

Indian Affairs in Colonial New Brunswick

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In 1843 the Chief Sachem and Captains of the Malecite tribe, meeting in full council at French Village, Kingsclear, near Fredericton, wrote to the Lieutenant Governor and Assembly of New Brunswick "to call the attention of your Excellency and Your Honors, to the fact, that in the other British Provinces, the Indians hold Lands in their own right; and your Petitioners cannot conceive, in reason and justice why that advantage should be withheld from them; especially as it would then be only carrying out the intention conveyed in making the reserves: and effect that object — the welfare of the Indians — which has ever been professed by the Government".¹ They were registering the plea of a people whose rights had never been acknowledged by the British government, and whose existence had only been sporadically noted by the colonial administration. The royal proclamation of 1763, which had recognised the property rights of the native peoples of the recently won portions of North America, had never been construed as applying to New Brunswick, for it was simply a part of that older possession, Nova Scotia. The safeguards concerning Indian lands and indebtedness, however questionable their ultimate value, simply did not exist in New Brunswick; the annual payment of presents, a commitment long honoured in the Canadas as a token of past services, was an institution unknown in New Brunswick. Little wonder that the council assembled at Kingsclear spoke so enviously of the Indians in other British provinces.

In the early days of the colony there had been no need for a policy, as the Indians were so few in number, and so scattered, that they were not considered a threat to the incoming whites. With the arrival of the Loyalists,

1 "Petition to the Lieutenant Governor, the Council, and Legislative Assembly from the Malecite Tribe, Kingsclear", 10 January 1843, Records of the Executive Council, Indians [hereinafter REX/PA, Indians], n.p., Public Archives of New Brunswick [hereinafter PANB]. I would like to thank Mr. Roger Nason for his advice and guidance through the Provincial Archives of New Brunswick while I was collecting material for this article.

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“the Indians were driven back to the wilderness without much ceremony”.² The first stirrings of government concern had to await the alarms attending the Anglo-American crises preceding the War of 1812. Lieutenant Governor Hunter, ordered early in 1808 to look to the defences of the colony, had to consider the danger that might arise from Indian discontent. He felt that the New Brunswick Indians were “less enterprising” than others, and would be of little use as allies; but they could become formidable enemies if war with the United States gave them the opportunity. Despite the fact that some lands had been allocated to them, they still retained their nomadic way of life; and the colonial government’s refusal to do anything further for them had led to the complaint of “an injurious distinction between them and the Indians of Canada, on one side, and those within the limits of the neighbouring American States on the other”. Prudence, Hunter concluded, called for some attempt at redress, and he asked the British government for £ 500 a year for occasional relief to the Indians.³ His assessment failed to impress Lord Castlereagh at the War Office, who was not to be panicked into increasing Britain’s financial burdens: the proper thing to do, he replied, was to refer the matter to the provincial legislature, which should make it its “particular business” to convert the Indians into “an useful People of the Community”. Simply giving them presents was not enough, for the Canadian experience showed that while the practice did keep the Indians friendly, it did nothing to improve their way of life.⁴

These matters rested until the outbreak of war brought reports that the Indians of the Saint John and of the Penobscot in the United States were about to meet. Somewhat alarmed, the Council agreed “to make a donation of Provisions to these [Saint John] Indians on this particular occasion”, the cost to be charged to contingency expenses. The result was most gratifying, for on July 10, 1812, the Council received an agreement guaranteeing the neutrality of the Indians of Charlotte County. A year later, £ 50 more was taken out of the contingency fund for Indian relief.⁵ In 1814 the Indians near Fredericton were able to get £300 to add to their holdings at Kingsclear, a decision justified “more especially at this particular crisis”.⁶ Once the crisis had passed, the contingency funds closed down. But the notion of providing relief to the

2 M. H. Perley, “Memorandum on History of Indians”, [1848], CO 188/106, ff. 205-223, microfilm, PANB.

3 Hunter to Castlereagh, 25 May 1808, Letter Books of the Lieutenant Governors [hereinafter REX/le/l-g.], vol. 6, Carleton: 1803-1810, PANB.

4 Castlereagh to Hunter, 8 April 1809, CO 189/111, ff. 199-200.

5 Minutes of 22 June, 10 July 1812, 19 July 1813, Records of the Executive Council, Minutes [hereinafter REX/min.], Vol. II, pp. 53, 59, 76, PANB.

6 Minutes of 6 May 1814, *ibid.*, pp. 88-89. The Assembly later protested that this was a misapplication of public money, *Journals of the House of Assembly* [hereinafter JLA], 1816, 29 February 1816.

Indians had been established, and would reappear as the routine response to their plight. Of course, the emphasis would always be on relief, never on the discharge of obligations due former allies in war or trade, and certainly never with any implication that cash or kind was compensation for Indian lands taken by the whites.

From the first, the Indians of New Brunswick had received their reserved lands as grants from the colonial government.⁷ If they wanted land, they had to apply for it by petition, either in their own names or through obliging whites, in the same manner as other settlers. Even so, grants to Indians only entitled them "to occupy and possess during pleasure".⁸ Since proper surveys were not made, any calculations of the amount of land on Indian reserves is largely guesswork. Further, the original authorisations were sometimes lost and in a few areas, reserved simply by right of occupancy, the acreage is indeterminable. The first listing of reserved lands was not published until 1838, and then it identified fifteen reserves ranging in area from ten to 16,000 acres. Northumberland County had 33,193 acres reserved, Kent 8,000, Carleton 16,000, and Gloucester 4,000, for a total of 61,293 acres.⁹ Subsequent estimates always varied, although within four or five thousand acres of this figure.¹⁰

The *Reports on Indian Settlement &c.*, written in 1841 by Moses H. Perley, give the best account of the life of the Indians of New Brunswick in the colonial period.¹¹ The Malecite were "forest Indians" whose traditional mode of support had been hunting and trapping in the Saint John River valley; by 1841 they numbered 442, in five locations. Their two major reserves were at Kingsclear and along the river frontage at the junction of the Tobique and Saint John. The tribal meeting place, Kingsclear, was a reserve of 320 acres with a chapel, houses, and a population of 158. Being near Fredericton, these Indians were in close contact with whites, and had practically abandoned the hunting life: the men cultivated the fields and the women made

7 It is worth noting that the only document referring to colonial New Brunswick contained in *Indian Treaties and Surrenders* (3 vols., Ottawa, 1891) is neither treaty nor surrender, but a grant of 704 acres on the Saint John River by the Nova Scotia government, 2 August 1779, II, pp. 28-29.

8 The phrase is used to describe the "Nature of the Reserves" in "Schedule of Indian Reserves", 31 January 1838, *JLA*, 1837-1838, Appendix 12, n.p.

9 *Ibid.*

10 For example, the 1842 figure was 62,223 acres. However Perley asserted that the Richibucto reserve had long before been reduced from 51,200 to 4,600 acres, and that on the North West Miramichi halved from twenty to ten thousand acres. Supplemental Report of M. H. Perley, 3 April 1848, in *Indian Affairs in New-Brunswick*, Published by Authority (Fredericton, 1848), pp. 1-3.

11 The report was printed separately by John Simpson, Royal Gazette Office, Fredericton, 1841, and as an Appendix to *JLA*, 1841, pp. xcii-cxxviii. Future references will be to *PR* with this pagination.

