

August 20, 2026

No. 23-1240, 24-2797,
24-2798, 24-4832, 25-158

Provincial Court of New Brunswick

Between:

HIS MAJESTY THE KING

and

**CHRISTOPHER DEAN CAPLIN, MICMAC MEDICINAL TRUCKHOUSE LTD.,
and WAYNE SIMON**

**HEMP IN MI'KMAQ CULTURE AND TREATIES:
THE EXPERT WITNESS REPORT OF PHILIPPE BLOUIN**

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Research Statement

I, the undersigned, Philippe Blouin, residing at 1-2660, rue de Chambly, Montréal, Quebec, H1W 3J7, solemnly affirm the following:

1. I am currently a postdoctoral fellow in the department of criminology at the University of Ottawa, and I will take the position of Assistant Professor at Saint Paul University's School of Conflict Studies starting on September 1, 2026. My current research focuses on historical and current interactions between Canadian institutions and Indigenous traditional lifeways and governance systems.
2. I have completed a PhD in anthropology at McGill University in November 2025. My PhD dissertation, titled "Sailing down parallel paths: anthropology of relating and belonging in Rotinonhsión:ni alliances," addressed the Rotinonhsión:ni (Iroquois) Confederacy's original diplomatic framework for political and trade alliances with European settlers, the Two Row Wampum, through the lens of ethnography, ethnohistory, legal anthropology, land-based Indigenous ways of life, and the relations between archaeology, records-based history and Indigenous oral history.
3. I have been retained by the defendants to provide expert opinion evidence concerning:
 - a. The historical and anthropological context of Indigenous-Crown relations and treaty-era trade in northeastern North America, provided that this broader historical and anthropological setting can inform treaty interpretation;
 - b. The historical place of cannabis in the colonial economy of Acadia, Nova Scotia, and adjacent northeastern regions, where it was treated as a significant fibre and trade commodity;
 - c. Early European explorer and colonial records describing hemp/cannabis in North America, including in the St. Lawrence and the Atlantic regions, which are relevant to understanding the historical availability and perception of cannabis in the early colonial period and the historical economic environment in which Indigenous-Crown trade relations developed;

- d. The anthropological and ethnographic context of Indigenous plant use, smoking mixtures, and medicinal practice;
4. To establish these facts and assessments I will refer to government records, scientific literature, Indigenous testimonies, and archival materials.

Areas of Expertise

5. I have previously been recognized as an expert in anthropology in relation to Indigenous cultural, legal, and oral tradition matters by the Court of Quebec (Longueuil District), in *His Majesty the King et al. vs. Hank Avery Delisle et al.* (505-01-159350-194). In this context, I acted as an expert witness in Rotinonhsión:ni (Iroquois) culture, history, customs and oral tradition, as well as in assessing the history of hemp/cannabis in North America.
6. In addition to Rotinonhsión:ni (Iroquois) people, I have been working with traditional Mi'kmaq, Anishnaabe, Atikamekw and Innu peoples throughout my PhD studies, conducting field work with Indigenous Elders and Knowledge Keepers to better understand their traditional worldviews and governance systems. In this context my work has focussed on examining the discrepancies that have formed between their oral tradition and academic narratives regarding Indigenous history, cultures, and ways of life – a discrepancy that also seems at play in debates on the role of cannabis in Indigenous cultures. On this topic, my expertise is also based on my familiarity with colonial, ethnohistorical, and anthropological literature concerning Indigenous traditions, governance systems, ecological patterns, plant uses, and cosmologies.
7. My proposed area of expertise in the matter of *R v. Caplin and Simon* is in anthropology and ethnohistory concerning Indigenous-Crown relations, Indigenous trade and economic practices, treaty-era trade and truckhouses in northeastern North America, and the historical and anthropological evidence concerning hemp/cannabis and Indigenous plant use.

Terminology

8. I use the spelling Mi'kmaq instead of “Micmac” to reflect the original Indigenous pronunciation of this term. The word Mi'kma'ki refers to the traditional territory of the Mi'kmaq people, divided in seven districts, each having their traditional council: Kespukwitik, Sikepne'katik, Eski'kewaq, Unama'kik, Piktuk and Epekwitk, Sikniktewaq, and Kespe'kewaq. These districts encompass present-day Nova Scotia, Prince Edward Island, Newfoundland, and parts of New Brunswick and Quebec.
9. I use the native ethnonym Wolastoqiyik instead of the colonial name “Maliseet” to refer to the Algonquian people of the Wəlastəkw/Wolastoq/Saint John River valley and its vicinity, straddling New Brunswick, Quebec, and Maine.
10. I occasionally use the term Wabanaki (“people of the dawn”) to refer to the larger group of Algonquian Indigenous peoples from the Northeastern Atlantic Coast, including, Mi'kmaq, Wolastoqiyik, Passamaquoddy and Penobscot peoples (Speck 1915a, 493).
11. Cannabis is a plant genus belonging to the Cannabaceae family. There is no scientific consensus on its taxonomic classification, which is still being debated by academics. Some researchers identify two species: the taller and narrow-leaved *Cannabis sativa*, which is prevalent in Europe, and the shorter and denser Eastern Asian *Cannabis indica* (Clarke and Merlin 2015, 297). A third species, *Cannabis ruderalis*, is sometimes posited to classify wild untended plants. Another prominent theory, however, suggests that because of “the complete lack of interbreeding barriers, [which] has been responsible for such extensive widespread genetic interchange (hybridization, introgression) [...], separating Cannabis into distinctive species is unwarranted” (Small 2015, 309). For the purposes of this affidavit, I will adopt this single-species model, using the generic term “cannabis” to encompass all plants within the genus, which all contain tetrahydrocannabinol (THC) in a variety of concentrations.
12. The term “hemp” was originally used to refer to cannabis, as the term cannabis was only first used in English in 1548 and did not become prevalent outside of scientific circles until the 20th century (Duval 2014, 18). While the word “hemp” was primarily a synonym of cannabis, with time it also came to be used to refer to a variety of other fibre plants that colonists encountered around the world, often being associated with another term to identify the specific plant (‘African hemp’, ‘Manila hemp’, etc.). The term “Indian hemp” is

