



News in Review

November 1999

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Native Rights: Sharing Resources

The recent Supreme Court ruling, which interpreted a 1760 treaty signed by the British government as granting Mi kmaq people on the East Coast the right to fish for a moderate livelihood even in the off-season, is the latest in a long series of complex events that have precipitated tension, administrative difficulties, and conflict in our natural resources industries. The implications and ramifications of the ruling also underscore a historical conundrum that is distinctively Canadian but also universal in its importance: how to reconcile aboriginal rights and contemporary realities.

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Introduction

Native Rights: Sharing Resources

It is just and reasonable and essential to our interest and security of our colonies that the several nations or tribes of Indians with whom we are connected and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories which, not having been ceded to or purchased by us, are reserved to them or any of them as their hunting grounds. King George III, The Royal Proclamation of 1763

In August 1993, Donald Marshall, a Mi kmaq native, was charged with three federal fishery offences for catching and subsequently selling 210 kilograms of eel on the Pomquet River just outside Antigonish, Nova Scotia. It was the beginning of a six-year ordeal for a man who was no stranger to the law, having previously been wrongly convicted of murder and who spent 11 years in prison (See Donald Marshall in News in Review's first issue, September 1990). He was convicted of the fishing crime by Nova Scotian judge, John Embree, on June 27, 1996. The judge, realizing that it was a test case, gave Marshall an absolute discharge. The conviction was appealed by Marshall, and his appeal eventually went to the Supreme Court of Canada, which on September 17, 1999, rendered its verdict. In a 5-2 decision, the court agreed that a 1760 treaty gave the Mi kmaq hunting, fishing, and gathering rights, as well as the right to trade to make a moderate living. The original treaty is specific to the Mi kmaq and Maliseet people because of a clause in their agreement guaranteeing them the right to hunt and fish as

before and to sell their goods at truck houses government-operated trading posts. The Mi kmaq chiefs were jubilant, saying that the decision would end poverty on reserves across Atlantic Canada.

Almost immediately, Mi kmaq and Maliseet fishers began setting lobster traps in the waters off the Atlantic coast, even though the lobster season (something native fishers are not bound to observe) was officially over. Non-native fishers were furious. Lobster fishing has always been one of the most regulated and lucrative sectors in the fishery industry. The fishers were afraid that the Supreme Court decision would cause overfishing and a decline in the lobster stocks. They were angered that they had to stand by and idly watch as, in their view, their livelihood slowly slipped away. Native leaders, officials with the Department of Fisheries and Oceans, and conservationists called for calm, saying that a few weeks of native fishing on a minor scale would not jeopardize the relatively healthy lobster stocks. Local fishers were not placated, and violence and vandalism relating to this dispute started to occur across the Maritimes. The most extreme event happened in Burnt Church, New Brunswick, where on October 3, 1999, a fight broke out between native and non-native fishers on the Burnt Church wharf. Native fishers accused the non-natives of destroying hundreds of their traps and causing thousands of dollars of damage. The non-natives accused the native fishers of jeopardizing their livelihood by fishing out of season.

With cold weather approaching and the waters of the North Atlantic becoming rougher, thus stopping native fishers from going out in their small boats, the immediate problem will soon be resolved. But a bigger issue, frequently witnessed throughout Canada, is still without resolution. How do we reconcile and balance historical, constitutional, and legal aboriginal rights with contemporary realities as they relate to limited natural resources? How do we protect minority rights in situations where economic uncertainty is a majority issue?

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Managing the Community

Native Rights: Sharing Resources

In her article *Building Community from Chaos* in *Rethinking Our Classrooms: Teaching for Equity and Justice*, Linda Christensen writes about her attempt to create a compassionate, warm, safe place in her classroom where power and passion are shared.

. . . I realize that the classroom community isn't always synonymous with warmth and harmony. Politeness is often a veneer mistaken for understanding, when in reality it masks uncovered territory, the unspeakable pit that we turn from because we know the anger and pain that dwells there . . . where the interplay of race, class, and gender creates a constant background static. Finding herself often in the middle of anger with no safe spot, Christensen says that her first impulse usually is to make everyone sit down, be polite, and listen to each other, a great goal that I've come to realize doesn't happen easily. Christensen discovers, however, that progress can be made, building a community begins, only when students get inside the lives of others in history, literature, or down the hallway.

