridge: Cambridge University Press, 2018.
- Grenier, John. *The Far Reaches of Empire: War in Nova Scotia, 1710-1760*. Norman: University of Oklahoma Press, 2008.
- Gwyn, Julian. “The Mi’kmaq, poor settlers, and the Nova Scotia fur trade, 1783-1853.” *Journal of the Canadian Historical Association* 14, no. 1 (2003): 65-91.
- Halliburton, Thomas Chandler. *History of Nova Scotia, Vol. 2*. Halifax: published by Joseph Howe, 1829; repr., Belleville, Ontario: Mika Publishing, 1973
- Haigh, Elizabeth. “They Must Cultivate the Land: Abraham Gesner as Indian Commissioner, 1847-1853.” *Journal of the Royal Nova Scotia Historical Society*, Vol. 3 (2000): 54-71.
- Hardt, Michael and Antonio Negri. *Multitude: War and Democracy in the Age of Empire*. New York, New York: Penguin Books, 2004.
- Harris, Cole. “How Did Colonialism Dispossess? Comments from an Edge of Empire.” *Annals of the Association of American Geographers* 94 (2004): 165–82.
- Hart, John F. *A History of Northeast Margaree*. Margaree Centre, N.S., 1963.
- Hickel, Jason. *The Divide: Global Inequality from Conquest to Free Markets*. New York: W.W. Norton & Company, 2017.
- Hoffman, Bernard Gilbert. “The Historical Ethnography of the Micmacs of the Sixteenth and Seventeenth Centuries.” Unpublished Ph.D. diss., University of California, Berkeley, 1955.
- Hornsby, Stephen J. *Nineteenth-century Cape Breton: A Historical Geography*. Montreal & Kingston: McGill-Queen’s University Press, 1992.
- . *Surveyors of Empire: Samuel Holland, J.F.W. DesBarres, and the Making of the Atlantic Neptune*. Montreal & Kingston: McGill-Queen’s University Press, 2011.
- Hudson, Peter James. *Bankers and Empire: How Wall Street Colonized the Caribbean*. Chicago: University of Chicago Press, 2017.
- . “The Racist Dawn of Capitalism: Unearthing the Economy of Bondage.” *Boston Review*, May 14, 2016. <http://bostonreview.net/books-ideas/peter-james-hudson-slavery-capitalism>
- Hughes, Lotte. *The No-Nonsense Guide to Indigenous Peoples*. 2nd ed. Ottawa, Ontario: New Internationalist Publications Ltd., 2012.
- Hutton, Elizabeth Ann. “Indians Affairs in Nova Scotia, 1760-1834. 1963.” *Nova Scotia Historical Society Collection*, 34 (1963): 33–54.
- Ingold, Tim. *The Appropriation of Nature: Essays on Human Ecology and Social Relations*. Iowa: University of Iowa Press, 1987.

- Jeffers, Lennox. *Homelands and Empires: Indigenous Spaces, Imperial Fictions, and Competition for Territory in Northeastern North America, 1690-1763*. Toronto: University of Toronto Press, 2017.
- Jeness, Diamond. *The Indians of Canada*. Ottawa: National Museum of Canada, Bulletin 65, 1932.
- Johnson, Walter. "The Pedestal and the Veil: Rethinking the Capitalism/Slavery Question." *Journal of the Early Republic*, 24, 2 (2004): 299-308.
- Komlosy, Andrea. "Work and Labor Relations." In *Capitalism: The Reemergence of a Historical Concept*, edited by Jürgen Kocka and Marcel van der Linden, 33-69. London: Bloomsbury Academic, 2016.
- Labaree, Leonard Woods. ed. *Royal Proclamations to the British Colonial Governors, 1670-1776, Vol. II*. New York: Octagon Books, Inc., 1967.
- Leacock, Eleanor. "The Montagnais "Hunting Territory" and the Fur Trade." Ph.D. diss., Columbia University, 1952.
- Lelièvre, Michelle A. *Unsettling Mobility: Mediating Mi'kmaq Sovereignty in Post-contact Nova Scotia*. Tucson: University of Arizona Press, 2017.
- Lewis, Roger J. "Pre-Contact Fish Weirs: A Case Study from Southwestern Nova Scotia." Master's thesis, Memorial University, 2006.