particularly ubiquitous, since it was primarily used to refer to *Cannabis indica* found primarily in India, a smaller plant with larger leaves, but was also often used to refer to other fibre plants used by Indigenous people in the Americas, such as *Apocynum cannabinum*. Unless specified otherwise, this report will use “hemp” as a synonym for “cannabis”.

Context of Mi'kmaq Treaties

Before Nova Scotia

13. New Brunswick only became an administrative entity in 1784. Its territory was previously part of the colony of Nova Scotia, whose border with the colony of Massachusetts Bay was the object of disputes throughout the 20th century, before the colony of Maine was created in 1820.
14. Nova Scotia became a British Colony in 1713, when the Treaty of Utrecht confirmed the transfer of the former French colony of Acadia to Great Britain, though disagree. Despite the British siege of the French Fortress of Louisbourg in 1745, Cape Breton island remained French until the conclusion of the Seven Years War in 1763 and formed its own distinct British colony for a brief period between 1784 and 1820. After the Treaty of Utrecht France also kept Île Saint-Jean (which would become Prince-Edward Island) and the Gaspé Peninsula, and continued to claim most of mainland Acadia in present-day New Brunswick).
15. Throughout the 17th century, English troops made several attempts at seizing French Acadia. In 1613, less than ten years after the French colony of Acadia was established in 1604, Samuel Argall and Virginian raiders destroyed the settlement of Port Royal. The English then occupied Acadia, which they called Nova Scotia, between 1629 and 1632, and captured Port Royal again in 1654, ruling over Acadia until 1670, when it was transferred back to France following the 1667 Treaty of Breda. The British capture of Acadia in 1710 led the province to be definitely transferred to Great Britain in 1713.
16. Despite nominal British rule in Nova Scotia, French Acadians would remain an overwhelming demographic majority in the colony until the two-thirds of its population

was deported out of the region, between 1753 and 1763. Before generous subsidies encouraged a first wave of 1,400 Protestant settlers to disembark in Nova Scotia to populate the new settlement of Halifax in July 1749, the colony's year-round British population was limited to "only two or three households in Annapolis Royal, and four or five more families in Canso" (Parmenter and Robinson 2007, 197). In comparison, an estimated 10,000 French Acadians lived in the colony in 1749 (Bergeron et al. 2008, 184).

17. During the French regime, Acadians had formed deep ties with the Mi'kmaq through intermarriage and religion, many Mi'kmaq having converted to Catholicism, and "sharing religious faith and practice bound the two peoples together in ways that complemented their familial ties" (Parmenter and Robinson 2007, 183). For example, when Massachusetts offered a bounty for the scalps of Indigenous enemies of the British, panic spread among the Acadians that their numerous members who had mixed ancestry with the Mi'kmaq would also be targeted (182-182).
18. The first treaties between the English and Indigenous peoples on the Northeast Coast were entered upon by the Massachusetts Bay Colony. On November 13, 1676, a treaty was concluded in Boston with members of the Penobscot tribe, who were close allies to the Mi'kmaq and Wolastoqiyik, in an attempt to end King Philip's War. Peace was finally concluded two years later with the 1678 Treaty of Falmouth (present-day Portland, Maine). The treaty exchanged prisoners and allowed settlers to return to their former settlements, while Massachusetts Bay agreed to pay annuities to the Penobscot (MAWIW et al. 1993, 41). Although the Mi'kmaq did not participate in King Philip's War, they were attacked by the English on at least one occasion, in 1676, which drove the Mi'kmaq closer to the French (Paul and Gaffney 1986, 2-5).
19. Similarly to the 1678 Treaty of Falmouth, other smaller treaties prior to 1713 were acts of surrender more than substantial agreements, such as the "Submission and Agreements of the Eastern Indians" concluded in Pemaquid on August 11, 1693, with Norridgewock, Penobscot and Teconet leaders (Becker 2005, 28), but no Mi'kmaq or Wolastoqiyik participants – despite their involvement in these wars. The Treaty of 1693 contained commitments on the part of Indigenous signatories to cease acts of hostility towards the English, to release English prisoners, to cease aiding the French, and to deal with conflicts through English courts (Daugherty 1983, 11-12).

