

The significance of the Royal Proclamation of 1763 for Atlantic Canada*

SHIFTING BOUNDARIES

The implications of the Royal Proclamation of 1763 for the territories and adjoining waters of what was later to be known as Atlantic Canada were profound. They were also diffuse and varied widely according to the political and physical geography of that vast area. The Proclamation redrew the imperial political geography. To the existing colony of Nova Scotia, it added the two large islands in the Gulf of St. Lawrence that had been surrendered by France in the Treaty of Paris: the Island of St. John (later Prince Edward Island) and Cape Breton Island. There were changes still to come. In addition to the continuing uncertainty over the western boundary of Nova Scotia with New England, the enlarged “Old” Nova Scotia of the Proclamation lasted only six years and underwent repeated revision thereafter. The Island of St. John became an autonomous colony in 1769, as did New Brunswick and Cape Breton Island in 1784, though Cape Breton reintegrated with Nova Scotia in 1820. Whatever the complications, the Proclamation was a key stage in this colonial evolution.

The Proclamation also put “the Coast of Labrador and the adjacent Islands”—including Anticosti, the Magdalen Islands, and many smaller islands—under the naval governance of Newfoundland. The coast of Labrador, as defined in the Proclamation, extended from the Rivière Saint-Jean, the mouth of which was almost directly opposite the western tip of Anticosti, to “Hudson’s Straights” at a point later determined as Cape Chidley. The definition led toward the long-lasting Labrador boundary dispute,

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in which both the nature of Newfoundland’s jurisdiction over the area and the depth or otherwise of the coastal territory involved came into repeated question in the interests of the competing claim of Canada and Quebec. Nevertheless, the Proclamation was foundational to the imperial determination in 1927 that Labrador—with some boundary adjustments over time—appertained to Newfoundland, or (as it became formally known in 2001) to the province of Newfoundland and Labrador. Even so, the restoration to France of the islands of St. Pierre and Miquelon in the Treaty of Paris, also in 1763, was at least as significant as any provision of the Proclamation.

INDIGENOUS HISTORY WAS CENTRAL

Important as the Proclamation was for matters relating to imperial governance and the boundaries involved, the broader reality of 1763 was that the impingements of empire, either British or French, had had limited significance for Indigenous peoples. Without underestimating the disruptions brought about by the environmental changes from European resource-harvesting (which on the island of Newfoundland undermined the economy of Beothuk communities that were increasingly denied access to the coast), it remained true in general that Indigenous history in the region was central,

and imperial or colonial history remained on the periphery.

In Labrador, the Proclamation opened the way for Newfoundland naval governors to attempt to defuse tensions and hostilities between European fishers and the Inuit. They did so partly through diplomacy and also by facilitating the missionary activities of the Moravian Brethren, which gathered strength with the foundation of the Nain Mission Station in 1771. Colonial settlement on any significant scale, however, remained predictably absent, both for environmental reasons and because the coast of Labrador was regarded for imperial purposes as an area where, as on the island of Newfoundland, settlement was neither proscribed nor encouraged. In Nova Scotia—even though the establishment of Halifax, the deportation of the Acadians, and the influx of New England planters pointed toward a harsher future—the level of settlement in the mid-1760s remained manageable for the Mi’kmaq and Maliseet through treaty-making and occasional threats of armed intervention.


A COMPLEX HISTORY

Despite explicit evidence that the Proclamation applied throughout “Old” Nova Scotia, its provisions relating to Indigenous land had a troubled and complex history in the maritime colonies. Nova Scotia was included in key royal instructions issued on December 12, 1761, which, foreshadowing the Proclamation, put severe limits on non-Indigenous land acquisitions from “the several nations or tribes of Indians bordering upon the said colonies.” Then in January 1764, Governor Montagu Wilmot assured London that the Proclamation had been received and published in the province—which, in the British definition of the time, covered

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législatif de Québec en 1766⁷.

Le titre autochtone reconnu par la Proclamation royale est valide puisque que le roi de France ne l'avait jamais éteint. Il couvre tout le territoire de la Province de Québec d'alors, de même qu'il s'applique à tous les Indiens qui l'habitent, peu importe l'ancienneté de leur établissement. 