In *Managing Conflict: A Practical Guide to Conflict Resolution for Educators*, a publication of the Ontario Secondary School Teachers Federation, Tim Kearns, Carole Pickering, and John Twist point out that Conflict exists. It is part of every person's reality. Wherever there is life, be it organic or human, there is conflict. . . . [but] all conflict is reacted to. . . . there is an

attempted resolution to the conflict. Everyone tries to lessen the pain. Pointing out that conflict resolution is not an attempt to eliminate conflict; rather, it is a process for approaching a conflict and managing it in order to benefit (1) oneself, and (2) one's relationships, the authors also remind us that the essential thesis of the book is that conflict, well-managed, is a normal, positive, productive feature of human interaction.

1. Before viewing this News in Review report, identify the key concepts contained in the above information. Write the key points on the chalkboard.

2. As you watch the video, identify moments or incidents that exemplify the concepts you have identified. How do the events that led to conflict in this news story recall what Linda Christensen and the authors of *Managing Conflict* have told us about the nature of conflict?

3. After watching the video a second time, suggest how this news story demonstrates the following:

- (a) the escalating nature of conflict
- (b) anger and pain
- (c) normal human behaviour
- (d) power and passion
- (e) the role of community
- (f) attempts at conflict management

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Sharing A Lobster

Native Rights: Sharing Resources

Most news stories are multifactored and multidimensional. Before reading the information below, discuss as a class the meaning of these two terms and how they relate to news and current events in general. Then keeping the terms in mind, read the information carefully.

With much of the maritime fishing industry decimated through overfishing, one of the few areas within the industry that is still lucrative is the lobster sector. If one is lucky enough to be working as a lobster fisher on the richest lobster grounds those found on the southwestern tip of Nova Scotia by Yarmouth one can easily make \$60 000 (before taxes) for six months of hard work. In an area of high unemployment, this makes lobster fishers the envied haves in a region of have-nots. As The Toronto Star put it, The ruling affects more than rights, and economics. It also challenges the structure of society here, where natives are at the bottom just as surely as lobster fishermen are at the top.

Historically, natives in the Maritimes have been dealt a difficult hand, as has frequently been the case with indigenous people elsewhere in the world. Most reserves in Atlantic Canada are desperately poor. Unemployment is over 80 per cent, and housing on the reserves is scarce, making the Mi kmaq and Maliseet among the poorest people in Canada. Given a chance to finally get a share of the lucrative lobster pie, many natives are

jubilant. But as one observer noted, The problem is how do you take a pie that s already fixed in size and introduce more people to it? The pieces have to be smaller.

However, with their own families to feed and mortgages to pay, non-native lobster fishers refuse to remain passive while watching their piece of the pie being increasingly consumed by others. For over 100 years workers within the lobster industry have been part of a close-knit community that has tightly controlled the fishery. Both government and union have imposed strict regulations on when and how lobsters can be caught and have a series of rules that make it difficult for newcomers to join the field. The fishing licence alone costs approximately \$200 000, and without it one cannot fish for lobsters commercially.

Although the industry is regulated by the federal government, many of the real rules have been passed down from father to son through a complex series of gentlemen s agreements. As writer Kelly Toughill pointed out in The Toronto Star, Tradition gives each fishing family their own little stretch of coast. If someone else tries to drop traps there even if allowed to by law their traps simply disappear. This was the tradition even before the Mi kmaq and Maliseet started to set their traps, and the practice has continued in several instances since the Supreme Court s verdict in the Marshall case, perhaps nowhere as extreme as in Burnt Church, New Brunswick.

Discussion

1. Why is this news event multifactored and multidimensional?
2. Using an economics textbook as a resource, define the concept of supply management. In what ways have the lobster fishers in the Maritimes had an effective supply management system? Can you think of other effective supply management systems in Canada? For example, consider the agricultural sector of the Canadian economy. How are agricultural supply management systems similar to the lobster fishery? How are they different?
3. The lobster industry is one of the few fisheries that has effectively managed stock levels through restrictive barriers to entry. What are some of these barriers to entry?
4. From 1979 to 1991, lobster stocks were consistently growing. Since then, there has been a reduction in stock from 10 to 20 per cent, depending on the area. In your opinion, is there a danger in opening up the lobster fishery to more fishers? Do you think that the Supreme Court of Canada s decision recognizing aboriginal

treaty rights to make a moderate living from fishing, hunting, and gathering will have serious repercussions on lobster stocks?

