



Mi'Kmaq First Nations Assembly of Newfoundland

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FIRST ANNUAL REPORT

Our Struggle:

Issues and History

Table of contents:

1. Introduction:

2. Qalipu History

3. MFNAN History

4. Our silence

5. Our battle with AAND

6. Our Intent

7. Final Statements

8. Appendix: Summary of activities over the past year.

Introduction

“The history of Mi’maq people is very long and our homeland, called Mi’kma’ki, is very large. There have been people living here for more than 11,000 years! Mi’kma’ki, is made up of all of Nova Scotia and Prince Edward Island and large areas of New Brunswick, the Gaspé Peninsula and Newfoundland.” Mi’kmaq Association for Cultural Studies.

When Newfoundland and Labrador joined confederation in 1949, there was no agreement between the two parties as to how the Indian Act might be applied to the Mi’kmaq people of the island. Prior to confederation the Newfoundland and Labrador government had no agencies or government departments to work with Aboriginal peoples, nor was there any mention of land claims or other pro-aboriginal agreements or programs. Simply put, the Indian Act was not applied post confederation.

Jenny Higgins, in her article titled, “Aboriginal People and Confederation”, 2009, states:

When Newfoundland and Labrador joined Canada in 1949, the provincial and federal governments made no special provisions for the new province's Aboriginal groups. The Terms of Union, which determined how Newfoundland and Labrador would operate as a province, did not mention Aboriginal people nor did it clarify their status within the country. As a result, Innu, Inuit, Mi'kmaq and Métis people living in Newfoundland and Labrador could not access the same programs, services, and funding the federal Indian Act made available to other Aboriginal groups in Canada.

History has not fostered a good relationship between Mi’kmaq peoples of Newfoundland and governments. Although we welcome people of all nationalities to this great country and treat them with respect, giving them the opportunity and the tools to “make it” in Canada, we find it difficult to recognize indigenous peoples, and through a process of assimilation and neglect, their survival has been one of hardship and indifference.

An Agreement-in-Principle between the AAND (Aboriginal Affairs and Northern Development) and the FNI (Federation of Newfoundland Indians) in 2007 gave Newfoundlanders of aboriginal descent hope, however it opened the floodgates for aboriginal peoples of Mi'kmaq ancestry to assert themselves in a way never seen before in our history.

We must remember, the modern day Newfoundlander is considerably different from past generations. They are better informed, more assertive, better educated, and more willing to publically state their opinions on issues of the day. They will no longer hide in the corner and be ignored as did their ancestors. They will fight for what they believe is right and for a re-evaluation and appreciation of their identity. Silent assimilation was definitely the worst enemy of our ancestors, let's hope that recognition will be the new hope of their descendants.

Qalipu History

In 1981 the Minister of Indian affairs and Northern Development agreed to proceed with Band recognition for the Mi'kmaq community of Conne River. Subsequent to that the Conne River First Nation began joint research with the FNI (Federation of Newfoundland Indians) on their application of the Indian Act for their members. Five years later (1989) the FNI launched a Federal Court Action against Canada after no suitable solution to address the concerns of both AAND and the FNI could be found.

After years of negotiation between the FNI (Federation of Newfoundland Indians) and The Government of Canada, a tentative Agreement-in-Principle was reached in 2006. The process for the creation of a landless band and the enrolment of its founding members was established. This was seen as a great day for the Mi'kmaq people of Newfoundland.

Both parties (FNI and Canada) on November 30, 2007 announced that they had completed negotiations and initialed the Agreement-in-Principle. It was ratified on March 29, 2008 by ninety percent of the eligible FNI members who voted. Voter turnout was reported to be low, maybe as low as thirty percent of FNI members. The agreement marked the first stage of the enrolment process, known as the "First Founding Members List". It was scheduled to end on November 30, 2009 and as of that date, close to 26,000 applications for membership had been received. Approximate 11,000 of those applications were approved by the Enrolment Committee.

Following the results of the first enrolment stage, an Order in Council recognizing the Qalipu Mi'kmaq First Nation Band took place on September 26th, 2011 with a membership of 21,429 people. An amendment was made in March 2012, adding 1515 new applicants to the list.