NOTES

* Voir : Denys Delâge et Jean-Pierre Sawaya, *Les Traités des Sept-Feux avec les Britanniques. Droits et pièges d'un héritage colonial au Québec*, Québec, Septentrion, 2001.

1. Jean-Baptiste D'Estimauville, Québec, 10 janvier 1797, *RG 8*, bob. C-2848, vol. 250, pt. 1, p. 66; William Van Felson à James Murray, Bonaventure, 10 février 1765, *RG 4 A 1*, vol. 12, pp. 4564-4565.
2. William Johnson, « By the King A Proclamation, Given under my Hand and Seal at Arms, at Johnson-Hall, the 24th Day of December 1763 », *The Papers of Sir William Johnson (JP)*, vol. 10, p. 985; « A Proclamation by the Honorable Sir William Johnson », Johnson Hall, 24 décembre 1763, *RG 8*, bob. C-2855, vol. 267, p. 121.
3. William Johnson à Thomas Gage, Johnson Hall, 27 janvier 1764, *JP*, vol. 4, pp. 307-308.
4. Thomas Gage à William Johnson, New-York, 6 février 1764, *JP*, vol. 4, p. 318.
5. Guy Carleton, Québec, 28 février 1767, *MG 19, F 1*, bob. C-1483, vol. 21, pt. 2, pp. 54-55.
6. Daniel Claus à John Johnson, Montréal, 25 août 1766, *MG 19, F 1*, bob. C-1481, vol. 14, pt. 1, pp. 108-109.
7. « Extrait des minutes de la réunion du comité ad hoc du Conseil législatif de Québec sur les postes de la traite de Tadoussac », 11 octobre 1766, *CO 42*, vol. 5, fol. 314-318, cité dans Nelson-Martin Dawson, *Lendemain de conquête au Royaume du Saguenay*, Montréal, Nuit blanche, 1996, pp. 276-281.

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the area of all the later maritime provinces—and would “very shortly be effected in the distant and remote parts of this Government.” Wilmot’s statement made an implied distinction between “distant and remote parts” and the settled or granted areas of Nova Scotia. However, not only were the grants and settlements small in relation to the overall geography, but the absence of any preceding Indigenous land surrender logically brought the region within the general category recognized by the Proclamation of lands that had been neither ceded to nor purchased by the Crown, contrary to the current strictures expressed by the Supreme Court of Canada in its 2005 judgment in the cases of *R. v. Bernard Stephen* and *R. v. Marshall*. Elsewhere in what became Atlantic Canada, large areas of Labrador fell within the related category of reserved lands that lay “beyond the Heads or Sources of any of the rivers which fall into the Atlantic Ocean from the West or North-West.” As to the applicability of this or any associated provision of the Proclamation to the island of Newfoundland, evidence is lacking, and no naval governor is known to have commented or ruled on the question.

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INCREASING COLONIAL SETTLEMENT

In the maritime colonies, however, the real limitation on the historical application of the Royal Proclamation’s requirements for Indigenous land transfer was neither logical nor legal, but was determined largely by the dispossession brought about by increasing colonial settlement, especially during and following the Loyalist migration of the early 1780s. Settler encroachments caused profound environmental and economic harm to Indigenous communities, notably through agriculture and the disruption of transportation routes. It also led to the granting of land to colonists on an unprecedented scale. Creation of reserves, whether on an ad hoc basis or—as in Nova Scotia in 1819—more systematically, limited access to land and resources and did

nothing to prevent further encroachments. All three of the maritime colonies legislated during the pre-Confederation period for the sale or lease of reserve lands with the ostensible purpose of generating funds to be used for the benefit of Indigenous communities, but in reality these funds were used to facilitate further settler colonization. The results in terms of poverty and disease were predictable enough.

The Royal Proclamation of 1763 had historical implications with which both Indigenous and non-Indigenous inhabitants of present-day Atlantic Canada continue to live. Through enhanced historical understandings of the provisions that attempted to regulate Indigenous land alienation, and their subversion by colonial authorities, it may well prove also to be a fertile source of legal activity reaching into the future. 