20. At the conclusion of King William's War (1688-1697), the Eastern Indian Treaty of January 7th, 1699 concluded in Mares Point, Maine, reaffirmed the terms of the Treaty of 1693 (Baxter 1916, 19-22; MAWIW et al. 1992, 41). However, on September 8, 1699, a "Memorial of the Sagamores" was sent to Governor Bellemont by Norridgewock, Naracamegoch and Amaraconteog chiefs, specifying that whereas the English could return to their former settlements and resume trade activities there, they would also be "saveign [sic] unto the said Indians their own planting grounds up in the Countrey, and free liberty of hunting fishing and fowling in those parts as formerly, and liberty to build wigwams as formerly for their shelter where they may make a stay for any time and to make use of firewood from off any unimproved Lands as their needs may require." (Baxter 1916, 26-28).
21. This early mention of "planting grounds," also included in the Dummer's Treaty of 1725, demonstrates that, contrary to the popular assumption that Indigenous people were nomadic hunters and gatherers who did not farm land, agriculture was significant for Indigenous people to the point of being included in the terms of the 1699 treaty. This also suggests that the products of their labour that were subject to commercial exchange – in an era where trade and military alliance were intimately intertwined, making it a priority for the English Crown to control commerce with Indigenous people to curb their both diplomatic and commercial ties with the French – did not only include the products of hunting and fishery, but also plants grown by Indigenous people on their planting grounds.
22. The same year, in 1699, Governor Bellomont expressed fears that several Indigenous peoples in Massachusetts had "entered into a Combination and Confederacy, and to be drawn together in considerable numbers, threatening a general Insurrection." Bellomont thus brought a motion to the Assembly requiring all English subjects of Massachusetts "Speedily to endeavour by all opportunities and possible ways and means that they can, to undeceive the said Indians" and to "assure them, of his Majesty's good inclination and favor, and continuing of them under his Protection," while avoiding any quarrel or provocation upon them (Baxter 1916, 22a-22b). In this context, the colony realized that if Indigenous peoples stopped trading with the French, they now relied on the English for trade goods, having "Dependence upon this Government for supplies of Cloathing and other nessaries [sic]." Therefore, the English had to make supplies available for

Indigenous people to trade against, using trading posts, called “truckhouses”, offering competitive prices by contrast with the French (*ibid.*, 23-26)

23. The terms of the Treaty of 1699 were renewed in 1700 and 1701 with several Indigenous chiefs. In 1702, a trade pact was concluded with Saint John River Wolastoqiyik people, where English officials manifestly showered a “deep-seated fear” of the Mi’kmaq at the outbreak of Queen Anne’s War (1702-1713) (Paul and Gaffney 1986, 13). Despite peace agreements with Penobscot and other Indigenous groups in Maine, a party comprising 200 Mi’kmaq (“Cape Sables Indians”) and 30 French men assaulted English settlements on the East Coast in 1703 (14).
24. These skirmishes did not cease when the English captured French Acadia’s capital, Port Royal, which they renamed Annapolis Royal, in 1710, as the Baron St. Castin, a French métis woodsman, proceeded to rally the Mi’kmaq to besiege Annapolis Royal. Although the siege was unsuccessful, 60 English soldiers were ambushed by a smaller Mi’kmaq party outside of Annapolis Royal in 1711 (Paul and Gaffney 1986, 15). In 1712, the British concluded a ceasefire with local Indigenous people, and a peace conference was organized in Portsmouth, New Hampshire, on July 11, 1713. This peace conference was attended by most “Eastern Tribes,” including the Wolastoqiyik, whose chief stated that the French could not give away lands which still belonged to the Indigenous people – stating that “They have nothing to do to give it away” (17). Indigenous participants accepted the 1713 Treaty of Portsmouth because it only allowed the English to reintegrate the settlements they already had established in 1699, and because it contained specific guarantees, “Saving unto the said Indians their own Grounds, and free liberty for Hunting, Fishing, Fowling, and all other their lawful liberties & Priviledges.” The British, however, failed in their attempts to invite Mi’kmaq leaders to affirm the 1713 peace, and soon started settling lands that went beyond their former settlements, laying the foundations for further hostilities (18-21).

Instructions to British Governors of Nova Scotia

25. In 1621, King James I had granted a Royal Charter to William Alexander for the barony of Nova Scotia (“New Scotland”), staking claims over an estimated 54,000 square miles of land then occupied by France, encompassing present-day Nova Scotia, New

Brunswick and Quebec (Slafter 1873, 69). The Royal Charter directed William Alexander “to establish the Christian religion therein, and also to cultivate peace and quiet with the native inhabitants and savage aborigines of these lands, so that they, and any others trading there, may safely, pleasantly, and quietly hold what they have got with great labor and peril.” William Alexander had “free and absolute power of arranging and securing peace, alliance, friendship, mutual conferences, assistance, and intercourse with those savage aborigines and their chiefs, and any others bearing rule and power among them; and of preserving and fostering such relations and treaties as they or their aforesaid shall form with them” (*ibid.*, 136-137).