5. Do you agree or disagree with the following quotation?

It is our view that there has been an assault on the entire fishery of the coasts around the Maritimes by the world's non-native fishermen a fishery that excluded the Mi kmaq and Maliseet people for two centuries. It is ludicrous for anyone to suggest that in two weeks Indian fishermen are having a serious impact on a sustainable resource after 200 years of depletion of the stocks by non-aboriginal people. Harry W. Daniels, President of the Congress of Aboriginal Peoples in a letter to the Ottawa Citizen, October 6, 1999.

6. Suggest reasons why non-native lobster fishers might be justified in not wanting to share the industry with the Mi kmaq and Maliseet. Also suggest reasons why they might not be justified in taking that position.

7. There is a common practice in families when it comes to sharing food, especially the last piece of the pie. If two children want to share the last piece, one gets to do the dividing and the other gets to do the choosing. In your opinion, is this an effective way to teach the sharing of resources? Is it a good way? In what way might this News in Review story suggest similar challenges faced by parents who strive to develop good parenting skills?

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Conflict on the Miramichi

Native Rights: Sharing Resources

Although the recent fishing dispute, which escalated as a result of the Supreme Court of Canada's decision, is being waged across the Maritimes, it has been the most volatile in the communities surrounding the Miramichi Bay in New Brunswick. As you read about the situation in Burnt Church, identify and list the factors that you feel contributed to the confrontation on the Burnt Church wharf on October 3, 1999. How did the conflict escalate?

Burnt Church, on the north shore of the Miramichi Bay in northeastern New Brunswick, is a native reserve of approximately 1000 people. It shares the coast of this economically depressed area with the communities of Tabusintac and Neguac. Over the years successive governments have spent millions of dollars in this region in the hopes of stimulating the poor economy, but to little effect. Jobs in the area are scarce, and those that exist tend to be in the fishing or logging industries. In an area with over 35 per cent unemployment, those who have jobs desperately want to hold on to them. Well before the Supreme Court decision on September 17, 1999, and before natives started catching lobster out of season, tensions were escalating between the communities of Tabusintac and Neguac as they fought over who had the right to fish the local lobster grounds.

Tensions in Town

In 1997, a resident of Tabusintac, Billy MacEachern, was fishing when a fisher from Neguac pulled alongside his boat and accused him of cutting free his lobster traps. According to MacEachern, the man then pulled out a gun and pointed it at MacEachern's head in an attempt to scare him off. Charges were laid but later dropped. Tensions between the two communities continued to escalate and reached the boiling point in early 1998 when a group of fishers calling themselves the Tabusintac and Area Fishermen's Association (TAFAs) published a notice in the local paper stating that the nearby fishing area was closed to everyone outside their association.

Members of TAFAs felt this move was necessary to preserve the lobster stocks in the area. In addition to the 37 local boats that were fishing the shores by Tabusintac, an additional 25 outsiders were also setting traps in the area. TAFAs decided it was time to act. TAFAs's threat resulted in dividing the communities of Tabusintac and Neguac. According to RCMP Corporal Renaud Bordages, Many people from Tabusintac are married or going out with a girl from here and vice versa. I know two brothers; one fishes for someone in Tabusintac and the other for a fisherman in Neguac. Since this started, they don't talk to each other.

In this already volatile environment, a new threat emerged when the Supreme Court ruled that a 1760 treaty between the Mi'kmaq and King George III gave natives in the region the right to earn a moderate living from fishing, hunting, and gathering. Soon the natives from Burnt Church, aided by the natives from the nearby reserve at Big Cove, had an estimated 4000 lobster traps set. Not able to catch lobster themselves because the short lobster season had ended, the local fishers were furious and called for a quick response from the Department of Fisheries and Oceans (DFO) to stop the natives. Not believing lobster stocks were in jeopardy, the federal fisheries minister, Herb Dhaliwal, refused. According to environmental expert David Coon, a policy coordinator with the Conservation Council of New Brunswick, Dhaliwal's position is correct. Although 4000 traps may sound like a very large number, it is relatively minor given the overall scope of this fishery. An average lobster fisher operates approximately 375 traps on his or her own; 4000 traps would be the equivalent of 10 or 11 additional people entering the industry. Moreover, most native fishers do not have the boats or the capital to set up large operations. In addition, according to David Coon, the concerns that natives are jeopardizing the lobster stocks by fishing out of season are exaggerated. With the coming of winter, the Miramichi Bay becomes rough and dangerous, and in their smaller boats natives are especially hindered from fishing by the bad weather. As well, according to Coon, except for the brief

summer hiatus, the lobster season is not tied to the breeding cycle of the lobster, but is more a reflection of supply management, the control of the supply by way of quotas and other means in order to keep the product cost high and the industry profitable.