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baskets for sale in town. The much larger, 16,000 acre, Tobique reserve was more dependent on the hunt, although a few potatoes were grown. The men were able to get seasonal work rafting logs down the river, and some income was derived from the sale of hay and timber cutting privileges to whites. The Tobique Indians, Perley considered, were in "easy circumstances as compared with others of the Tribe."¹²

The Micmacs were "saltwater Indians" who had always lived by fishing and fowling along the north coast of the province and the Bay of Chaleur. This was a larger and more scattered tribe than the Malecite, numbering 935. The Micmac nation met every year at Burnt Church Point on July 26, St. Anne's Day. At that time, disputes between individuals were settled, chiefs and captains elected or deposed, marriages solemnised, and all public business transacted. The 240 acre site was, however, deserted in the winter. The twenty-one Micmac reserves ranged in size from ten acres to ten thousand, with populations from zero to 188. The most populous was on the Richibucto River, where the Indians were of "steady industry and good habits"; there were five frame houses whose owners lived "comfortably in the English style", and some 120 acres of land under cultivation. A number of the residents worked as labourers at Jardine's wharves and shipyards, where they were well regarded. The 108 Micmacs at the Eel Ground had also made their peace with the white economy, employed in "getting lathwood, bark for tanning, treenails, and timber". The women made baskets, brooms and boxes. Altogether, thought Perley, "an industrious settlement". By contrast, the Indians of Pokemouche, 75 in all, lived remote from whites and retained their hunting way of life intact; they had no houses, no farms, but an abundance of game along the coastline.¹³

It was apparent that the native peoples were declining in numbers. There were 224 Malicete adults, 218 children; 484 Micmac adults, 451 children. The best ratio Perley could find was at Memramcook, 51 adults to 75 children; the worst amongst the Indians of the Bathurst area, 19 to 8. He spoke to many elderly, childless, couples who claimed to have had from eight to twelve children, all of whom died in infancy. Measles, whooping cough, scarlet fever, croup were all endemic, and typhus and smallpox still appeared; while visiting the Indians assembled at Burnt Church Point he observed at least one death a day. Native medicine, Perley considered, was hopeless in these circumstances, but there were no arrangements for attendance by white physicians save as a charitable and occasional gesture of compassion.¹⁴

The influence of missionaries, the traditional bearers of white culture, was not nearly as great as in Canada, although important at times. The Malicetes at Kingsclear were visited occasionally by two priests from Fredericton;

12 *PR*, pp. xcii-xcvii.

13 *Ibid.*, pp. xcvi-cciv. For a different view of the Richibucto Indians, see below, p. 11.

14 *Ibid.*, pp. xcvi, xc.

those at the Tobique by a missionary from the Madawaska area who came twice a year. The provincial government paid a small stipend for these services. It paid none to the missionaries for the Micmacs, who came from Lower Canada and were considerably more diligent. All the Micmacs, save a few itinerant ones near Bathurst, had taken the pledge of total abstinence from alcohol through the efforts of the five Roman Catholic priests working with them. These men had to divide their time amongst the various bands, but always attended the annual meeting at Burnt Church, holding services in the chapel maintained there. Although they only stayed a fortnight, regular services continued to be held daily throughout the season, led by one or other of the chiefs. Perley credited the adaptation of the Richibucto Indians to the efforts of a resident missionary, the Rev. Joseph Paquet. The fact that all the Micmac men (unlike the Malicete) wore European dress was also presumably the effect of missionary influence.¹⁵

The more influential white was, without doubt, the squatter, who was always liable to get hold of the choicest portions of the reserve lands. These men had settled on, or stripped the timber off, what they insisted was unclaimed land. They were without the shadow of a title to their holdings, and could get no credit from local merchants; they lived in a state of constant uncertainty which discouraged any but the most slovenly type of farming. At Tobique, Perley reported, such men had hunted the Indians off the reserve "like wild beasts", and faced him "in hostile array", insolent and unrepentant.¹⁶ Sometimes squabbling was the result of the inefficiency of the Crown Lands office and the inaccuracy of surveys. For example, a perfectly legal grant made in 1837 in the Tobique area inadvertently placed half the land inside the reserve, where the grantee had, in good faith, built a mill. 550 acres granted for a parish glebe nearby was defined as lying between two boundary lines which were in fact contiguous, so that the grant lapped over onto the reserve.¹⁷

When the existence of the squatter could no longer be ignored, the executive government made the proper denunciations, but the elected assembly was most sympathetic to his plight. The first official notice was taken in 1841, with two proclamations requiring those who had illegally occupied lands reserved by the Crown for the benefit of the Indians to leave immediately and desist from cutting the timber thereon.¹⁸ A list drawn up that same year showed 118 squatters on Indian lands, with the largest single group, 87, in Northumberland county.¹⁹ In fact, the government did not have the ability

15 *Ibid.*, pp. xcii, xciv, xcix-cxx, civ, cviii.

16 *Ibid.*, pp. cxi, xciv.

17 *Ibid.*, pp. xcv, xcvi; Report of Surveyor General, 30 August 1841, REX/PA, Indian Lands, n.p.

18 Proclamations by Lieutenant Governor Sir William Colebrooke, 29 July, 16 August 1841, Executive Council Papers, Indians [hereinafter REX/PX 40], pp. 226, 229, PANB.

19 "Return of the number of Persons who have settled upon, and occupy portions of the Indian Reserves, in the Province of New Brunswick, 1841". REX/PA, Indians, n.p.; *PR*, p. cxxviii.

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to remove these trespassers. There was no doubt that they had the legal right to do so, but the necessary procedure, by an action for information for intrusion before the Supreme Court, was too expensive.²⁰ The Assembly would not have supported any such move, for, as a Select Committee reported in 1843, the “actual Settlers” on the reserves had contributed greatly to the progress of New Brunswick by improving waste lands that otherwise lay as barriers to the extension of thriving settlements. The “industrious poor Squatter” should not be harried off the land which necessity had forced him to seek out for a livelihood.²¹

Any threat to the squatters’ position provoked a stream of petitions from men who claimed they had bought their holdings from the local Indians. The resulting investigations sometimes bore out these assertions. Chief Thomas Nicholas of the Buctouche reserve, for example, sold one hundred acres to Samuel and Peter Allen for a horse and £9 cash. He kept the horse for himself and divided the money among his band. Altogether he sold over 1,000 acres, mostly for provisions and animals used for the common benefit, and in so doing had the support of the vast majority of his band.²² But such agreement was not always present, and bitter disputes over the election of chiefs followed from the opportunities they had to make money out of reserve lands. Since the government issued commissions under the Great Seal for life to chiefs, and the Indian practice was to hold annual elections, it was possible for a commissioned chief to hold on to his title even after he had been repudiated by his band. The commission gave an appearance of authority to any land transaction such a chief might undertake. Perley estimated that Barnaby Julien of the Miramichi reserves had made at least £2,000 in the seven years following his commissioning in 1836, and had a steady annual and personal income of £300 from leasing the reserve lands of his tribe. Others were naturally eager for their opportunity to enjoy this bounty.²³

A further source of danger to the reserves was the lack of any restrictions on Indians going into debt. Some were gaoled by white creditors, but even worse were the occasions when a whole band faced extinction for not meeting its payments. Sometimes the situation got to the point where a government official felt obliged to intervene. Attorney General Wetmore found the Indians of the Little South West Miramichi whom he described as “Tenants at sufferance of the Crown”, in debt to the extent of £676.6.8. They had sold their cattle to make payments, and their hay had been seized. Crops in

20 Report of Attorney and Solicitor General, 22 February 1842, CO 188/76, ff. 122-123.

21 *JLA*, 1843, 21, 29 March 1843, pp. 206-208, 235-236.