26. A few years after the 1713 Treaty of Utrecht transferred Acadia to Great Britain, similar instructions to maintain friendly diplomatic relations with Indigenous people in Nova Scotia were given by the Crown to Richard Philips, Governor of Placentia in Newfoundland, and Captain General and Governor in Chief of the Province of Nova Scotia. The June 19, 1719, instructions to Governor Philips were prepared by the Council of Trade and Plantations, and included some of the guidelines that had already been previously sent to the governors of Virginia. According to Daugherty (1993, 11), the following paragraph of the instructions would continue to be included in instructions to all subsequent governors of Nova Scotia until the late 1760s:

And whereas we have judged it highly necessary for His Majestys Service that you should cultivate & maintain a strict friendship & good correspondence with the Indian Nations inhabiting within the precincts of Your Government that they may be reduced by Degrees, not only to be good Neighbours to His Majestys Subjects, but likewise themselves become good Subjects to His Majesty, we do therefore direct you upon your arrival in Nova Scotia to send for the several heads of the said Indian Nations or Clans and promise them Friendship and protection on His Majestys part. You will likewise bestow on them, as your discretion shall direct, such presents as you shall carry from hence. (Calendar of State Papers 1719-1720, 133).

27. These instructions echoed the terms of the Royal Commission which the French Crown had given to the Sieur du Mons in 1603 to represent the French King within a territory including present-day Nova Scotia and New Brunswick. Du Mons was instructed to “deal and contract to the same effect peace, alliance and confederation, good friendship,

correspondence and communication with said peoples and their Princes, or others having power and command over them” (Royal Commission on Aboriginal Peoples 1992, 10).

28. Because the British were widely outnumbered by Mi'kmaq people and French settlers in Nova Scotia, their only hope for winning over Indigenous people was to rely on diplomacy, presents, trade and intermarriage.

29. On March 18, 1715, Mr. Sherif, Governor Thomas Caufield's clerk in Annapolis Royal, wrote to the Council of Trade and Plantations that:

The Indians of these parts, who are most in their [the French] favour by frequent marriages and other accosts. Will be irreconcilable [sic] and if ever warr breaks out, a perpetual plague to that Collny., as well as to that of New England, whereas if the French be encouraged, there may be hopes of gaining these savages in time by good wages to his Britannick Majesties interest. Otherwise no Englishman will almost hazard himself to settle in these parts (Calendar of State Papers 1714-1715, 128).

30. In a report attributed to British agent Thomas Moore and written to Lord Carteret, Secretary of State for the Southern Provinces, on May 16, 1723, the dire state of the English garrison in Nova Scotia was deplored: “About 150 such miserable wretches is all we have within a poor hovel of sticks and posts drove into the ground etc., to defend us from the French and Indians, of whom we account 9000 in the country, and only 5 or 6 of them acknowledge King George.” Moore warned that the “country will be quickly lost” because Annapolis was so weakly defended that “The French and Indians have power enough to take it in an hours time” (Calendar of State Papers 1722-1723, 259). The French supplied their Indigenous allies with arms, ammunition, and other commodities, maintaining strong trade relationships with them, refusing to pledge allegiance to Great Britain, and propagating the Catholic faith, inculcating “a hatred inexpressible against the English” (Calendar of State Papers 1724-1725, 421).

31. Based on these fears, the Royal Instructions sent to Governor Philips in 1719 set the strategic goals for the British in Nova Scotia as establishing: 1) a settler colony, where British subjects would eventually prevail over French and Indigenous people; 2) a

resource extraction colony that could provide the British with material needed for the naval stores, including timber suited for masts, and cannabis for cordages and sails.

32. The Board of Trade and Plantations explained the reasons underlying their instructions to Governor Philips in a letter to the Lord's Justices on June 19, 1719, explaining that

The Instructions we have prepared for Col. Philips, are entirely calculated for the laying out and making a new settlement, wherein we have made the best provision we are able to propose at present for the peopling of the country, for promoting the fishery, for the preservation of the timber fit for ye Royal Navy and for encouraging the production of Naval Stores, more particularly of hemp, which is very much wanted in H.M. Dominions (Calendar of State Papers 1719-1720, 128).

33. The letter then explained that maintaining good relations with the French and avoiding provocations, while keeping an eye on French activities, was primordial to maintaining peace. The Board wrote that

We are convinced from all the accounts that we have received from America that nothing has so much contributed to strengthen the hands of the French in those parts, as the friendship they maintain and the intermarriages they make with the Indians we have not only prepared a clause in his said Instructions; requiring him to give all civil and friendly treatment to the Indian Nations or clans within his Government, but have likewise taken the liberty to propose and Instruction for encouraging of intermarriages between H.M. subjects and the said Indians, which we hope may have a very good effect there (Calendar of State Papers 1719-1720, 128).