Despite these assurances the non-native fishers, angered by Dhaliwal's call for calm, decided to take matters into their own hands. On Sunday, October 3, non-native fishers went out to sea and disabled hundreds of lobster traps by raising them, slicing them off their buoys or breaking their wooden doors and freeing the lobsters inside. On the wharf in Burnt Church, clashes between native and non-native fishers broke out. RCMP officers, in a helicopter and in six coast guard boats in the harbour, monitored the situation closely, but no charges were laid. In addition to targeting native fishers, the non-native fishers also targeted the fish-processing plants that purchased the native catches. More than 100 non-native fishers and other locals caused approximately \$25 000 damage to plants in Pointe-Sapin and Richibucto.

Tensions on the Reserve

Some observers suggest that the problems in the Miramichi Bay area have been further complicated by internal political events on the Burnt Church reserve. In 1996 Wilbur Dedam, the chief of 18 years, was defeated by a narrow margin by the new chief, Burton Martin. The band was split down the middle in its loyalties, causing a paralysis in the leadership. This could not have happened at a worse time; the band was \$4-million in debt, and the electricity was cut off because it could not pay its bills. It was subsequently restored when the Department of Indian Affairs convinced the Royal Bank to provide an emergency loan for \$1.2-million. The town of Neguac also became involved in the fight when the band couldn't pay them \$10 000 owing for years of fire protection. They threatened to withdraw service, but luckily an agreement was reached before this was necessary.

As a result of the discord within the community incidents of violence on the reserve increased; over 40 incidents were reported to the RCMP in recent months, the most serious being the stabbing death of the chief's brother, Terrance Martin. In January 1998, Dedam was convicted for assaulting Martin. He was fined \$575. Although Dedam was re-elected as chief in 1999, much of the animosity still remains, and a majority of the band councillors don't support him. Because of the stalemate in the band leadership, it has been difficult for the government to negotiate any short-term deal with the band to defuse the situation. Representatives from the Department of Fisheries and

Oceans were scheduled to meet with the band leaders in September, but none of the band members showed up; they were busy fishing.

Talking Through Conflict

Conflict mediation is a special skill and an area in which people in many walks of life receive special training. Specialized diploma courses are offered in a number of institutions across Canada. Mediation is always difficult in situations where tempers are flaring and emotions generally are running high. One potential method of mediation is a talking circle. This is a traditional aboriginal mediation approach in which people are brought together for the purpose of societal healing, and it is a process during which all participants are able to speak frankly about a subject. The participants are arranged in a circle, and a sacred symbol such as a feather or sweetgrass is passed from one to another. As long as the symbolic item is being held by the speaker, he or she can speak uninterrupted on any subject. After he or she has completed speaking, the symbol is passed to the next person in the circle. This then allows the receiver of the symbol to speak. A person may decide not to speak, and the symbol would then be passed on to the next person until the circle has been completed. The essential premise and nature of the talking circle is that of mutual respect, understanding, acceptance, and tolerance. This aboriginal concept is designed to resolve problems while allowing participants to express their views on the subject being discussed. The use of the peace symbol as an inanimate, neutral object that, being sacred, cannot be faulted controls not only the dialogue but the emotions of the group members and thus filters and defuses the tension.

Discussion

1. Do you think a talking circle would be an effective way to work through the conflicts within the reserve, between the two towns, and between the towns and the reserve? Why or why not?
2. Would you feel comfortable being part of a talking circle? Why or why not? Could the method be used in a classroom setting to mediate conflicts between students?
3. What techniques do we generally use to resolve conflicts? How is the talking circle different from those techniques?
4. In what ways is the parliamentary system of government like or unlike a talking circle? In this system, is there a neutral symbol that cannot be faulted?

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Sound-Bites

Native Rights: Sharing Resources

Many conflicts start and escalate as a result of words; words that are confrontational or that challenge. When a public conflict occurs, it provides fuel to our media-saturated culture that in many ways thrives on conflict. Words are also essential to media reports of conflicts, to support and supplement visual and auditory details and to communicate facts, opinions, and emotions. Most importantly, words report news events.