22 Paper endorsed “Indian Office at Buctouche”, n.d. but c. 1858, REX/PA, Indians, n.p.

23 Perley to Odell, 2 October 1843, REX/PX 40, pp. 7-9. The Julien family had been in business for some time. A complaint against Andrew Julien had been lodged by the Miramichi Indians in 1815, and at that time the Council had ordered that no sale or exchange of reserve lands be permitted. 20 October 1815, REX/min., II, p. 118.

the ground were also liable to be taken when harvested, leaving the whole band in utter destitution. Wetmore was able to scale down the creditors' demands, and urged the government to sell a portion of the Indian reserve that was "of very little if any use to them but valuable for a Mercantile establishment". The agreement he worked out provided for payment over three years, and only after the basic needs of the band had been met. But he avoided any general consideration of the problem, making no further recommendation for the Indians' protection save that they should only deal with one merchant thereafter. The agreement, as recorded, was provisional, of no effect "unless the Government can and will use its exertion, in the protection of the land for the use of the said Indians".²⁴ It seems unlikely that the exertion was made.

Abuses came all the more easily because New Brunswick had no department responsible for maintaining contact with the Indians. All correspondence concerning them passed through the Provincial Secretary's office. Local unpaid Indian commissioners had been designated *ad hoc* from the earliest days, but it was not until 1825 that there was the first indication of a change. Upon taking office, the new lieutenant governor, Sir Howard Douglas, was greeted by two hundred Malecites at Kingsclear. Impressed by their demonstration of both loyalty and poverty, he issued provisions to them. Discovering that no provincial moneys were appropriated for their relief, he wrote the Colonial Secretary for authority to make annual presents as was done in other British North American provinces. He received approval to spend up to £60 a year out of the colony's casual revenues, but was cautioned not to encourage the Indians to look for such bounty on a regular basis.²⁵ Nothing daunted, Sir Howard was able to persuade the Assembly to vote £200 for the Indians on three separate occasions during his tenure of office. He decided to use the casual revenue money to provide farm tools and seed to encourage agriculture, while the Assembly's grants went strictly for the relief of the aged and infirm. He appointed a group of commissioners in 1826 to supervise the distribution of these funds to the Indians of Richibucto, Chebuctouche, Kingsclear and the Miramichi. The commissioners' instructions were to persuade the Indians to abandon their "desultory pursuits" and lead them to civilized life through education and agriculture. In reporting back, the commissioners were most optimistic and not a little unctuous, urging an "unremitting cultivation of a Hope which at length seems to dawn upon the hitherto benighted prospects of these original Masters of this Soil". Those original masters had expressed their eagerness for educa-

24 Wetmore to Lieutenant Governor [smyth], with enclosures, 24 September 1822, REX/PX 40, pp. 245-253.

25 Douglas to Bathurst, 25 January; Bathurst to Douglas, 30 June 1825. These were the only contributions from New Brunswick to the "Reports from Governors . . . on the present state of the Aboriginal Tribes", House of Commons, *Sessional Papers*, 1834, XLIV, pp. 485-486.

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tion and their willingness to take up farming, and when they had received seed and tools for the following year's crops all would be well.²⁶ But there are no further commissioners' reports for over a decade, no records of funds to buy farm tools; only a grudging payment of relief when it became unavoidable.

Inertia remained the rule in Indian affairs; inertia so strong that it was even able to withstand an imperial initiative. When Colonial Secretary Sir George Murray overhauled the administration of Indian affairs in the Canadas in 1830, he wrote Douglas to inform him of the changes and told him to be guided by the new instructions "in any measures which you may adopt for improving the condition and promoting the interests of the Native Indian Tribes".²⁷ Apparently no measures were contemplated in New Brunswick, for there was no reply. The omission passed unnoticed, and so did the colony, throughout the extensive British parliamentary enquiries of 1835 and 1836 into the condition of the aboriginal peoples of the empire.

But if there was little concern for the Indians themselves, there was a legislative itch for their lands. In January, 1838, assemblyman Weldon moved for information on all the reserve lands.²⁸ He followed this up a month later with a motion to authorize the sale of reserve lands in Kent county, and the use of the money so realised to provide relief for the Indians, under the supervision of commissioners. A lively debate ensued. Mr. End moved to strike all references to land sales and proposed a policy of ameliorating the Indians' condition with public money distributed by commissioners for "agricultural implements, clothing, bounties on whatever potatoes, grain or other produce they may be induced to raise, and generally in such manner as may allure them to the arts of civilized life". Mr. Street was agreeable to the commissioners distributing public money, but at the same time wanted them to recommend what portion of the reserves in general could be sold to establish a fund for the benefit of the Indians — and relieve the Assembly of an annual charge. These alternatives failed to win approval, and the original motion was passed, fifteen to twelve.²⁹ End tried again a few days later, and received approval for a motion to defend the equitable rights of the Indian tribes in Gloucester county, by having commissioners appointed to determine the best way the reserve lands could be made of benefit to them.³⁰

Six months after these demonstrations of legislative concern, embodied in addresses to the lieutenant governor, Sir John Harvey received word that the Colonial Office was once again interesting itself in the fate of the native

26 "Report of the Indian Commissioners to Sir Howard Douglas", 28 February 1827, Assembly Papers [hereinafter RLE], 1827, n.p., PANB.

27 Murray to Douglas, 15 March 1830, CO 189/12, ff. 419-421.

28 *JLA*, 1837-1838, 24 January 1838, pp. 87-88.

29 *Ibid.*, 23 February 1838, pp. 187-189. Perley asserts that the land sales were not made, due to vigorous protests from the Richibucto Indians, "Memorandum", *loc. cit.*

30 *JLA*, 1837-1838, 3 March 1838, p. 219.

peoples of his province. Right at the end of his term of office, Lord Glenelg sent out a letter with specific instructions. Harvey was to report to him "on the State of any of the Aboriginal Inhabitants who may still exist in the Province" — their numbers, whether they were increasing or declining, their condition, and their morals. More awkwardly, Lord Glenelg wanted to know what efforts had already been made to civilize them: how many were actually settled farmers? how many still hunters? how much land did they hold? what were the local statutes concerning them? And what did Harvey suggest to do for the amelioration of the Indians' lot?³¹

Glenelg's letter was transmitted to the commissioners for the Miramichi, Richibucto and Gloucester county Indians. Their reports, although brief, did attempt to answer the questions put by the Colonial Secretary.³² On the Miramichi there were some 400-450 Indians living from hand to mouth, for the hunting had been ruined by the great fire of 1825. To make matters worse, whites had superseded Indians as casual labour in the timber industry. The local Indians, so the commissioners asserted, were loyal, harmless people, living in bark huts in the forests during the winter and spending the summer on the riverbanks. Their "natural indolence" prevented them from farming and there was no prospect of change in this respect. Their numbers had increased in the previous five years, and their morals had improved too, but not one Indian could be called "civilized". The report strongly urged the sale of portions of the reserves to provide a fund for the aged and infirm, but had nothing to offer the able-bodied Indians. The commissioners for the Richibucto Indians also felt that some scaling down of the size of the reserve would be useful: if the Indians had less land they would appreciate what remained all the more. There were only 120 of them, half what there had been in 1825, and only fourteen farmers, all unsuccessful, because their practice was to sow seed and then leave the crops unguarded in unfenced fields. Too many of the local Indians were addicted to liquor and spent their time hanging around stores and shipping in the harbour, trying to sell baskets. The commissioners in Gloucester county were not too sympathetic either. Their Indians had declined in number by one-third in the previous decade, and only 183 were left. Since the Indians did not wish to farm, the reserves were of little use to them. The best thing that could be done was to furnish relief through provisions and clothing.³³

These reports covered only a minority of the native population, but Harvey sent them off to the Colonial Office with a brief and unhelpful covering letter.

31 Glenelg to Harvey, 22 August 1838, CO 189/15, ff. 252-254.

32 Harvey to Normanby, 14 May 1839, enclosing commissioners' reports, CO 188/64, ff. 146-163.

33 In a report three years later the Gloucester county commissioners noted the reluctance of the Indians to provide any information concerning their numbers, means of support, or exact location on their lands. A. Barberrie and T. M. Deblois to Odell, 4 June 1841, REX/PA, Indians, n.p.