As per the agreement, the second stage ended on November 30, 2012 after receiving approximately an additional 70,000 applications, giving the total number of applicants, for the first and second stage combined, about 103, 000. According to Mr. Tom Rideout, Chair of the enrolment committee, the review of applications ceased on December 18, 2012, leaving as many as seventy thousand applications unprocessed.

At this point the Federal Government began to panic. They never dreamed that their handling of this file could be so mis-calculated. They scrambled to make changes that would reduce numbers. To do this they had to trample on the rights of all applicants, rights inherent in the original terms of reference drawn up by AAND. As time passed many changes were made, all under the guise of the Indian Act and applicants lost their right to be assessed as possible members of the Qalipu Band.

MFNAN History

This journey began for us back in 2008 when the Federal Government and the FNI ratified an agreement that both parties agreed to in principle and was initialed on November 30th, 2007.

An enrollment framework was established and applications to become a founding member of the Qalipu Mi'kmaq First nation Band began pouring in. Phase one ended with approximately twenty-three thousand founding members approved.

The second phase saw thousands of additional applications and when the enrolment process in Corner Brook grinded to a halt on December 18th, 2012, nearly 70,000 applications were boxed and stored with no intention by AAND and the Qalipu Band to assess them using the original criteria of the Agreement.

In a letter to the Hon. John Duncan dated December 29th, 2012, Hector Pearce expressed his concerns about the dismissal of the enrolment process and requested that all applications be assessed using the exact same process as previous applications. His request was ignored and when his letter was posted on the internet, a group called the Qalipu Watchdogs was created.

The Qalipu Band and AAND immediately barricaded themselves behind closed doors. No means of communication could penetrate their silence. The Qalipu Watchdogs held demonstrations in front of the Qalipu Band Offices; they used social media to discuss their issues and express their concerns; they used the provincial media to voice their handling of the whole process; they attended Band Meetings in search of answers; and finally they reached out to political parties and government officials for support.

The Qalipu Watchdogs received strong support from MP Gerry Byrne who introduced a private members Bill in the House of Commons calling on the Government of Canada to process the remaining applications in a

“fair and equitable” manner. The Conservative government defeated the Bill, although both the Liberal Party of Canada and the NDP voted in favour of the Bill

Support came with thousands more joining the Qalipu Watchdogs group and thousands from all across the country and the USA lending support, advice and good wishes. This encouragement saw our group grow and on the advice of our lawyers at Gowlings we became incorporated on May 23rd, 2013. This incorporation gave rise to the **MFNAN, the Mi’kmaq First Nation Assembly of Newfoundland.**

The Government of Canada soon started a process to render our association ineffective. On July 4th, 2013, FNI and Canada announced a supplemental agreement to the original one. This agreement was designed to significantly reduce numbers in the Qalipu Band. The original agreement stated that when an applicant signed the application for membership he/she was self-identifying as a Mi’kmaq as per a requirement of the Indian Act. The supplemental agreement changed all that making the concept of self-identification virtually impossible to achieve. It also made the requirement of “Group Acceptance” more rigid and extensive. All applicants including those people that had already received acceptance into the Band and had received their status would now be assessed under this “new” criteria. Numbers accepted would inevitably drop.

By November, 2013 all applications had been given a preliminary look and letters were sent to all applicants, including those that had already received status. Many applicants were notified that they were NOT accepted. These rejection letters gave reasons such as applications not signed or long form birth certificates not submitted as grounds for rejections. MFNAN challenged both of these reasons in court by way of Judicial Review Statements, usually with negative outcomes.

MFNAN announced that they were consulting with their lawyers with the intent of a class action lawsuit over the blatant mismanagement of the

entire process. AAND again seized the opportunity to squash this initiative and consequently introduced Bill C-25. This Bill gave the government an extreme range of power. Firstly, in that through an order in council AAND could remove or include a person from the Band list at will. Secondly, it drastically reduced the right of MFNAN to sue. A squashing of our democratic rights as citizens of Canada.

Thus the saga continues. MFNAN fighting for the right to be heard and applicants the right to be justly assessed and AAND, with the intent of reducing numbers, curtailing those rights.

