

MI'KMAQ TREATIES ON TRIAL

History, Land, and Donald Marshall Junior

In 1725–6 the British colonial government of Nova Scotia signed a treaty of friendship and peace with the local Mi'kmaq people. This treaty explicitly acknowledged the co-existence of Mi'kmaq and British law – but much of its meaning stemmed from its complex negotiation, which was influenced by the history of aboriginal-European relations in Acadia prior to 1726. William Wicken argues that after 1749 a more forceful British military presence led officials to re-interpret the treaty in the light of their own interests.

From 1994 to 1996, the author was an expert witness for the defence at the *Marshall* trial, during which the Supreme Court of Canada integrated aboriginal perspectives on treaty making into current interpretations. Dr Wicken was one of the historians who gathered and presented the historical evidence to the court.

This timely and original work intersperses close analysis of the 1726 treaty with discussions of the *Marshall* case, and shows how the intercultural relationships and power dynamics of the past have shaped both the law and the social climate of the present. The author argues that the treaties must be viewed in their historical context, and that of the oral tradition of Mi'kmaq people, to be properly understood.

Current high-profile legal cases involving aboriginal rights lend this work a special significance among the legal and academic communities, where it is destined to spark debate. It is of particular relevance to history and native studies students.

WILLIAM WICKEN is an associate professor in the department of history at York University. He co-authored a report in 1993 on Mi'kmaq treaties for the Royal Commission on Aboriginal Peoples, and from 1993–5 was a researcher and employee for the thirteen reserves of Nova Scotia investigating their aboriginal title claim. He frequently testifies as an expert witness in court cases involving aboriginal and treaty rights in Atlantic Canada. In 1998, he co-edited *New Faces of the Fur Trade* with Jo-Anne Fiske and Susan Sleeper-Smith.

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To John H. Wicken
(1924-)
who taught me about history
and to
Florence M. Wicken (née Clause)
(1924-73)
who taught me about justice

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