34. The Board of Trade and Plantations was established in 1696, and "From its inception, the Board was tasked with focusing on the production of naval stores in North America (Hiono 2026, 229). With the Naval Stores Act of 1705, England pursued approached North American forests as a strategic interest, providing bounties for merchants providing American masts, yards, bowsprits, pitch, tar, hemp, rosin and turpentine (231), and once settled by British subjects, Nova Scotia would specifically represent an opportunity for securing both mast trees and hemp, because "good Hemp has been produced there by ye Inhabitants for their use" (232).

35. The instruction to Governor Philips for encouraging intermarriage between British subjects and Indigenous people in Nova Scotia reads as follows:

H.M. will bestow on every white man being one of His subjects, who shall marry an Indian woman, native and inhabitant of Nova Scotia, a free gift of the sum of £10 sterl. and 50 acres of land, free of quit rent for ye space of 20 years, and the like on any white woman being H.M. subject who shall marry an Indian man, native and inhabitant of Nova Scotia, as aforesaid. (Calendar of State Papers 1719-1720, 133)

36. Explaining the distribution of lands in fee simple to settlers, the following paragraph explains that said “quit rent” referred to hemp/cannabis :

And whereas it will be of advantage to H.M. service and highly beneficial to the trade of Great Britain, that the said Province of Nova Scotia be peopled and settled as soon as conveniently may be; as an encouragemt. to all H.M. good subjects, that shall be disposed to settle themselves and their families there; you are hereby directed to make grants of such lands in fee simple as are not already disposed of by H.M., to any person that shall apply to you for the same ; reserving nevertheless to H.M., his heirs and successors an annual rent of one shilling, or of three pound of hemp, clean, bright and water-rotted for every fifty acres so granted, at the election of the grantee ; the said rent to commence three years after the making the grant, and not before; you are to take especial care, that there be a clause inserted in all ye said grants, declaring, that if any grantee shall refuse or neglect to pay the abovementioned rent for the space of three years, after ye same shall become due, his patent shall hence-forth be null and void to all intents and purposes whatsoever (Calendar of State Papers 1719-1720, 133-134)

37. Kaplan (1990, 128) suggests that “despite the rich inducement”, these efforts to encourage intermarriage between British subjects and Indigenous people were unsuccessful, although no source is quoted to support this statement. In any case, the intermarriage provision would continue to be included in instructions to governors until 1773, seeking to assimilate Indigenous people into British culture to replace the privileged relationship French Acadians had developed with them through frequent intermarriage (Hall 2015, 262).

38. The instruction to Governor Philips for using Nova Scotia for resources for the navy read as follows:

You shall to the utmost of your power encourage the growth and production of timber, masts, tar, hemp and other Naval Stores, in the Province of Nova Scotia, and you are to enquire, what trees there are in the said Province fit for masts for the use of the Royal Navy and in what parts of the country they grow at what distance they are from any rivers whereby they may be the more commodiously brought down, in order to be shipt for this Kingdom (Calendar of State Papers 1719-1720, 132).

39. The idea of using Nova Scotian lands to harvest resources for the navy had been suggested as early as in 1584, in the *Discourse Concerning Western Planting* written by English Anglican priest Richard Hakluyt to encourage Queen Elizabeth I to support his project of “planting the English race in the unsettled parts of North America discovered by Cabot and not yet occupied by any Christian people” (Hakluyt 1877, liv). The “Newfoundelande” visited by John Cabot in 1497, wrote Hakluyt, has an “abundance of pynes and firr trees, asshes, and other like, to make mastes and deale boordes, pitche, tarr, rosen; and hempe for cables and cordage” (34), based on the recent explorations of Frobisher and Gilbert, among others. Hakluyt proposed to send prisoners there who could work “in sawinge and felling of tymber for mastes of shippes, and deale boordes; in burning of the firres and pine trees to make pitche, tarr, rosen, and sope ashes; in beatings and working of hempe for cordage” (37).
40. A correspondence between the Council of Trade and Plantations’ and the Lords of the Committee for Hearing Appeals further specified that 5% of lands granted in Nova Scotia would be reserved “as a nursery for masts and timber for the Royal Navy.” In addition, “all pine and fir trees of the diameter of 24 inches and upwards at 12 inches from the ground” would be reserved for the Royal Navy. The exportation of “deals, masts, plants, ship, timber, hemp, pitch, tar or any other Naval Stores whatsoever” to foreign markets was also banned. Finally, quit rents of “hemp water rotted, bright, clean and fit for making cordage for the Navy,” were to be delivered to agents of the Crown beginning four years after the land grants, and increasing with time. (Calendar of State Papers 1719-1720, 114-115).