- Lewis, Roger and Trudy Sable. "The Mi'kmaq: Ta'n Mi'kmaqik Telo'ltipni'k Mi'kma'ki – "How the People Lived in Mi'kma'ki."" In *Native Peoples: The Canadian Experience*, Fourth Edition, edited by C. Roderick Wilson and Christopher Fletcher, 273-296. Don Mills: Oxford University Press, 2014.
- Lewontin, Richard and Richard Levins. *Biology Under the Influence: Dialectical Essays on Ecology, Agriculture and Health*. New York, NY: Monthly Review Press, 2007.
- Lutz, John Sutton. *Makúk: A New History of Aboriginal-White Relations*. Vancouver: University of British Columbia Press, 2009.
- MacDougall, J.L. *History of Inverness County, Nova Scotia*. Truro, N.S., 1922. Reprinted. Belleville, Ontario: Mika Publishing, 1972.
- MacFarlane, R.O. "British Indian Policy in Nova Scotia to 1760." *Canadian Historical Review* 19, no. 2 (1938): 154-167.
- . "Indian Trade in Nova Scotia to 1764." *Report of the Annual Meeting of the Canadian Historical Association*, 13, 1 (1934): 57-67.
- MacGillivray, C.J. *Timothy Hierlihy and His Times: The Story of the Founder of Antigonish N.S.* Paper read before the Nova Scotia Historical Society at Province House, Halifax, Nova Scotia, November 12, 1935.
- Mancke, Elizabeth. *The Fault Lines of Empire: Political Differentiation in Massachusetts and Nova Scotia, 1760-1830*. New York: Routledge, 2005.
- Manjapra, Kris. "Plantation Dispossession: The Global Travel of Agricultural Racial Capitalism." In *American Capitalism: New Histories*, edited by Sven Beckert and Christine Desan, 361-388. New York: Columbia University Press, 2018.

- Malm, Andreas. *Fossil Capital: The Rise of Steam Power and the Roots of Global Warming*. London: Verso, 2016.
- Marble, Allan E. *Surgeons, Smallpox and the Poor: A History of Medicine and Social Conditions in Nova Scotia, 1749-1799*. Kingston and Montreal: McGill-Queen's University Press, 1993.
- Martin, John Frederick. *Profits in the Wilderness: Entrepreneurship and the Founding of New England Towns in the Seventeenth Century*. Chapel Hill: University of North Carolina Press, 1991.
- Martijn, Charles A. "Early Mi'kmaq Presence in Southern Newfoundland: An Ethnohistorical Perspective, c. 1500-1763." *Newfoundland Studies* 19, 1 (2003): 44-102.
- . *Les Micmacs et la mer*. Montréal: Recherches Amérindiennes au Québec, 1986.
- Marx, Karl. *Capital: A Critique of Political Economy, Vol. I*. London: Penguin Books, 1990 [1867].
- McGee, Harold Franklin. "Ethnic Boundaries and Strategies of Ethnic Interaction: a History of Micmac-White Relations in Nova Scotia." Ph.D. diss., Southern Illinois University, 1973.
- . "White Encroachment on Micmac Reserve Lands in Nova Scotia, 1830-1867." *Man in the Northeast* 57 (1974): 57-64.
- McNabb, Debra. "Land and Families in Horton Township, N.S., 1760-1830." Master's thesis, University of British Columbia, 1986.
- . "The Role of Land in the Development of Horton Township, 1760-1775." In *They Planted Well: New England Planters in Maritime Canada*, edited by Margaret Conrad, 151-160. Fredericton: Acadiensis Press, 1988.
- Miller, Joseph C. "A Theme in Variations: A Historical Schema of Slaving in the Atlantic and Indian Ocean Regions." *Slavery and Abolition* 24, 2 (2003): 169-194.
- . "Capitalism and Slaving: the Financial and Commercial Organization of the Angolan Slave Trade, according to the Accounts of Antonio Coelho Guerreiro (1684-1692)." *International Journal of African Historical Studies*, Vol. 17, No. 1 (1984): 1-56.
- . *The Problem of Slavery as History: A Global Approach*. New Haven: Yale University Press, 2012.