Our Silence

The Mi'kmaq peoples of Newfoundland have remained silent about their ancestry for generations. Why all the secrecy? Why didn't they celebrate their ancestry and teach their children and grandchildren about their parents and grandparents? Many reasons we suppose. They wanted to forget the past, their hardships and tribulations. They wanted to forget how they were treated by the "newcomers", particularly the English: ridiculed, demeaned, shamed, and sometimes abused. They wanted to be like everyone else; like the English, like the French. Their hopes and dreams centered around a better tomorrow, for themselves, but more importantly for their children. By declaring they were of Mi'kmaq origin certainly didn't help that cause.

So they remained silent. Year after year after year.

In a speech in the House of Commons, Ryan Cleary said, "For generations aboriginal roots were often hidden in Newfoundland and Labrador by those who preferred to pass as non-aboriginals because of discrimination. People now, finally, are coming forth. They are admitting and embracing their aboriginal heritage and history. In many ways, people embracing their aboriginal heritage should be a cause of celebration. Instead, the Conservative Government is treating it as a cause of concern. "

What a farce the AAND is portraying when it comes to their assessment of the Mi'kmaq people of Newfoundland and our way of life. Governments over the years assimilated us. Now they penalize us for that assimilation. Given the history of the Mi'kmaq people in Newfoundland, the fact that our ancestors were berated, belittled and excluded, the concept of "self-identification" is absurd. What a ridiculous way to assess a people, their history, beliefs and worth. History may show the injustice of this approach, but at the present time, once again, we are being marginalized.

Maura Hanrahan (Memorial University of Newfoundland) sums it up perfectly, "In Newfoundland, there is a cultural emphasis on sameness and a minimization of difference". Unfortunately, AAND wants this reality to remain. However, today, the entire Island is caught up in a fever of identity. No longer are we afraid to proclaim that our ancestors were

Mi'kmaq. No longer are we ashamed. No longer do we feel persecution and isolation. No longer can governments tell us who we are and where we belong.

Our Battle with AAND

As mentioned earlier Newfoundlanders of aboriginal descent are now asserting themselves. They no longer hide behind a curtain of secrecy and shame. Nobody expected that all applicants would be accepted into the Qalipu Band. However, what they did expect is that they would be treated fairly and their applications assessed using the “reasonable” criteria set out by the Government of Canada in the original agreement.

The many problems that have beset this process had nothing to do with the applicants. The Government of Canada set the rules, developed the criteria and set the deadlines. The applicants are NOT at fault in this quagmire of bureaucracy. Canada is.

Applicants are not only upset with the way this process has evolved, they are determined **Not** to be sidelined once again by AAND. Consequently, our numbers are growing daily and our determination festering. Our hope is that MFNAN continues to exist and continues to fight this injustice.

Our assertiveness can be attributed to the fact that we have never been listened to; we have never been consulted; we have never been respected; just silently ignored. That type of treatment by governments worked in years past, however, it works no more. We are determined to be heard and determined to have the respect all Canadians deserve and have a right to, a respect “most” Canadians enjoy.

Our Intent

As outlined in Article two of our constitution the mission of the Association **as a not-for-profit organization** is to be a single voice to promote and develop awareness of the Mi'kmaq of Newfoundland.

The association will lobby all elected officials and other interested parties to ensure that the Government of Canada, fairly and without prejudice, extends to all applicants to the Qalipu Mi'kmaq First Nations a **fair** assessment of their applications. In the event that the mismanagement of the enrollment process by the present Federal Government cannot be corrected or challenged in court, our association will continue to take action that we believe will eventually resolve this issue, either with the present Conservative Government or its replacement.

The Association will support the rights and concerns of current members of the Qalipu Band. In the event that members of MFNAN never become members of the Qalipu Band, we are willing to work with and beside the current Band for the betterment of Mi'kmaq peoples. The membership of MFNAN may have to pursue and diligently work towards recognition of the organization as a separate Mi'kmaq entity.

Today, Mi'kmaq culture has changed considerably since the days when the first European vessel arrived off the shores of Mi'kmaq country, but we should remember that all cultures, including our own, change over time, and today's Mi'kmaq are no less Indian simply because they wear the same clothes as other Canadians, drive cars, and watch television. Glooskap still lives in today's Mi'kmaq. (1998, Ralph T. Pastore, MUN.)

We will continue to fight, with resolve, for what we believe and the right to be recognized as Status Indians, equal to other Mi'kmaq bands recognized by Canada.