41. In the words of the Council of Trade and Plantations, it is apparent that hemp was “very much wanted in H.M. Dominions,” and that the colony of Nova Scotia was specifically meant to provide this resource for the British navy.
42. In the English land tenure system, the concept of “quit-rent” originally referred to “a commutation in money of certain medieval villein obligations,” such as laboring specific days of work for the landlord or paying a portion of the produce of his land and stock, and it evolved to designate “any form of payment, which absolved or made quit the tenant, whether vassal, freeholder, copyholder, or leaseholder, in respect of personal service or other similar obligation to the lord” - becoming the “freest”, most simple and flexible form of land tenure in the English system (Bond 1912, 16). Because of the “lack of hard money” in colonial North America, quit-rents using fixed annual sums of money were often hard to collect, and expedients were adopted, such as wheat, tobacco, cotton, indigo, silk, rice, pork and peas (451-452), as well as products selected to “stimulate trade”, such as hemp, flax, deerskins and beeswax (295). Quit-rents paid to the British Crown allowed “royal control over the colony,” being equivalent to a “general property tax” (367). It was typically used for territories acquired from the French in 1713, including Nova Scotia, where retired officers could acquire land for a quit-rent of twelve pence, or three pounds of hemp, per 50 acres (368) - although the Crown was unable to collect important sums through quit-rent from larger estates of “unimproved lands”, leading Governor Legge to petition for waiving these duties in order to promote settlement (372).
43. In addition to an alternative to money for quit-rents in Nova Scotia, hemp agriculture was sometimes explicitly required as part of land grants, as shown by the land grant signed by Lord William Campbell, Captain General and Governor in Chief in Acadia, for 51 shares of 500 acres each, on January 30th, 1773, for which in addition to a quit-rent of one shilling per 50 acres, colonists committed to planting “annually two acres in hemp” (Milner 1934, 22)
44. The use of hemp as quit-rent equivalent to money suggests that it served as a form of exchangeable currency. Ernest L. Abel (1980, 90) propounds that hemp was used as a currency because money lacked value in the colonies, which rather “operated on a barter system,” using hemp because its relative uniformity, durability and its steady demand and value exceeded all other raw products; his continued thirty or forty years

after the American revolution, when “anything and everything could be bartered for hemp, from the local newspaper to the services of stud racehorses.” In colonial British North America, it seems that the use of hemp as a bartering product was supported by the Crown and colonies through the quit-rent system and the exchangeability to colonial treasurers, as evidenced by a 1719 Act of Assembly at Portsmouth, in present-day New Hampshire, providing that “the treasurer is obliged to pay any person of the Province 12d. a pound for any quantity of good, sound, water-retted merchtble [sic] Hemp” to “bring people into the manufacturing of hemp to their great benefitt” (Calendar of State Papers 1719-1720, 123). This form of currency would have been especially useful for individuals who did not have access to money, such as Indigenous people.

45. The precarious position of the British in the early years of the colony, as they were vastly outnumbered by Indigenous and French people who had developed deep ties – including through intermarriage – throughout the 17th century, led the British to adopt a friendship and protection-based diplomatic policy with Indigenous people in Nova Scotia. This implied making alliances and treaties with them, as suggested by a 1721 statement by the Council of Trade and Plantations for the King: “It would likewise be for your Majesty’s service that the sev[eral] Governmts [sic] of your Majesties Plantations should endeavor to make treaties and alliances of friendship with as many Indian nations as they can, in which treaties all your Majesty’s subjects should be expressly included” (quote by MAWIW et al. 1992, 35).

Dummer’s Treaty of 1725

46. The peace obtained through the 1713 Treaty of Portsmouth deteriorated rapidly as British settlers claimed vast tracts of land in Maine through deeds negotiated in private with Indigenous people through “force or fraud” (Paul and Gaffney 1986, 22). Governor General Samuel Shute thus called for a conference on Arrowsic Island (present-day Maine), at the mouth of the Kennebec River, in 1717, which was boycotted by Indigenous peoples living at the east of the Penobscot River, bringing mostly Kennebec/Norridgewock representatives. The latter argued that a boundary for English settlements should be established south of Merrymeeting Bay and West of the Pemaquid peninsula – which would have required terminating old private deeds that went beyond this border. The British considered that the provision, included since the

Treaty of 1693, to allow settlers to reintegrate their “former settlements” would include such “former purchases,” and argued that colonists were not encroaching, but “resettling”, while promising that the English “will not take an Inch” of Indigenous lands and that Indigenous people could continue fishing and fowling wherever they pleased. This resulted in the Arrowsic Treaty of 1717, annexed to the 1713 Treaty of Portsmouth, where Indigenous people recognized that the English could “peaceably enjoy all their lands,” believing that this would curtail colonists’ encroachments (23-24).