- Miller, Virginia P. "Aboriginal Micmac Population: A Review of the Evidence." *Ethnohistory*, 23, 2 (Spring 1976): 117-127.
- . "Social and Political Complexity on the East Coast: The Micmac Case." In *The Evolution of Maritime Cultures on the Northeast and the Northwest Coasts of America*, edited by Ronald J. Nash, 41-56. Publication No. 11, Department of Archaeology, Simon Fraser University, B.C., 1983.
- . "The Decline of Nova Scotia Micmac Population, AD 1600-1850." *Culture. Canadian Ethnology Society Outremont* 2, no. 3 (1982): 107-120.
- Mrazek, Courtney. "'Our Nation is like a Withering Leaf on a Summer's Day': The Mi'kmaq and British Agricultural Policies in Colonial Nova Scotia." MA thesis, Dalhousie University, 2016.

- Nadasdy, Paul. "'Property' and Aboriginal Land Claims in the Canadian Subarctic: Some Theoretical Considerations." *American Anthropologist*, 104, 1 (2002): 247-261.
- Nash, Ronald J. *Mi'kmaq: Economics and Evolution*. Curatorial Report No. 57, Nova Scotia Museum, Halifax, 1986.
- . "Prehistory and Cultural Ecology – Cape Breton Island, Nova Scotia." In *Canadian Ethnology Society: Papers from the Fourth Annual Congress*, edited by Richard J. Preston, 131-156. Ottawa: University of Ottawa Press, 1978.
- . "Research Strategies, Economic Patterns and Eastern Nova Scotia Prehistory." In *Proceedings of the 1980 Conference on the Future of Archaeology in the Maritime Provinces*, edited by Daniel Shimabuku, 23-41. Occasional Papers in Anthropology No. 8, Saint Mary's University, Halifax, 1980.
- Nash, Ronald J. and Virginia P. Miller. "Model Building and the Case of the Micmac Economy." *Man in the Northeast* 34 (1987): 41-56.
- Nicholas, Andrea Bear. "Settler Imperialism and the Dispossession of the Maliseet, 1758-1765." In *Shaping an Agenda for Atlantic Canada*, edited by John G. Reid and Donald J. Savoie, 21-57. Halifax: Fernwood, 2002.
- Nietfeld, Patricia Kathleen Linskey. "Determinants of Aboriginal Micmac Political Structure." Ph.D. diss., University of New Mexico, 1981.
- O'Brien, Jean M. *Firsting and Lasting: Writing Indians Out of Existence in New England*. Minneapolis: University of Minnesota Press, 2010.
- Pacifique, Père. *Le Pays des Micmacs*. Ristigouche: Monastère de Saint-Anne de Ristigouche, 1935.
- Pastore, Ralph. "Micmac colonization of Newfoundland." Claims and Historical Research Centre, 1978.
- . "Native History in the Atlantic Region during the Colonial Period." *Acadiensis*, Vol. 20, No. 1 (Autumn 1990): 200-225.
- . "The Collapse of the Beothuk World." *Acadiensis*, XIX, 1 (Autumn 1989): 52-71.
- Parnaby, Andrew. "The Cultural Economy of Survival: The Mi'kmaq of Cape Breton in the Mid-19th Century." *Labour*, Vol 61 (Spring 2008): 68-98.
- Paul, Daniel N. *We Were Not the Savages: A Mi'kmaq Perspective on the Collision between European and Native American Civilizations*. 2nd ed. Halifax: Fernwood, 2000.
- Prins, Harald E.L. *The Mi'kmaq: Resistance, Accommodation, and Cultural Survival*. Fort Worth Texas, Harcourt Brace College Publishers, 1996.
- Rand, Silas Tertius. *Dictionary of the Language of the Micmac Indians*. Halifax, N.S.: Nova Scotia Printing Company, 1888.
- Redmond, Theresa. "'We Cannot Work Without Food': Nova Scotia Indian Policy and Mi'kmaq Agriculture, 1783-1867." In *Earth, Water, Air and Fire: Studies in Canadian Ethnohistory*, edited by David T. McNab, 115-25. Waterloo, Ontario: Wilfred Laurier University Press, 1998.

- Reid, John G. *Acadia, Maine, and New Scotland: Marginal Colonies in the Seventeenth Century*. Toronto: University of Toronto Press, 1981.