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Giving relief to such improvident people as the Indians, he wrote, only confirmed them in their indolent ways; yet he had nothing better to suggest than to supply provisions and clothing as the commissioners might request.³⁴ The tone of the letter caught the prevailing mood at the Colonial Office, where there was a note of weariness after almost a decade of zeal for aboriginal peoples. The new Secretary, Lord Normanby, replied that rapid progress in civilizing the Indians could not really be expected, although he did not despair of their becoming farmers one day. He would not venture to give any instructions on how to ameliorate their condition, as he felt sure that Harvey and the provincial legislature would know best. Selling part of the Indians' reserves to provide a fund for their benefit was a good idea, and had been helpful in other colonies. Harvey should consult his Executive Council and any other persons knowledgeable of the Indian character, and if anything came to mind, he should by all means get in touch with the Colonial Office.³⁵ Harvey had received the answer he had been hoping for: approval to do nothing.

With a new administration came a fresh perspective. Due to the efforts of Lieutenant Governor Sir William Colebrooke, something approaching an Indian policy emerged in the 1840's. Colebrooke's interest was aroused and maintained by Moses H. Perley, who was his adviser on Indian affairs throughout, and assumed the role of public spokesman for the Indians' interests. Perley was the grandson of a Newburyport pioneer who had led a group of settlers to the Saint John River in 1763; he himself had spent much of his youth travelling, hunting and trading with the Indians. Called to the bar in 1830, he kept his contacts through several unsuccessful business ventures, and was appointed a commissioner in 1837.³⁶

Colebrooke and Perley reached some general agreement on the subject of the native peoples by June, 1841. Both were opposed to the issue of presents, Canada style, and both wanted to secure the Indians in permanent possession of the reserves. Colebrooke was especially concerned to educate both boys and girls in integrated schools near white settlements, "as it is not desirable to bring up [Indian] children as an exclusive class or caste, but rather to blend them with others". Perhaps it would be possible to found schools on the pattern of those recently established in the West Indies. The government might establish Loan Funds to encourage agriculture, and, meanwhile, the annual distribution of seed corn and potatoes should continue. Indian farmers would be allotted lands for their individual occupation, and their general interest in the reserves be protected by taking steps to prevent

34 Harvey to Normanby, 14 May 1839, CO 188/64, ff. 146-148.

35 Normanby to Harvey, 27 July 1839, CO 189/15, ff. 342-346.

36 In 1822, at the age of eighteen, Perley accidentally shot and killed an Indian while at target practice. There may have been an element of atonement in his later championing of the Indian cause. Biographical material from W. A. Spray, "Moses Perley", manuscript prepared for Volume 9 of the Dictionary of Canadian Biography.

their granting timber cutting or occupancy rights to outsiders. Colebrooke followed up his consultations with Perley by appointing him to consult with, and report on, all the Indians in the province.³⁷

Perley visited the Malecite Indians of the Saint John valley in July and the Micmacs of the Miramichi northward in August and September, 1841. To all he carried the same message. The government wished to make the reserve lands benefit the Indians, to improve their condition by forming them into settlements with secure title, and to educate the young not only in literacy but also in farming and useful trades. The response was flattering. For the Micmacs assembled at Oxford Brook, near Newcastle, "The announcement that the Executive was about to take some interest in their affairs, created great satisfaction, and caused much rejoicing".³⁸ Those assembled at Burnt Church were quite willing to let the government take sole charge of their lands, and expressed their desire for schooling. Perley felt that the greatest ambition of each Indian there was to have his own frame house, and if assistance to build could be tied in with the encouragement of agriculture, the Indian would indeed turn farmer. The Micmacs elected Perley "Wunjeet Sagamow" (Head Chief), a title he was to use with pride over the years.³⁹

Whether his recommendations entirely justified the honour bestowed on him is questionable. Most of the suggestions he made following his visits to the Indians were those he had agreed on with Colebrooke before he set out. The scattered Indians of the province should be concentrated in a few settlements: the Malicetes at Kingsclear and the Micmacs in the Miramichi valley, in villages that contained land held both individually and communally. However, Perley cautioned against a too rapid break with the hunting way of life. Once settled, the Indians' children could be sent to school, and any parental objections, he wistfully explained, be overcome by issuing school uniforms. It would be best to place the new villages near white rural settlements (not towns), so that the children of both races could go to school together. In order to combat the appalling mortality rate, medical attention could be guaranteed by paying a retainer to a local doctor. The cost of these relocations and services would be met by establishing a fund from the proceeds of leasing to whites all the reserve lands no longer needed under the new arrangement. One or more Indian Superintendents, under a Board of Commissioners, would be responsible for carrying out government policy, improving the social and religious state of the Indians, gathering and settling bands, encouraging agriculture and education. Thus the Indian would be paying the

37 Reade to Perley, 16, 23 June 1841, *PR*, pp. cxxi - cxxii.

38 *Ibid.*, p. xcvi.

39 *Ibid.*, p. c; Perley was reprimanded for using his title in correspondence with the Colonial Secretary, Odell to Perley, 18 May 1844, Records of the Provincial Secretary [hereinafter RPS], 25 August 1842 - 19 June 1845, pp. 216-217, PANB.

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cost of his own "civilization".⁴⁰

Perley's recommendations were, not too surprisingly, in line with the policy that had been worked out for the Indians of the Canadas in the previous decade: assimilation by way of "civilization" through agriculture — and at no extra cost to the taxpayer.⁴¹ He had read the voluminous Parliamentary Papers containing correspondence and testimony about the aboriginal peoples of the Empire, and so knew the sentiments approved in England; in fact, he included unacknowledged excerpts from those Papers in his report.⁴² He subscribed to the idea of the Indian as "an infant requiring a guardian", who had to be under the paternal care of the Crown.⁴³ Perley was a white man of his time, more sympathetic than most, but still trammelled by those pre-suppositions he had taken with him from his earliest visits to the Indians. For example, he fully realised that the Indian hunt was an integral and eternal part of life, yet he often referred to it as though it were a self-indulgent sporting activity that should be dispensed with in favour of work.⁴⁴ But of course Perley was writing for other white men, not for Indians.

By one of those quirks of fate that ruin the thematic approach to history, Perley's Report was almost overwhelmed and lost in the affair of the three Indians in Whitehall. This unpleasant intrusion from the colony took place in January, 1842, and created a general antagonism at the Colonial Office towards anything emanating from New Brunswick for the balance of the year. It all began with Captain O'Halloran of the 69th regiment, who had accompanied Perley part way on his tour, and won some local fame for translating the Lord's Prayer into the Micmac tongue.⁴⁵ O'Halloran inspired three Indians of the Restigouche with the hope that if they went to London they could get financial aid towards building a church, and perhaps get some of the colony's laws changed in their favour; he even gave them a letter of introduction to the Colonial Secretary. The Indians duly arrived, penniless, and presented themselves to the new incumbent, Lord Stanley. He was furious. Who is this Captain O'Halloran? No one ever mentioned his being employed among the Indians; send me a copy of his instructions immediately. The Indians were returned on HMS *Warspite* to New York, where the British consul would forward them to Saint John, and it was the Lieutenant Governor's responsibil-

40 *PR*, pp. civ. cvii - cix.

41 L.F.S. Upton, "The Origins of Canadian Indian Policy", *Journal of Canadian Studies*, November, 1973, pp. 51-61.

42 For example, Glenelg to Durham, 22 August 1838, where the Colonial Secretary contrasted the noble efforts of Jesuit missionaries to the disinterest of the British. "Copies or Extracts of Correspondence" House of Commons, *Sessional Papers*, 1839, XXXIV, pp. 223-227; *PR*, p. cvi.

43 *Ibid.*, p. cvi.

44 *Ibid.*, p. xcvi, for one example.