Below you will find statements taken from print media sources. These statements suggest the issues involved in the current fishery conflict, but more importantly, they also demonstrate the intensity of feeling surrounding the issues. Working in small groups, read these quotes and decide whether each communicates (a) anger, fear, or some other emotion (b) a challenge, an accusation, or a threat (c) a rebuttal of another statement or of an opposing position (d) a call for reason or compromise (e) irony or humour (f) a straightforward, non-emotional assessment of the situation.

If it was us going out, when we didn't have access to the fishery, we would be dealt with [using] the full force of the law. Rick Simon, regional vice-chief for Nova Scotia and Newfoundland at the Assembly of First Nations

Ottawa let this thing hang in the fire for 11 or 12 days, when it was evident within 24 hours of that [Supreme Court] decision

which direction things were going. Whoever was calling the shots either wanted this kind of thing to result or was naïve. Michael Belliveau, Maritime Fishermen s Union

There s no more room for nobody in this fishery so let s get that gear out of the water.

Fisher at a town meeting in Yarmouth, Nova Scotia

Everything is way out of control right now; I don t want anybody to get hurt. Our leaders, federal officials and others have to sit down and work it out or all hell will break loose.

Donald Marshall, the Mi kmaq native whose historic victory at the Supreme Court of Canada started the fishing wars

I been brought up to think that red, yellow, white, and black was all the same. But this week at every table in Southwest Nova Scotia, you re hearing talk about Indians. Our children will grow up hating Indians. That s a terrible thing. But they will see that the Indians hurt their Daddy, and they will hate them for it. Tim Nickerson, lobster fisher, Yarmouth, Nova Scotia

Well, right now I think non-native fishing and the native fishing people, the people from the towns, they re starting to realize who caused the problem. It was the Department of Fisheries and the federal government. And they re the ones. They wanted to see us at war. That s the last thing we want to do. We want to clarify this in a fair way and a positive way. Donald Marshall

I can look any of you in the eye and see the good in you and how much; I have that gift. The Mi kmaq don t want to harm us, they want to work with us. We re making history here right now. It s been hell these last 10 days, but we re making history so maybe we ought to make it right this time, make something good that our children will look at later and be proud of.

Harold Thériault, local fisher at the town hall meeting in Yarmouth

Murder, that s what next. Winston Nickerson, 75, local fisher, Yarmouth

We are a reasonable people. We are willing to negotiate with various groups in the fishery. But . . . we no longer want our people to be hungry. No more hunger. No more dependence. Chief Terence Paul of the Membertou reserve in Cape Breton

It's pretty tense, pretty bad. My friends don't even want to go to [the nearby town of] Neguac to go shopping for food because they are afraid they'll get beat up. James Ward, native on the Burnt Church reserve in New Brunswick

In one way, their fears are very flattering. They must think we are very good fishermen.

Bernd Christmas, Assembly of Mi'kmaq Chiefs

This [the native fishery] has gone beyond the celebration of a right. It's reached the point where they are having an impact on a sustainable resource. Michael Belliveau

It is ludicrous for anyone to suggest that in two weeks Indian fishermen are having a serious impact on a sustainable resource after 200 years of depletion of the stocks by non-aboriginal people. Harry W. Daniels, President of the Congress of Aboriginal Peoples

Discussion

Review the answers of the various groups. Did everyone in the class agree with each other's categorization of the quotes? How easy is it for statements like these to be misinterpreted?

Follow-up Activity

1. Assuming that each of the statements above represents some significant point of view, feeling, or perception of the situation, which ones require the most urgent mediation in order to prevent any further escalation? Can you suggest ways in which to respond to the statements that might defuse the conflict inherent in them?

2. Follow this, or any other story that deals with an escalating conflict, in the news for a week. Try to follow the story in as many different media as possible. Collect sound-bites and categorize them as you have just done. Why do you think the journalists decided to use these quotes? Did the impact of the quotes differ depending on the medium used? Why or why not?

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Renegotiating Rights

Native Rights: Sharing Resources

The reaction to the Supreme Court decision confirming the Mi kmaq peoples' right to make a moderate living from fishing has shown that without long-term solutions to the numerous native treaty disputes currently outstanding across Canada, short-term problems and conflict will likely re-occur. This was one of the reasons the 1996 report of the Royal Commission on Aboriginal Peoples stated it was imperative that Canada must now work out fair and lasting terms for co-existence with aboriginal people. The other reasons listed in this report were the following:

1. Canada's claim to be a fair and enlightened society depends on it;
2. the life chances of native people, still far below the Canadian average, must be improved; and
3. the current rules used to negotiate grievances has proven to be unequal to the task.