- . "Brittanica or Pax Indigena? Planter Nova Scotia (1760-1782) and Competing Strategies of Pacification." *Canadian Historical Review* 85, 4 (December 2004): 669-692.
- . "Colonies of Settlement and Settler Colonialism in Northeastern North America, 1450-1850." In *The Routledge Handbook of the History of Settler Colonialism*, edited by Edward Cavanagh and Lorenzo Veracini, 79-94. Abingdon: Routledge, 2017.
- . "Empire, the Maritime Colonies, and the Supplanting of Mi'kma'ki/Wulstukwiuk, 1780-1820." *Acadiensis*, Vol. 38, No. 2 (Summer/Autumn 2009): 78-97.
- . "Imperial-Aboriginal Friendship in Eighteenth-century Mi'kma'ki/Wulstukwik." In *The Loyal Atlantic: Remaking the British Atlantic in the Revolutionary Era*, edited by Jerry Bannister and Liam Riordan, 75-102. Toronto: University of Toronto Press, 2012.
- . "Scots in Mi'kma'ki, 1760-1820." *The Nashwaak Review* 22, 23 (2009): 527-557.
- . "Scots, Settler Colonization, and Indigenous Displacement: Mi'kma'ki, 1770-1820, in Comparative Context." *Journal of Scottish Historical Studies* 38, 1 (2018): 178-196.
- . "The Three Lives of Edward Cornwallis." *Journal of the Royal Nova Scotia Historical Society*, Vol. 16 (2013): 19-45.
- Reid, John G. and Elizabeth Mancke. "Elites, States and the Imperial Contest for Acadia." In *The Conquest of Acadia, 1710: Imperial, Colonial and Aboriginal Constructions*, edited by John G. Reid, Maurice Basque, Elizabeth Mancke, Barry Moody, Geoffrey Plank, and William Wicken, 25-47. Toronto: University of Toronto Press, 2004.
- Reid, John and Emerson Baker. "Amerindian Power in the Early Modern Northeast: A Reappraisal." *William and Mary Quarterly* 3, 61 (2004): 77-106.
- Riddell, R.G. "A Study in the Land Policy of the Colonial Office, 1763-1855." *Canadian Historical Review* 18, 4 (1937): 385-405.
- Rockman, Seth. "What Makes the History of Capitalism Newsworthy?" *Journal of the Early Republic*, Vol. 34, No. 3 (Fall 2014): 439-436.
- Roberts, Justin. *Slavery and the Enlightenment in the British Atlantic, 1750-1807*. Cambridge: Cambridge University Press, 2013.
- Rosenthal, Caitlin. *Accounting for Slavery: Masters and Management*. Cambridge, Massachusetts: Harvard University Press, 2018.
- Sable, Trudy and Bernie Francis. *The Language of this Land, Mi'kma'ki*. Sydney, N.S.: Cape Breton University Press, 2012.
- Samson, Daniel. *The Spirit of Industry and Improvement: Liberal Government and Rural-Industrial Society, Nova Scotia, 1790-1862*. Montreal: McGill-Queens University Press, 2008.
- Scott, Colin. "Hunting Territories, Hunting Bosses and Communal Production among the Coastal James Bay Cree." *Anthropologica* New Series, Vol. 28, No. 1/2, Who Owns the Beaver? Northern Algonquian Land Tenure Reconsidered (1986): 163-173.

- . "Property, Practice and Aboriginal Rights among Quebec Cree Hunters." In *Hunters and Gatherers, vol. 2, Property, Power and Ideology*, edited by Tim Ingold, David Riches and James Woodburn, 35-51. Oxford: Berg, 1988.
- Scott, James C. *Seeing Like a State: How Certain Schemes to Improve the Human Condition Have Failed*. New Haven, Connecticut: Yale University Press, 1998.
- Smith, James F. *The History of Pugwash*. Pugwash, N.S.: North Cumberland Historical Society, 1978.
- Speck, Frank G. "The Family Hunting Band as the Basis of Algonkian Social Organization." *American Anthropologist*, 17, 2 (1915): 289-305.