Final Statements

1. AAND and the FNI have demonstrated fear and inadequacy in the process of enrolling Newfoundlanders in the Qalipu First Nation Band. As a result of this fear, they have initiated a series of arbitrary, unbalanced actions that have tainted this process with unfairness, confusion and dismay. They want small numbers and have gone through extreme lengths to achieve it and in so doing lost all credibility.

2. It should be abundantly clear to all that the mess characterizing this process was the fault of AAND, supported by the Qalipu Band, a Band supposedly representing the best interest of Mi'kmaq peoples on the island. It never was the fault of the applicants. AAND grossly mismanaged a process that should have been fair and just. The Qalipu Band under the disguise of the FNI supported these actions.

3. Moves by the Government of Canada, specifically AAND, in the form of the Supplemental Agreement and Bill C-25, infringed on our civil and constitutional rights as applicants.

4. The **Mi'kmaq First Nations Assembly of Newfoundland (MFNAN)** will continue to fight for justice on this issue. It will lobby governments, it will use the media, it will demonstrate, and it will seek support to see a fair and just resolution to this issue.

5. **MFNAN** is determined to address this issue in the long term. It will advocate on behalf of its membership during the months and years ahead until a satisfactory agreement can be reached with Canada.

6. **MFNAN** considers itself a Non-Status Band and will continue to proclaim that designation, while at the same time fight for recognition by Canada towards becoming a Status Band as defined by the Indian Act.

7. **MFNAN** will become a political force lobbying the support of all political parties provincially and nationally. It will assess that support and act

accordingly during elections.

8. The United Nations Declaration on the Rights of Indigenous Peoples (DRIP) was adopted by the United Nations General Assembly in New York on Sept. 13th, 2007. 144 countries voted for DRIP, 4 against. Canada, New Zealand, Australia and the USA, all at one time colonies of the United Kingdom, voted against.

9. In conclusion, we strongly believe that this government, the Conservative Government of Canada, has absolutely no intentions of addressing aboriginal rights and freedoms, specifically in Newfoundland and generally in Canada.

APPENDIX

Summary of activities over the past year.

1. Incorporation on May 23rd, 2013.
2. Acquisition of a law firm to help us with our struggle. Gowlings, an Ottawa firm, with experience in aboriginal law was selected.
3. Meeting in Corner Brook with Jaimie Lickers to discuss our course of action.
4. Countless tele-conferences with Jaimie Lickers and Brian Crane regarding issues, such as the Supplemental Agreement and Bill C-25.
5. Dozens of interviews with Newfoundland media: NTV and CBC television as well as APTV; CBC radio morning shows in Central and Western Newfoundland.
6. Interviews: Transcontinental Newspapers. Stories carried in several TC newspapers. However, the Western Star consistently presented our point of view through many interviews.
7. Contents of the Western Star interviews made it to the floor of the House of Commons with both the Liberal and NDP, national parties, supporting our cause.
8. CBC Halifax, the program Sunday Morning, did an extensive half-hour documentary on the whole application process, with a balanced approach considering the views of various parties.
9. The CBC program, “as it happens” discussed the whole issue of the application process.
- 10.. National newspapers, the Toronto Star and the Globe and Mail carried a story regarding our struggle.
11. MP Gerry Byrne introduced a Bill in the House of Commons seeking a “fair and equal” assessment of our applications. This Bill was supported by the national Liberal party and the NDP.

12. A meeting was held with the Hon. Nick McGrath, minister of Aboriginal Affairs for the province. He pledged his governments support and voiced his support at the national level.

13. MFNAN held a series of community meetings throughout the province to encourage membership and to offer explanations and updates of numerous issues. The thousands of postings on social media gave us encouragement and determination to forge ahead.

14. In addition to these endeavors, the Board was busy handling thousands of emails and phone calls. We receive thousands of emails and phone call of support from across Newfoundland, across Canada and even from the USA.

15. Finally, in spite of the fact that we are all volunteers, we found the time to hold a Board, on the average, twice a month. However, issues were always arising that required us to hold special or emergency meetings.

On behalf of the Board of Directors of MFNAN we sincerely thank you for your encouragement and support. Let's go forward with a strong will to keep our cause alive. Together we can not only have a strong voice but we can also accomplish positive outcomes for our group. Many Thanks.

Hector Pearce
Vice-Chair, MFNAN