45 *Ibid.*, p. cxxiv.

ity to get them home from there.⁴⁶ The story got into the provincial newspapers and O'Halloran complained bitterly that both he and the Indians were being maligned by Perley. The provincial secretary had a hard time smoothing ruffled tempers.⁴⁷ Then, in August, 1843, news came that another Micmac was planning to visit London. Perley was ordered to explain to him "the extreme impropriety" of going. Apparently the Colonial Office was spared further embarrassment.⁴⁸

It was hardly a propitious time to get a sympathetic hearing for the Indians of New Brunswick, but in the midst of this correspondence Colebrooke suggested that since his province had no funds for resettling or educating the Indians it should receive part of the annual grant given Canada; and in the same letter he tried to make excuses for O'Halloran. The result was a double rebuff: there would be no diversion from imperial funds to Canada, and no excusing O'Halloran's conduct.⁴⁹ When Stanley finally acknowledged Perley's Report, he expressed his approval of the "proper and judicious representations therein", but in such a vague and brief letter as to give no direction on the next step.⁵⁰ But imperial approval was demonstrated in a more tangible way when Governor General Sir Charles Bagot offered Perley the office of Superintendent of Indian Affairs in Canada in 1843. The offer was withdrawn by Metcalfe, but not before Perley had accepted with enthusiasm.⁵¹ This near-achievement was to heighten his exasperation with his own colony's politicians in the years ahead.

The publication of the Report had set its own sequence of events in motion within the colony. The Attorney and Solicitor General gave their opinion that the Executive Council could lease Indian lands on its own authority, but would require instructions from London before selling them.⁵² As numerous petitions were coming in from those identified in the Report as squatters, the Executive Council decided to take action. Perley had urged that the occupants of Indian lands be given the chance to legalise their position, and it was decided to place an advertisement in the *Royal Gazette* setting out the conditions for leasing such holdings. Those who wished to settle on Indian lands, or, by implication, were already settled, should petition

46 Stanley to Colebrooke, 13 January, 1 February, 5 June 1842, CO 189/16, ff. 187-190, CO 188/76, ff. 108-110; CO 189/16, ff. 268-269.

47 Reade to O'Halloran, 17 May 1842, REX/1e/1-g, vol. 16, pp. 274-276; *The Courier* (Saint John), 23 April 1842.

48 Reade to Perley, 1 August 1843, *ibid.*, vol. 17, pp. 118-119. Another New Brunswick Indian did turn up in London in 1851, W. S. MacNutt, *New Brunswick: A History* (Toronto, 1963), pp. 361-362.

49 Colebrooke to Stanley, 14 May 1842, CO 188/77, ff. 373-375; Stanley to Colebrooke, 5 June 1842, CO 189/16, ff. 268-269.

50 Stanley to Colebrooke, 26 August 1842, CO 189/16, ff. 328-329.

51 Spray, "Perley", *loc. cit.*

52 Report of Attorney and Solicitor General, 22 February 1842, CO 188/76, ff. 122-123.

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the Lieutenant Governor through the Surveyor General's office describing the location sought; survey would be made at the applicants' expense and leases granted. The whole operation, the advertisement maintained, was to reclaim and improve the reserves for the benefit of the Indians.⁵³ The Malecites, at least, did not agree with this view of their interests. In a petition, they expressed their desire to adopt "settled habits", become farmers, go to school, "enjoy social blessings"; but they had no hope of advancement while their reserves were plundered daily by whites. Only if they were given direct control over their lands could they avoid destruction as a tribe; only if they held their land in common could they avoid the disruptions that would flow from individual ownership. One grant should be issued the whole tribe to cover all the lands reserved for them in the Saint John Valley.⁵⁴

This dissent went unheeded, and the question, as far as the government was concerned, remained simply how to make money out of the reserve lands. It soon became apparent that leasing was not the way to do it. No squatter would put out the cost of a survey merely to get a leasehold. But something should be done, and in 1843 the Assembly began to show some excitement at the prospect of ridding itself of the annual grant for Indian relief then running at £300. A motion to compensate the Rev. Michael Egan, a Roman Catholic missionary singled out for praise by Perley, was defeated because the reserve lands should pay "for the temporal and spiritual wants of the Indians."⁵⁵ A Select Committee appointed in February, 1843, to consider the subject of the illegal occupation of Crown lands and Indian reserves concentrated exclusively on the latter. After noting that squatters performed valuable services to progress, the committee recommended that such land as was not required for Indian villages be sold in 50 and 100 acre farm lots, while leasehold arrangements be restricted to meadow lands for grazing. Lots would be offered for sale at an upset price, and payment made over five years; after the first instalment the purchaser would be given a ticket of location and the actual grant made only with the final payment. The money arising from sales and leases would go into an Indian Fund Account bearing interest at 6%, with the interest appropriated annually for the benefit of the Indians, proportioned according to the amount raised in each county. Indian villages should be laid out in town, pasture and wood lots, and those wishing their own land within the village could be given non-transferable location tickets. If an Indian consistently improved his land, he might one day expect to own it freehold.⁵⁶ This was a solid statement of the policy of despoliation cum assimilation.

53 4, 5 May 1842, REX/min. vol. 4, pp. 325, 328-329; Odell to Perley, 6 May 1842, RPS, 10 November 1838 to 24 August 1842, p. 255; *Royal Gazette*, 18 May, 25 May 1842.

54 Petition of 10 January 1843, see fn. 1 above.

55 15 March 1843, *JLA*, 1843, p. 174; however, £50 was voted for a missionary to the Malecite tribe "at Fredericton" and £25 for a missionary at Madawaska, 21 March 1843, pp. 205, 206.

56 Committee report, 21, 29 March 1843, *ibid.*, pp. 206-208, 235-236.

Legislation was now in the offing. Moses Perley was asked by the Council to draft a bill "for the Management of the Indian Lands, and the Settlement of the Indians".⁵⁷ It was nothing more than a courteous gesture, for the resulting bill, much to his disgust, was obviously the work of the Assembly's committee. The act, 7 Vic. cap. XLVII, passed with a suspending clause in April, 1844, and was proclaimed in September. The preamble noted that the reserves greatly retarded the settlement of the province and yet were of no use to the Indians. To turn these reserves into an asset it would be necessary to survey them definitively and distinguish between the qualities of land they contained; then, under Commissioners appointed by the act, to sell or lease at auction whatever tracts were thought fit to be offered. The resulting funds would be used for the exclusive benefit of the Indians, for the relief of the aged and infirm, and for the provision of seed and agricultural implements. The local commissioners were empowered to create Indian village tracts on the reserves; no mention was made of the costs involved in relocation.⁵⁸ The hopes raised in Perley's Report had been shorn away. There was no longer so much as a token gesture towards ameliorating the Indians' condition. They were no longer even supposed to pay the costs of "civilizing" themselves; simply generate enough money to provide their own relief payments from one year to the next.

Perley was quick to lodge objections, but the Council brushed them aside. No one, they said, intended to sell so much land that the Indians would be injured thereby; and as for education or religious instruction, mention of these had been omitted from the act because they were mere details. As things stood, it would be possible to raise money from valuable tracts never before used, and the interests of the Indians were stringently safeguarded.⁵⁹ When it came to his turn, the Colonial Secretary was a bit more cautious, warning against alienating too much of the reserve land; but he approved the law and professed to see it as a measure towards the amelioration of the Indians. He did not wish to pursue Perley's objections any further, trusting to the discretion of the provincial executive.⁶⁰ Thus the imperial government washed its hands of the matter.

The government of New Brunswick, now for the first time armed with legislative authority, issued its instructions to the several commissioners. The first task was to determine how much of the Indian reserves should be given to the Indians, at the rate of fifty acres per head of family. When this was done, the Indians were not to "interfere" with the balance of the land in their reserves, which would be offered for sale by advertisement in the *Royal Gazette*. No mention was made of Indian villages with a mix of private

57 10 June 1843, REX/min, vol. 5, pp. 89-90.