- Stewart, Frances L. "Faunal Remains from the Delorey Island Site (BjCj-9) of Nova Scotia." In *Mi'kmaq: Economics and Evolution*, edited by Ronald Nash, 105-151. Curatorial Report no. 57, Nova Scotia Museum, 1986.
- . "Seasonal Movements of Indians in Acadia as Evidenced by Historical Documents and Vertebrate Faunal Remains from Archaeological Sites." *Man in the Northeast*, No. 38 (1989): 55-77.
- Tanner, Adrian. "The New Hunting Territory Debate: An Introduction to Some Unresolved Issues." *Anthropologica* New Series, Vol. 28, No. 1/2, Who Owns the Beaver? Northern Algonquian Land Tenure Reconsidered (1986): 19-36.
- Thompson, E.P. "Time, Work-Discipline, and Industrial Capitalism." *Past & Present*, Vol. 38, Issue 1 (December 1967): 56-97.
- Twohig, Peter. "Colonial Care: Medical Attendance Among the Mi'kmaq in Nova Scotia." *Bulletin of Medical History* 13, 2 (1996): 333-353.
- Upton, Leslie F.S. "Indian Policy in Colonial Nova Scotia, 1783-1871." *Acadiensis* 5, no. 1 (1975): 3-31.
- . *Micmacs and Colonists: Indian-White Relations in the Maritimes, 1713-1867*. Vancouver: University of British Columbia Press, 1979.
- Van der Linden, Marcel. "Final Thoughts." In *Capitalism: The Reemergence of a Historical Concept*, edited by Jürgen Kocka and Marcel van der Linden, 251-66. London: Bloomsbury Academic, 2016.
- Wallis, Wilson D. and Ruth Sawtell Wallis. *The Micmac Indians of Eastern Canada*. Minneapolis: University of Minnesota Press, 1955.
- Walsh, Lorena S. *Motives of Honor, Pleasure, and Profit: Plantation Management in the Colonial Chesapeake, 1607-1763*. Chapel Hill: UNC Press Books, 2012.
- Walker, James W. St. G. *The Black Loyalists: The Search for a Promised Land in Nova Scotia and Sierra Leone, 1783-1870*. Toronto: University of Toronto Press, 1992.
- Whitfield, Harvey Amani. *Blacks on the Border: The Black Refugees in British North America, 1815-1860*. Burlington, Vermont: University of Vermont Press, 2006.
- Wicken, William C. "Encounters with Tall Sails and Tall Tales: Mi'kmaq Society, 1500-1760." Ph.D. diss., McGill University, 1996.

- . “Mi’kmaq Land in Southwestern Nova Scotia, 1771-1823.” *Making Adjustments: Change and Continuity in Planter Nova Scotia, 1759-1800*, edited by Margaret E. Conrad, . Fredericton: Acadiensis Press, 1991.
 - . *Mi’kmaq Treaties on Trial: History, Land, and Donald Marshall Junior*. Toronto: University of Toronto Press, 2002.
 - . *The Colonization of Mi’kmaq Memory and History, 1794-1928: The King vs. Gabriel Syliboy*. Toronto: University of Toronto Press, 2012.
- Williams, Eric. *Capitalism and Slavery*. 4th ed. London: Andre Deutsch, 1975.
- Wolf, Eric R. *Europe and the People Without History*. Berkeley: University of California Press, 1982.
- Wolfe, Patrick. “Settler Colonialism and the Elimination of the Native.” *Journal of Genocide Research* 8 (2006): 387-409.
- Wood, Ellen Meiksins. *Empire of Capital*. London: Verso, 2003.
- . *The Origin of Capitalism*. New York: Monthly Review Press, 1999.
 - . *The Origin of Capitalism: A Longer View*. London: Verso, 2002.
- Wynn, Graeme. “A Province Too Much Dependent on New England.” *Canadian Geographer*, Vol. 31, No. 2 (1987): 98-113.
- . “A Region of Scattered Settlements and Bounded Possibilities: Northeastern America, 1775-1800.” *Canadian Geographer*, Vol. 31, No. 4 (1987): 319-338.
 - . “Exciting a Spirit of Emulation Among the ‘Plodholes’: Agricultural Reform in Pre-Confederation Nova Scotia.” *Acadiensis*, Vol. 20, No. 1 (Autumn 1990): 5-51.