The Royal Commission on Aboriginal Peoples recommended the following changes in order to facilitate negotiations of land claims and treaty rights:

1. The creation of an aboriginal parliament to give aboriginal peoples a voice. This would essentially be a third order of

government;

2. an independent tribunal to decide on land claims;

3. additional money spent on improving housing, health, education, and employment;

4. establishment of a native university; and

5. an additional \$2-billion infusion of money to augment the \$6-billion a year that the government is currently spending on aboriginal Canadians.

The commission's report, like the recent Supreme Court ruling, also acknowledges that the Royal Proclamation of 1763, signed by King George III, should be the defining document in the relationship between native and non-native people in North America. In this document it is written:

It is just and reasonable and essential to our interest and security of our colonies that the several nations or tribes of Indians with whom we are connected and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories which, not having been ceded to or purchased by us, are reserved to them or any of them as their hunting grounds.

Discussion

1. Do you think the Canadian government should be held to a document that was an agreement between aboriginal people and the British Government and dates back before the Confederation of Canada in 1867? Justify your answer carefully.

2. Can a government disregard treaties written in the past? Could Canada disregard other treaties, such as the North American Free Trade Agreement, if living up to the terms of the treaty became difficult or expensive? In your opinion, what kind of treaties should be open for renegotiation and what ones should not? What are the ethical and legal ramifications of not living up to the terms of agreements signed in the past?

3. The Innu, native people in Newfoundland (Labrador), are not subject to the terms of the Indian Act, the federal legislation that defines aboriginal rights, because Newfoundland did not enter Confederation until 1949. They also started to catch lobster after the Supreme Court decision. Should they have the same rights as a result of the court's decision?

A Modern Treaty

All treaties between the federal government and aboriginal people are not distant historical events. Consider the following.

One treaty that has been signed by the federal government and is currently waiting for ratification by Parliament is the land-claim settlement of the Nisga a people in northwestern British Columbia. In this historical treaty the Nisga a people have been given the following rights and responsibilities:

1. The Nisga a were given 2020 square kilometres in the lower Nass River area of northwestern British Columbia. Their original land claim was for 24 000 square kilometres.
2. The Nisga a have agreed to allow access for recreational hunting and fishing to all non-native peoples, as well as unrestricted access to all roads in the area. Private land within the land claim area will remain in private hands and is not part of the treaty.
3. The province of British Columbia still owns the water in the region, although the Nisga a will receive the revenue from any hydro-electrical power generated from the water. Any hydro dams or generating plants will have to pass provincial environmental and regulatory requirements.
4. The Nisga a will own the forests (phased in over a five-year period) and all revenue generated from them. Once again all forestry activity must meet or surpass provincial standards.
5. A certain percentage (17 per cent or approximately 75 000 sockeye equivalents) of all the Nass salmon returning to Canadian waters can be fished and commercially sold by the Nisga a. To aid the Nisga a in setting up their commercial fishery a one-time payment of \$11.5-million will be given to them by the federal and provincial government (split 50-50).
6. The Nisga a can hunt the wildlife found in the area, subject to conservation measures, but cannot sell the game for profit. They are allowed to barter game with other native groups, as they have done in the past.
7. The Nisga a can set up their own government with approximately the same powers as a municipal governing body. They will still be subject to the Canadian Constitution, the Charter of Rights and Freedoms, and provincial and federal laws.
8. The Nisga a will provide their own policing, with the help, if

required, of the Royal Canadian Mounted Police. The Nisga a can set up a court to try Nisga a laws and civil disputes, as long as the court meets provincial standards. Any decision can be appealed to the British Columbia Supreme Court. The Nisga a can require community correctional services and parole, but will not be allowed to administer jail sentences. Any non-native living in the area can request a hearing

9. The Nisga a will no longer be under the Indian Act and will be subjected to all provincial and federal taxes (which they did not have to pay while subject to the Indian Act). They will slowly have to absorb the costs for their own public services (fire, education, health, etc.) and receive less funding from the provincial and federal government. They should be able to fund these services through proceeds from resource development.