58 In *Statutes of New Brunswick, 1844* (Fredericton, 1845), pp. 147-149.

59 "Report of Council on Indian Act", 29 July 1844, REX/PX, Indians, 40, pp. 269-273.

60 Stanley to Colebrooke, 1, 24 August 1844, CO 189/17, ff. 239-241, 249-250.

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and communal land. Each individual was to receive a location ticket immediately, and after ten years' continuous occupancy be eligible for a free grant of his fifty acre lot. After he had received a free grant, an Indian would be able to alienate his land, but not before. To those Indians who complained of the arrangements it would be necessary to explain "that the Act must be carried out for their general benefit". As for the squatters, they had to take immediate steps to legalise their position by applying for a survey; to encourage this process, the commissioners should cancel any arrangements whites had made with local Indians to cut hay or timber or occupy any part of the reserve lands.⁶¹

These instructions were even more callous and impractical than the act itself, and so thought Moses Perley. Despite his earlier criticisms, he accepted appointment as a commissioner "to act in conjunction" with local commissioners, apparently hoping that he would be given some overall supervisory control.⁶² Thwarted in this expectation, he penned a devastating critique of the policy early in 1846. Nothing had yet been done under the terms of the act, and nothing ever would be; since no squatter could be ejected, there was no reason for him to legalise his position. The trifling sum raised to date did not nearly cover the costs so far; and the multitude of commissioners prevented any uniform programme from being followed.⁶³ "The Squatters are dissatisfied, reckless and troublesome, the Indians are not much better, and matters will thus continue until a settlement of existing difficulties takes place". He recommended that the whole process laid out in the act and instructions be abandoned; that the 1844 law be repealed, and a modification of the Canadian policy take its place. The provincial government should make treaties for the surrender of all the Indian reserve lands to the Crown, while safeguarding, in specific words, the Indians' rights to the land they actually occupied; in return for this surrender the Indians should receive annuities, about £1,000 worth across the entire province. The Crown would thus have a large amount of land to sell without complications, enough to fund the annuities; the annuities could be used for the Indian's "moral, social and physical" betterment and for the encouragement of his settlement on land clearly acknowledged as belonging to him; and the Assembly would be free of the need to spend £250 to £300 a year for relief.⁶⁴

These suggestions aroused no interest. Perley found time out from his new post as Government Emigration Officer at Saint John to return to the charge in December, 1847. Once again he urged the conclusion of treaties and the

61 Saunders to Dibbles, 25 July 1845, RPS, 18 June 1845 to 3 August 1847, pp. 35-39.

62 Saunders to Perley, 13 September 1845, *ibid.*, pp. 66-67.

63 In particular, Perley was afraid the commissioners would be too tender to squatters; see, for example, his strictures on William Salter, and the latter's defence, Perley to Saunders, 22 July 1847; Salter to Baillie, 30 November 1847, REX/PA, Indians, n.p.

64 Perley to Saunders, 14 February 1846, *ibid.*; Perley's draft of "A Bill for the Management and disposal of the Indian Reserves in this Province", n.d., REX/PX 40, pp. 214-222.

payment of annuities; again he cited the Canadian example. As he informed Surveyor General Thomas Baillie, he had himself laid the groundwork for such a policy in conferences with the Indians of Northumberland and Pokemouche, where all had agreed on what land could be surrendered for an annuity. Similar agreements could be made with the Indians of Richibucto and Buctouche to cover all the Micmac People. There should be no trouble in negotiating with the Malecites over the Tobique reserve, and "At Madawaska, all the Indians, save one, died last Season, and Consequently there would be no difficulty as to that reserve". The Executive Council decided to let the message stand over.⁶⁵

Meanwhile, portions of Indian reserve lands were being offered at public auction. The first to be put up were tracts already occupied by squatters, and the presumption was that the squatters themselves would buy in at the upset price established by the local commissioner. Anyone else who bought would have to pay the assessed value of the improvements extra. The seven acres held by William Wishart at Wishart's Point, Tebucintac reserve, for example, were listed at £10 the lot; 425 acres held by Donald M'Kay on the Eel Ground were offered at 3s. an acre.⁶⁶ But if the squatter did not bid the upset price, and no one else showed any interest, what happened then? No one was satisfied with the progress made, and no one but Perley had any alternative to offer. An Assembly committee reporting in April, 1847, urged sale "as soon as possible", and another committee a year later simply repeated the hope.⁶⁷

"On behalf of the Indians of New-Brunswick", Perley made his last bid to influence policy in March, 1848. Reporting directly to Lieutenant Governor Colebrooke, he argued that as long as the emphasis remained on selling Indian lands to accelerate settlement, no worthwhile amounts of money would be raised. If the government continued to sell the land cheaply on credit, there would soon be no land and no funds for the support of the Indians. The government should either lease the lands on a long term basis, or legislate an annuity for the Indians as compensation for the low prices being realised. There should be no further sales until the amount of land required by the Indians had been precisely determined.⁶⁸ Colebrooke was sympathetic, but realised there was no way he could persuade the Assembly. He agreed that it was impossible to raise an adequate fund from land sales and urged that some method be found to get higher prices and prompt payment. He hoped the Assembly would reconsider those provisions in the act, and would

65 Perley to Baillie, 30 December 1847, REX/PA, Indians, n.p.

66 Advertisement in *Royal Gazette*, 11 August 1847.

67 12 April 1847, *JLA*, 1847, pp. 357-358; report of 3 March 1848, *Indian Affairs in New-Brunswick*, pp. 5-6. The earlier report did note that Indians should be allowed to retain, in addition to the 50 acre farms available to families, "suitable" woodlands and campgrounds.

68 Report of 3 March 1848, *ibid*.

guarantee the Indian Fund before allowing any further sales.⁶⁹ As one of his final gestures in office, Colebrooke wrote a gloomy report to the Colonial Secretary concerning the fate of the Indians. He followed Perley's critique exactly: the act had not worked, and since the Assembly refused to grant an annuity the only hope left was to raise some money for the Indians by putting part of their lands out on long leases. Lord Grey referred the letter to the imperial Commissioners of Colonial Lands and Emigration.⁷⁰

Colebrooke's dejection was replaced by the vigour of Sir Edmund Head. Instructed to give his views on the situation of the Indians, he quickly forwarded Grey a lengthy report. There were, explained, only two ways to deal with aboriginal peoples throughout the world: give them full legal rights or treat them as children, thereby limiting their "discretion and capacity . . . for dealing with their own affairs". Only the latter course was possible in New Brunswick, where the Indians could be too easily cheated out of their land by whites. Head illustrated his views with excerpts from Perley's Report that were extensive enough to take up the bulk of his dispatch. But although he may have relied on Perley for information, he did not draw the same conclusions; in fact, he agreed with the Assembly that the act of 1844 had never been given a fair trial. Head proposed to give it a chance with a new set of instructions. He hoped to raise enough revenue to provide relief for the Indians, applying any surplus to the industrial education of the young. He did not really expect any improvement however: the Indians were a harmless people, and their numbers continued to decline. It is not hard to imagine the future Sir Edmund Head saw in store for them.⁷¹

Certainly that future held no place for Moses Perley. Sir Edmund informed Grey that he would not employ Perley in any capacity among the Indians. His zeal had antagonized both Council and Assembly, and led him to think of himself as the "diplomat of an independent power", treating between the Indians and government. Apparently Perley had let slip the fact that when he announced the 1844 act to the Indians at Burnt Church he had read along with it his own criticisms of the law. Head did not approve of such conduct in an officer of the government, although he emphasised that he was faulting Perley for an excess of zeal rather than incompetence. As a farewell tribute, the lieutenant governor enclosed Perley's memorandum on the history of the Indians of the province with his dispatch.⁷² That sad review showed how accurately Perley saw what was happening, and how such perception had made him a sore embarrassment. As he summed up the history:

The first step was a joint occupation of the country by the Indians and

69 4 April 1848, REX/min. vol. 6, pp. 210-211.