47. Yet less than two years later the British planted a fort at Saint George River (near present-day Thomaston, Maine), beyond the boundary of Pemaquid Point, claiming it was in a tract that had been already sold by a Penobscot chief in the 1690s, even though there was “no recollection of the land deal in the Penobscots’ highly formalized and accurate Oral Tradition” and they held that “an individual Chief could not convey away lands held in common by his Nation” (Paul and Gaffney 1986, 25).
48. At the same time, British settlers could barely “venture beyond the stockade at Annapolis” without risking their life in Nova Scotia, as the Mi’kmaq and Wolastoqiyik boycotted the British, and maintained their trading and military ties with the French (Paul and Gaffney 1986, 25). The British held meetings where they distributed gifts to nine Wolastoqiyik chiefs in July 1720 , and with the Kennebec and Penobscot in October and November 1720, where they promised that “the English have no design to take your country or any of your Lands from you: or to deprive you of any of your just Rights or Privileges.” Yet Massachusetts held that previous deeds were “legally binding” and refused to vacate their settlements beyond the boundaries discussed in 1717 (26).
49. As Nova Scotia Governor Philips wrote, in July 1720, that “the King’s authority does not extend beyond this fort” (Annapolis Royal), there were a few Mi’kmaq raids on trading boats and a fishing station in Canso, Nova Scotia, where they were careful not to take lives, but sent a message, reiterated in a letter to Governor Philips in October 1720 protesting against the British occupation of Canso:

We have assembled to tell you that this land which God has given us and to which we belong cannot be claimed by anyone else... We are masters, independent of everyone, and desire to have our country free... If we wished to go and dwell in England, what would you do but order us to retire; and for the same reason we do not wish the English to inhabit our country which we hold

only from God, and which we will dispute with any men who wish to inhabit it without our consent. (Paul and Gaffney 1986, 28).

50. As the Kennebec also raided the farm animals of Merrymeeting settlers, the British organized a Treaty Conference in 1720, asking for 200 pelts as reparations, but refused to give back the four Indigenous hostages they took as a guarantee after the pelts were delivered (Paul and Gaffney 1986, 29). This infuriated Indigenous people, who sent an ultimatum for settlers to withdraw from the lands they claimed and to release prisoners within two months. The ultimatum was signed by a wide array of Indigenous people:

Abnakis of Narats8ak, Pentug8et (Penobscot), Narakamig8, Anmiss8kanti, Muanbissek, Peg8akki, Medokteck (Medocted, now in New Brunswick K8apahag (or Ekpohak give miles above what is now Fredericton, New Brunswick), Pesmokanti (Passamaquoddy), Arsikanteg8, 8an8inak,... the Iroquois of the Sault and the Mountain, Algonquins, Hurons, Mikemaks (Micmacs), Northshore Mantgnez, Papinachois and other neighboring nations” (29-30).

51. Massachusetts considered military retaliation, but abandoned this avenue because of its cost and the chaos it would cause. Instead, they kidnapped Baron St. Castin, who had besieged Annapolis Royal alongside the Mi'kmaq in 1710 (Paul and Gaffney 1986, 31).
52. War broke as a result in the summer of 1722, involving all Indigenous people from Cape Canso to the Kennebec River. Merrymeeting Bay settlers were captured as hostages to compensate the prisoners that had been kept by the British. Dozens of fishing vessels were seized in the Bay of Fundy and along the coast of Nova Scotia, and the settlement at Brunswick was destroyed, as well as cattle killed and houses burned in Georgetown. Massachusetts Lieutenant Governor William Dummer directed the British war effort, thereafter dubbed Dummer's War. The garrison at Annapolis Royal shut themselves up in the fort with 22 Mi'kmaq hostages, and settlers on the frontier fled to Boston (Paul and Gaffney 1986, 32).
53. Massachusetts issued a bounty for Indian scalps and engaged in bloody raids as a response, while sending negotiators to Montreal for peace talks mediated by the Governor of New France – as France was not involved in this war. Indigenous representatives asked the British to vacate all lands from one league beyond Saco River to Port Royal, holding that British claims were worthless, whereas “We were in

possession before you, for we have held it from time immemorial” (Paul and Gaffney 1986, 34).

54. If the Montreal peace talks were unsuccessful, they laid the foundations for Dummer’s Treaty negotiated a few months later, in a context where Dummer wrote to the Council of Trade and Plantations that “the expence of the war is so great and insupportable to this Province that unless it shall please God to put a speedy end to it, it will inevitably ruin us”. The British dispatched Indigenous runners to the Penobscot, who showed up carrying a flag of truce at Fort St. Georges, Maine, in June 1725, claiming that they were supported in their negotiating points by the Wolastoqiyik and Mi’kmaq, who also wished peace. Two Penobscot delegates, Loron and Ahanquid, were taken to Boston to discuss with Massachusetts Bay authorities, holding a conference on July 28, 1725, resulting in a general ceasefire and plans for a larger treaty conference to be held (Paul and Gaffney 1986, 36).
55. Nova Scotia selected Major Paul Mascarene to participate in treaty negotiations in Boston, in an effort to have a single comprehensive treaty encompassing both Nova Scotia and Massachusetts (Paul and Gaffney 1986, 39-40)
56. The Treaty conference started in November 1725 as four Penobscot chiefs (Loron, Arexus, François Xavier and Maganumba) arrived in Boston to act on behalf of several groups, including the Kennebec/Norridgewock, Wolastoqiyik and Mi’kmaq (Paul and Gaffney 1986, 41-42).
57. Dummer’s Treaty, signed on December 15, 1725, at the Massachusetts Council Chambers, would result in six documents in total (included as appendices in MAWIW et al. 1992):
 - a. The Submission and Agreement of the Delegates of the Eastern Indians;
 - b. Lt. Governor William Dummer’s Promises to the Delegates of the Eastern Indians;
 - c. Mascarene’s Articles of Submission and Agreement (specific to Nova Scotia);
 - d. Mascarene’s Promises to the Delegates of the Eastern Indians (specific to Nova Scotia).