10. To fund the transition, the Nisga a will receive \$190-million in funding over the next 15 years. \$175.6-million will be funded by the federal government and \$14.4-million will be funded by the province of British Columbia.

Discussion

1. The Nisga a people have a total population of 6000, but only 2500 live in the area of the Nisga a land claim itself. Some critics have suggested that the costs of this treaty are disproportionate to the number of people affected. Suggest criteria by which it could be decided if the costs are appropriate or not.

2. When the territory of Nunavut was created in what used to be the Northwest Territories, the federal government agreed to pay the new territory \$1.2-billion over 14 years, even though the population is only 24 000.

When asked about these figures, Chief Deneron, chief of Fort Liard in the MacKenzie River basin (NWT), stated: It is a good question, one that confounds those white people who like to put a priority on things, with humans and their things definitely at the top, and all the rest, the beasts and fishes, definitely lower down. The whole of the Northwest Territories, they say, could easily fit into Toronto's CNE Stadium, and it's true if by whole you mean only the humans. For sure you won't get the land in, not the land that is one third of Canada, or the animals, not the herds of caribou that thunder by in numbers exceeding 100 000. But just the humans, yes. It is like measuring a Caesar salad by counting the croutons.

In your opinion, is Chief Deneron's analogy correct? Does it also apply to the Nisga a treaty? How does it reflect a difference in the

views of natives and non-natives?

3. Could agreements similar to the Nisga a treaty or to the treaty that created Nunavut work with the Mi kmaq in the Maritimes, or with natives in southern Ontario? Why or why not? How might the economic realities of the Maritimes and/or southern Ontario differ from those of rural British Columbia or the Far North?

4. The Reform Party of Canada strongly opposes the Nisga a agreement, believing that the benefits given the Nisga a . . . far exceed any reasonable requirement to compensate them for what the courts recognize as their modest aboriginal entitlement and that the terms of this [agreement] are detrimental to Canadian unity and to the cause of equality among Canadians. Do you agree or disagree with this position? For the full Reform argument see the party s Web site at www.reform.ca. For a rebuttal, see the Nisga a Web site at www.ntc.bc.ca.

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News in Review

November 1999

Discussion, Research, and Essay Questions

Native Rights: Sharing Resources

1. The word Mi kmaq (this is the traditional and preferred English spelling of Micmac) was given to the East Coast aboriginal people by the French in the 17th century. It means kin-friends. Research the Mi kmaq and Maliseet people and write a report about their history and culture. A good place to start your research is on the Internet. You might want to check out the following Web sites: <http://inter.gov.nb.ca/iga/aborpage/abtittl2e.htm> or www.ednet.ns.ca/educ/museum/mikmaq/index.htm.

2. David Adams Richards is a Canadian author who has won the Governor-General's Award for fiction. He has written a trilogy about life in a fictional community along the Miramichi River in rural New Brunswick. Read one of the following books from the trilogy and write a book report: *Nights Below Station Street*, *Evening Snow Will Bring Such Peace*, or *For Those Who Hunt the Wounded Down*. Compare the community described in the book with those currently involved in the fishing dispute on the Miramichi Bay.

3. Statistics Canada breaks down economic and census information for every town and native reserve across Canada. This information can be found on the StatsCan Web site at www.statcan.ca. Compare the unemployment rates and average income levels for native and non-native residents in the Burnt Church and Yarmouth areas. To what extent do you think these statistics shed light on the current conflict in these areas?

4. Donald Marshall, the Mi kmaq man at the centre of the recent Supreme Court decision, is well known to Canadians for his wrongful conviction in 1970, at the age of 17, for a murder he did not commit. He spent 11 years in jail until the actual murderer was discovered. The case led to a public inquiry and an overhaul of the legal system. To find out more about his story, obtain the video and resource guide for Donald Marshall in the September 1990 issue of News in Review. The National Film Board of Canada has also produced an important documentary on the case: Justice Denied. How do you think Marshall's previous experience with the law enabled him in his fight for justice in the current situation?

5. What aboriginal groups originally occupied the area in which you now live? Research any land claims that they currently may have outstanding with the government. Invite a representative from that band to speak to your class about the band's history and culture, and the progress and process of land claims disputes with the government. Following your research, suggest how your perception of land claims may have changed.

6. Obtain the video and resource guide for The Nisga'a Settlement: Who Owns British Columbia? in the May 1996 issue of News in Review. After careful viewing and reading write a one-page comparison of this 1996 story and the current one.

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