70 Colbrooke to Grey, with notations, 8 April 1847, CO 188/104, ff. 375-377.

71 Head to Grey, 17 August 1848, CO 108/106, ff. 180-201.

72 *Ibid.*

British settlers: the second was assigning to the Indians certain districts of counties, within which they were not to be disturbed, the next, confining each Tribe to a certain tract or portion of land called a reserve and finally, reducing those reserves by degrees until in 1842 only one half remained . . . and to conclude by selling all that remains . . . without any provision for their [the Indians'] future welfare.⁷³

The Colonial Secretary approved Head's suggestions,⁷⁴ which were embodied in new regulations drawn with the avowed object of making the Indian Act work more efficiently. Head's continuing interest is shown in his own handwritten contributions to the draft of the document. Sixteen commissioners were appointed or re-appointed, two for each district, by name. Striking at one abuse that had already appeared, the new regulations forbade the sale of any land actually under cultivation by the Indians. To slow down the process of alienation, only those who were actually squatting on Indian land before the passage of the act were to be allowed to apply to buy their lots. All such requests were to be in by March 1, 1850, and those applying after that date would forfeit any claim to the value of the improvements made. Payment was to be over three years, not five, with a 15% discount for a lump sum. The cost of surveys, to be paid by the applicant, was fixed at 2d. an acre. The regulations emphasised that commissioners reporting lands for sale must also recommend portions of the reserves suitable for Indian village sites.⁷⁵

But regulations, especially those examined in this essay, are made to be broken, and it seems unlikely that the new restrictions were always observed. The demand for land was not as great as the advocates of rapid settlement hoped. Sometimes there was collusive bidding when auctions were held, sometimes no response at all. In 1862 Commissioner John Dibblee reported only one person appeared at the last auction he had arranged, and the solitary bidder, "thinking there was so little interest manifested, got discouraged and gave it up".⁷⁶ Instalment purchasing did not work as well as the government expected. Visiting the Tobique reserve in 1865, D. Wilson found that no payments beyond the first had been made on the four lots sold there in the previous three years: \$600 of the \$800 purchase money was in arrears. Matters had been further complicated by the fact that two of the lots sold and not paid for had been re-sold. Three squatters who had paid the 2d. an acre survey charge had paid no instalments at all, yet were still in possession of the land. The general hope was to sell the improvements after investing as little money as possible in land title. One enterprising individual had paid

73 Memorandum of M. H. Perley, CO 188/106, ff. 205-233.

74 Grey to Head, 11 November 1848, CO 189/18, ff. 328-331.

75 "General Regulations", 7 July 1849, REX/PA, Indians, n.p.

76 Dibblee to McMillan, 20 May 1862, REX/PA, Indian Lands, n.p.

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the first instalment on one lot and was squatting on two others. Further along the Saint John river the situation was the same, only of longer duration. There, sales had been made before the appointment of the incumbent commissioner, who had been unable to find out from the Crown Lands Office who owed what. When asked why he was behind on his payments, the standard squatter response was that since others hadn't paid, why should he?⁷⁷

The land sales policy that had begun in 1844 had run its course by 1867 when the new government of Canada assumed control of Indian affairs. 10,679 1/2 acres of reserve land had been sold to 109 whites; £2,853.10.0 had been raised for the Indian Fund. Thirty-one of the purchasers, with 3235 1/2 acres of land, were in arrears to the extent of £565.6.6.⁷⁸ By its own estimation, the Crown Lands Office had sold 16% of the 66,096 acres of reserve land. None had been leased, and possibly as much as 10,000 acres were still held by squatters.

The Indian Fund never met the demands upon it for relief, let alone social and moral improvement. The Assembly continued to pass annual grants, with what ill grace may be imagined. Between 1855 and 1857 they had to find £1,083, an increase over the average of the previous decade.⁷⁹ The administration of Indian affairs remained chaotic. Matters beyond the scope of individual commissioners continued to go directly or via the Provincial Secretary's office to the Surveyor General, the Crown Lands Commissioner, the Executive Council, or, if extra money was needed for emergencies, the Assembly itself. Severe outbreaks of sickness entailed special pleading for relief funds.⁸⁰ The building and repair of fences had to be discussed in Council.⁸¹ Three orphans from the Meductic reserve were given executive permission to attend parish school.⁸² Commissioner Dibblee was authorised to pay the estate of Peter Fraser up to £200 for land to be given the Indians in exchange for a lot on the Meductic.⁸³ Another dispute at Burnt Church over the election of chiefs came before the Council.⁸⁴ Lola Selmore and twenty-four Indian descendants of those who at one time lived at St. Andrews

77 "Report on Tobique Indians", 11 May 1865, REX/PA, Indians, n.p.

78 Sutton to Langevin, 2 December 1867, with enclosures, *ibid.* Acreage sold by reserve: Eel Ground, 1,062; Indian Point, 602 1/2; Wishart's Point, 7; Big Hole, 224; N.W. Miramichi, 76; Richibucto, 1,805; Pokemouche, 100; Kouchiboungmas, 200; Tobique, 2,055; Tabucintac, 1,461; Little South West (SW), 498; Little South West (N), 421; Little South West (NW), 712; Little South West (S), 1,177; Buctouche, 279. All acreage estimates are mine, based on the listing in the enclosures.

79 March 19, 1858, *JLA*, 1858, pp. cccclxxxiii - v.

80 Report of Stafford Benson, *JLA*, 1854 (1), pp. cclxviii - ix; Tilley to Dibblee, 31 July, 8 August 1855, Council Letter Book D, vol. 168, p. 172. PANB.

81 Tilley to Dibblee, 8 August 1855, *ibid.*, p. 173; Close to Toldevery, 21 June 1851, REX/PX 40, pp. 196-197.

82 1 September 1855, Council Letter Book D, p. 189.

83 Partelow to Perley, 2 April 1851; Partelow to Dibblee, 30 July 1851, Provincial Secretary Letter Book C, vol. 86, p. 156. PANB.

84 Robichau to Tilley, 12 October 1858, REX/PX 40, p. 44.

petitioned for lands they had been deprived of by the Loyalists.⁸⁵ Angry Indians had to be told that the moneys arising from their particular lands were not being embezzled by the commissioner, but had to be paid to the Indian Fund and only released on executive order.⁸⁶ As at the beginning, so at the end, everything referring to the Indians was treated on an *ad hoc* basis.

Writing from the Indian Office, Ottawa, in October, 1867, Hector Langevin requested information from New Brunswick's Crown Lands Commissioner, R. Sutton. What lands had been granted or leased to the Indians? What Indian land sold or leased to whites? What use had been made of the moneys? Please send a copy of the last annual report on Indian affairs and a list of the officers of the Indian Department.⁸⁷ The reply was slow in coming, and a prompting telegram followed a month later.⁸⁸ Sutton then responded, sending back a copy of the 1844 act, a list of reserves and sales therefrom, but no annual report, because there was none; and, for the same reason, no list of officers in the Indian Department. As for the proceeds of the sales, he had no idea what had happened to them, as all the moneys were paid over to the Provincial Treasurer.⁸⁹

Predictably, there had been no prior consultation between province and dominion over the transfer of responsibility for the Indians. The commissioners were left on their own and correctly assumed that what had once gone to Fredericton now went to Ottawa. There the official immediately in charge was William Spragge, Deputy Superintendent of Indian Affairs, and he knew nothing of New Brunswick. The first petition that arrived in Ottawa was from the Malecites of the Tobique and completely mystified everyone in the department.⁹⁰ Soon, the "Governor General of the New Dominion of Canada" was being petitioned over derelict rail fences, and receiving advice as to what the province would have done if it still had jurisdiction over such matters.⁹¹ Henry Livingston and John Little, commissioners of Kent County, expressed their desire to hear something from the dominion over how it wanted the Indian lands managed. Certainly, wrote Little, it was to be hoped that the Indian Affairs Department would "take some action to fix up the affairs of the Reserves in this County which stand in much need of being settled".⁹² The commissioners for Gloucester county forwarded their accounts

85 14 February 1854, *JLA*, 1854(1), p. 19.