 - . “The Maritimes: Geography of Fragmentation and Underdevelopment.” In *Heartland and Hinterland: A Geography of Canada*, 2nd edition, edited by L.D. McCann, 174-245. Scarborough, Ontario: Prentice-Hill Canada Inc, 1987.
- Zilberstein, Anya. *A Temperate Empire: Making Climate Change in Early America*. New York, NY: Oxford University Press, 2016.
- . “Planting Improvement: The Rhetoric and Practice of Scientific Agriculture in Northern British North America, 1670-1820.” Ph.D. diss., Massachusetts Institute of Technology, 2008.

Appendix

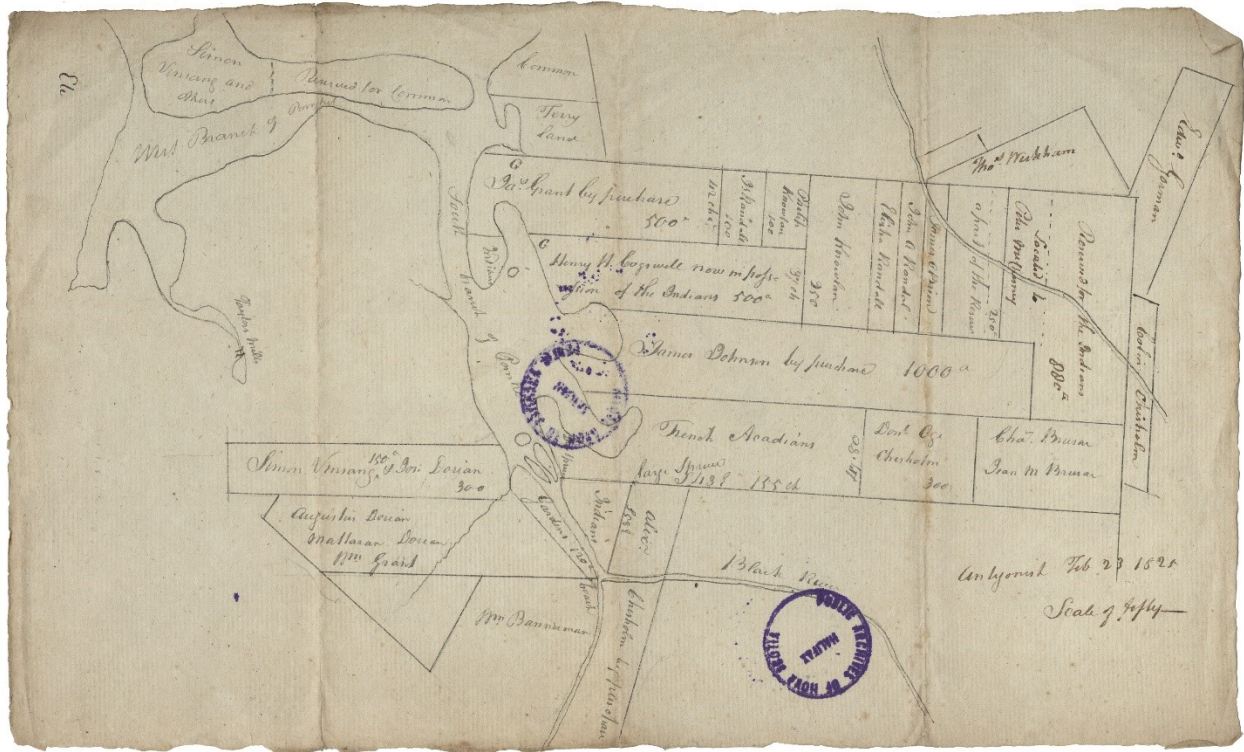


Figure 1: "Copy of a Plan Brought by an Indian," February 23, 1825, Antigonish County Land Papers, NSA, RG 20, Series "C," Vol. 15, Folder 1825. The plan depicts the "Indian Gardens" at the mouth of the Pomquet River, the grants made along the northeastern coast of Pomquet Harbour, and the eight hundred-and-eighty-acre reserve located further inland.



Figure 2: the undated, unsigned map (c. 1800-1805) of the "Gardens of the Indians," at Margaree Forks, Inverness County, Cape Breton, NSA, RG 1, Vol. 430, No. 2. The plan was drafted by Thomas Crawley, Surveyor General of Cape Breton.

