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# UNION OF NEW BRUNSWICK INDIANS

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SUBMISSION OF  
U.N.B.I.  
TO  
The Third Session  
Of  
The Working Group  
On  
Indigenous Populations  
Geneva, Switzerland  
August, 1984

In our presentation made to this working group last August, 1983, I stated that we would continue to participate in future sessions. This is our second presentation. Two chiefs are here with me. They are Chief Norman Cimon of the St. Basile Indian Reserve, who is a representative of the Maliseet Nation; and Chief Roger Augustine of the Eel Ground Indian Reserve, who is a representative of the Micmac Nation.

In our submission last year, we outlined the important events prior to the patriation of the Canadian Constitution and subsequent events. As stated, we were not participants of the first Constitutional Conference held in March 1983. We also refused to participate in the second Constitutional Conference on aboriginal matters held in March 1984. The basis of our non-participation is the same. We are of the strong view and very adamant that the ten Provincial Governments should not be identifying and defining our treaty and aboriginal rights. It is only the Crown, as represented by the Federal Government, that has the obligation and responsibility to fulfill the trusteeship of our people.

In this third session, our understanding is that the focus is on the following two areas:

- (1) The right to land and natural resources;
- (2) The right to life, to physical integrity and to security of indigenous populations.

We will now address ourselves to both concerns. In the first item, "The right to land and to natural resources", our focus will also include references to the International Covenant on Civil and Political Rights, signed and accepted by Canada in 1976.

Our aboriginal rights to the lands presently known as the State of Maine, the Provinces of New Brunswick, Prince Edward Island and Quebec are still Indian lands. We have never surrendered our aboriginal title to these territories that traditionally and historically have been ours.

The Provinces of New Brunswick, Prince Edward Island, Quebec, and the State of Maine have not compensated us for the loss of such territory. Our Indian Nations were not conquered, discovered, or extinguished. We continue to maintain that our lands are for the use and benefit of our people.

Our two nations made a living off our lands, and used the natural resources that sustained us. These natural resources included hunting, fishing, and trapping of game, fish, and animal life. Our treaties that were signed by our ancestors and the representatives of the British Crown in the 1700's. Our treaties were signed in 1725, 1752, 1778, and 1779.

The Treaty of 1725, as it relates to hunting and fishing rights states as

follows:

"That the Indians shall not be molested in their persons, hunting, fishing and planting grounds nor in any other lawful occasions by His Majesty's subjects or their dependants nor in the exercise of their religion provided the missionaries residing amongst them have leave from the Lieutenant Governor or Commander in Chief of His Majesty's said province of Nova Scotia or Acadia for so doing."

It was renewed in 1749.

Again, another Treaty of 1778 was signed and it provided as follows:

"I do promise that I will not take part directly or indirectly against the King, in the troubles now subsisting between Great Britain and His Majesty's rebellious subjects of America, but that I will follow my hunting and fishing in a peaceable and quiet manner."

In 1779, another Treaty was signed by the Micmac Nation, it provided as follows:

"That the said Indians and their Constituents shall remain in the Districts before mentioned quiet and free from any molestation of any of His Majesty's troops or other of His good subjects in their hunting and fishing."

Our treaties guaranteed our Indian Nations the right to the natural resources for our existence. It was ours to be used for our subsistence and barter. In fact the British authorities sent up trading posts so our Nations could trade with the other European Nations.

In the present Constitution Act, 1982, section 35 states as follows:

"35. (1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed."

Under the section the Federal Government promised to recognize Indian Rights. Yet, to this very day, our Indian people are being charged by Federal and Provincial Governments as a consequence of exercise of hunting, fishing, and trapping. The arguments have been advanced by Indian people that they should not have to go to Courts to contest their rights. How come the same Federal Government that enacted Section 35 continues to lay charges against our

Indian fishermen, hunters, and trappers?

The interpretation of the various courts in Canada has resulted in stating that Section 35 does not give or recognize fully the treaty and aboriginal rights of our people. In that sense Canada has not fulfilled the articles of the International Covenant on Civil and Political Rights.

So Canada continues to deny the Micmac and Maliseet Nations the right to our land and the natural resources.