86 "Report on Tobique Indians", 11 May 1865, REX/PA, Indians, n.p.

87 Langevin to Sutton, 26 October 1867, *ibid.*

88 Langevin to Sutton 30 November 1867, William Spragge Letter Book, R.G. 10 [hereinafter Letter Book], vol. 527, p. 54, Public Archives of Canada [hereinafter PAC].

89 Sutton to Langevin, with enclosures, 2 December 1867, REX/PA, Indians, n.p.

90 Langevin to Sutton, 21 March 1868, Letter Book, vol. 527, p. 225.

91 Petition of J. A. Bulley, Kingsclear, Indian Affairs Register, R.G.10 [hereinafter Register], vol. 312, B895, PAC.

92 Livingston and Little to Peter Mitchell, Little to [Mitchell?], 21 August 1868, Register, vol. 370, N53.

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with the caution that they had always distributed relief in the manner described “and our attention to the accounts was always considered satisfactory by the Province of New Brunswick”.⁹³ William Salter also dutifully forwarded his accounts of expenditures to Ottawa,⁹⁴ but no one there heard his request for payment of the annual pension to several chiefs who would be expecting their money on St. Ann’s day. He sent an anguished letter to the provincial secretary begging that the lieutenant governor pay the pension since Ottawa refused to answer him. The stern notation in the margin of the appeal noted the reply, by telegram: “We cannot interfere with Ottawa in Indian Affairs”.⁹⁵ The sigh of relief must have been audible all the way from Fredericton to Burnt Church.

When John Dibblee and Charles Perley of Woodstock found themselves also slighted by the dominion government, they did not carry their troubles to the province; instead, they unleashed a blast not even Ottawa could ignore. Their Indians had not received the allowances paid regularly from 1845 until Confederation on the basis of \$40 and \$60 in alternate years, plus special donations “repeatedly” granted. The commissioners had applied for the money four months previously only to be told that the Deputy Superintendent General was out of town — and had heard nothing since. This was a “very unsatisfactory” situation, and made it impossible for them to carry out their task “to have justice done to the Indians under our care”.⁹⁶ Ergo, Confederation was unjust.

It was this letter that made Spragge decide to extract more information than was contained in the meagre fare provided by Sutton. On the basis of those documents, the dominion had decided to grant \$1,200 a year to the New Brunswick Indians, since that was the sum that appeared in the province’s accounts for 1866.⁹⁷ But obviously there must be money somewhere else, and in a prolonged memorandum Spragge wrestled with the convoluted finances of the province, only to discover that the grant had been consistently over-spent.⁹⁸ What he needed was some “precise statistical information” on the Indians in order to arrive “at an Opinion as to the Manner and degree in which they can be benefitted”.⁹⁹ The result was a questionnaire directed to each local commissioner. In addition to the details required, Spragge probed into

93 Bishop and Hickson to Langevin, 14 April 1869, *ibid.*, vol. 312, B896.

94 Salter to Langevin, 22 June 1868, *ibid.*, vol. 370, N44.

95 Salter to Beckwith, 23 July 1868, *ibid.* Spragge decided that he did not like the idea of donating \$40 to the St. Ann’s day festivities, Report of 11 September 1868, Letter Book, vol. 722, p. 476.

96 Dibblee and Charles Perley to Langevin, 26 October 1868, Register, vol. 370, N52, with notations by Spragge of the forthcoming questionnaire.

97 Privy Council Report, 28 April 1868, Register, vol. 370, N55.

98 Memorandum on the Indians of New Brunswick, 22 October 1868, Letter Book, vol. 722, pp. 494-499.

99 Memorandum, 18 November 1868, *ibid.*, vol. 723, pp. 17-18.

more general areas. What type of assistance was usually offered the Indians? What attempts had been made at education, and with what success? Wouldn't agriculture and education prosper if the Indians were collected into larger communities than at present? It was a familiar litany.¹⁰⁰

The replies that were received came in quite promptly. They provided basic information about numbers, but few suggestions as to policy. "I assist them with the Charity that religion inspires and with the aid that government gives", wrote the Reverend Brother Agathe of the Indians in Westmoreland County.¹⁰¹ The Richibucto Indians were "generally industrious when sober", reported their commissioner, and suggested continuing the policy of selling lands for the Indian Fund.¹⁰² From Restigouche County, Commissioner Barbarie agreed that larger communities would promote agriculture and education, but doubted either would survive the attractions of the lumber camp.¹⁰³ There was nothing new.

The viewpoint of the dominion differed little from that of the province. An Indian agency would be desirable in New Brunswick because although the commissioners were inexpensive they had done nothing to promote education or agriculture. The Indians should be encouraged to combine in larger units to acquire "the habits and pursuits of civilized life".¹⁰⁴ Thirty to forty acres should be given each family and assistance to build a log cabin.¹⁰⁵ But the immediate need, Spragge decided, was relief, to enable the Indians to get through one more year. Minister Langevin agreed: this was the "most pressing" matter at hand.¹⁰⁶ And so Indian affairs in New Brunswick continued as they had ever been: a question of relief, of maintaining the hand to mouth existence of a people forced out of their lands and lives by the white immigrants.

Everything considered, it is remarkable that the native peoples of New Brunswick survived at all. They had none of the safeguards provided the Indians of Canada, no corps of permanent paid officials to speak for them, no missionaries capable of lobbying for their interests in London, no subventions from the imperial government. Completely on their own, comprising less than one half of one per cent of the population at mid-century, they were for years totally neglected, the victims of a non-policy; and when one

100 Langevin to Sutton enclosing questionnaire, 3 December 1868, REX/PA, Indians, n.p.; Circular to Dibblee and Perley, 26 November 1868, Letter Book, vol. 528, p. 17.

101 Brother Agathe to Langevin, 16 December 1868, Register, vol. 304, A171.

102 Livingston to Langevin, 23 December 1868, *ibid.*, vol. 384, R146.

103 Barbarie to Langevin, 22 December 1868, *ibid.*, vol. 312, B807. One other report came in from the Rev. James Quinn of St. Stephen, who had only two Indian families in his area. Presumably he received by mistake the circular intended for the Rev. John Quinn, Indian commissioner of Charlotte County. Quinn to Langevin, 18 December 1868, *ibid.*, vol. 382, Q27.

104 Memorandum on the Indians of New Brunswick, 22 October 1868, fn. 98 above.

105 Notes by Spragge, 4 January 1869, *ibid.*, vol. 723, p. 49.

106 Memorandum of 22 October 1868, fn. 98 above.

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was instituted, it was to dispossess them of their reserve lands to make way for progress and to free the white taxpayer of the costs of relief. The policy, challenged by Colebrooke and confirmed by Head, could have led to the total disappearance of the reserve lands in a very few years and the expulsion of the surviving Indians into white society without a shred of support. That this did not happen was no fault of the colonial or imperial governments. New Brunswick was simply not that attractive as an agricultural society, and the reserve lands, mostly marginal at best, were not needed by whites for their family farms. But the New Brunswick pattern, had it been applied in Canada, would have proved to be one for the “final solution” of Indian affairs.