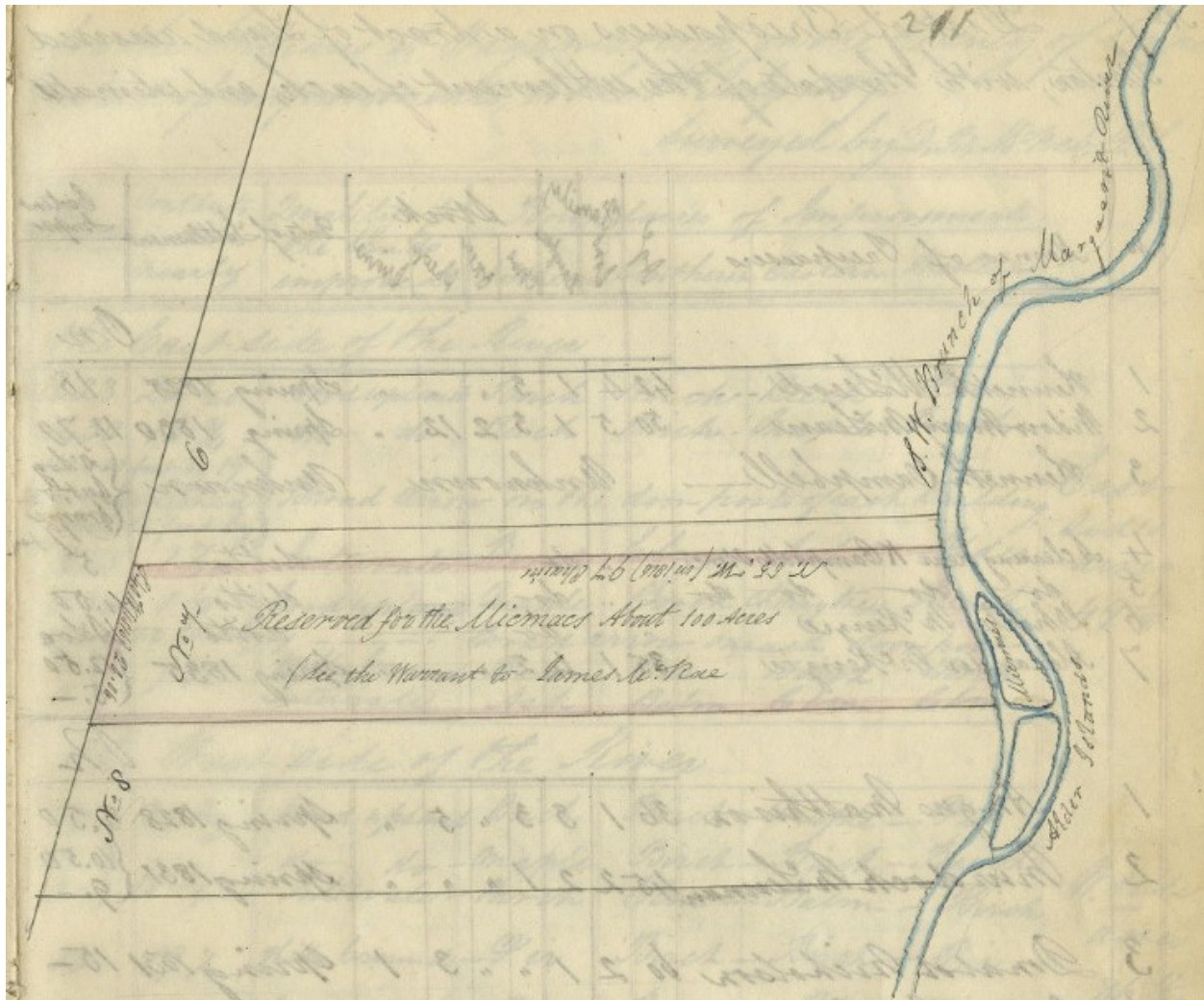


Figure 3: Thomas Crawley's plan of Hippolyte Salome's reserve on the southwestern branch of the Margaree River, c. 1837-1843, NSA, RG 1, Vol. 432, p. 211.