- e. Ratification of the Articles entered into at Boston by Chiefs of the Eastern Indian Tribes (ratification ceremony at Annapolis Royal, Nova Scotia, in 1726);
 - f. Promises made by Lt. Governor Doucette to the Chiefs of the Eastern Indian Tribes (ratification ceremony at Annapolis Royal, Nova Scotia, in 1726);
58. Document (a) involves all Indigenous groups of New England and Nova Scotia who were engaged in the war, and proclaimed peace, and to “Erase and for bear all Acts of Hostility, Injuries and discords towards all the Subjects of the Crown of Great Britain” to rather “hold and maintain a firm and Constant Amity and Friendship with all the English” by promising to “never confederate or combine with any other nation to their prejudice”. It provided for the release of captives without ransom, and guaranteed that British subjects would enjoy and improve all their “former Settlements properties and possessions” without being “in no ways molested interrupted or disturbed therein”. In exchange, the First Nations and their descendants could enjoy “all their lands, Liberties and properties not by them convey’d or sold to or possessed by any of the English Subjects,” including “the priviledge [sic] of fishing, hunting and fowling as formerly.” It provided that all trade and Commerce between them would be managed and regulated by the British Crown, and that conflicts between them would be dealt with through British courts. The Penobscot promised that they would take arms against Indigenous people who would renew acts of hostility against the English, and that the treaty would be ratified the next year.
59. Document (b) also engaged all the same Indigenous nations, and contained similar provisions for maintaining peace and releasing captives. In addition, it stated that:
- a. the said Indians shall peaceably Enjoy all their Lands and Properties which have not been by them conveyed and sold unto or possessed by the English, and be no ways molested or disturbed in their Planting or Improvement; and further that there be allowed them the free Liberty and Priviledge of Hunting, Fishing, and Fowling as Formerly.
60. Moreover, the British promised “that the Indians shall have no Injustice done them respecting their Lands,” and that all land claims would be produced and analyzed at the ratification of the treaty to “ascertain what lands belong to the English, in order to the Effectual Prevention of any Contention or Misunderstanding on that Head for the future.

61. Document (c), specifically for Nova Scotia, acknowledged that the Treaty of Utrecht made King George the “rightful possessor of the Province of Nova Scotia or Acadia according to its ancient boundaries.” It guaranteed that Indigenous people would not molest British subjects in the province, and that restitutions would be offered in case of robberies of outrage. It provided that Indigenous people would deliver British deserters and prisoners to the authorities, and rely on British courts in case of quarrels.
62. Document (d), also specific to Nova Scotia, included similar articles as document (c), including ransoms for delivering British soldiers who deserted, and added that “the Indians shall not be molested in their persons, Hunting Fishing and Planting Grounds nor in any other their Lawfull Occassions by His Majestys Subjects or their Dependants nor in the Exercice of their Religion” at the condition that the Missionaries residing among them are approved by the Governor. It guaranteed that reparations would be offered by the Crown if Indigenous people are injured by British subjects. It also promised that Indigenous hostages would be released at the ratification of the treaty in Annapolis Royal.
63. Document (e), signed in Annapolis Royal in 1726 similarly acknowledged British jurisdiction over Nova Scotia, that British subjects would not be molested, that robbery or outrage would be compensated, that deserters would be delivered to British authorities, that quarrels would be brought before British courts and that prisoners would be released.
64. Document (f), signed at Annapolis Royal in 1726, also stated that “the Said Indians shall not be Molested in their Person’s, Hunting, Fishing and Shooting & planting on their planting Ground nor in any other their Lawfull Occassions,” and recognized their religious freedom provided that their missionaries were approved by the British government. It also included similar provisions as the above concerning matters such as treating conflicts through British courts instead of private revenge. This document contained a promise that the treaty was subject to legal enforcement: “if any Indian are Injured by any of his Majesty’s Subjects or their Dependants they shall have Satisfaction and Reparation made to them According to his Majesty’s Law: where of the Indians shall have the Benefit Equally with his Majesty’s other subjects” (Henderson 1999, 354).
65. An August 1726 letter from Doucett, Lieutenant-Governor of Annapolis, clarifies that document (e) was the document which Indigenous parties signed to the government,

while document (f) was “signed to them in behalf of the government”. Doucett also states that Nova Scotia Indigenous signatories declared that “they would never take up arms against either of the two crowns but that they would live neutral and friends to both,” suggesting that they did not consider the treaty to imply their submission to either colonial power (Daugherty 1983, 37).

66. During the November 1725 sessions, the central issue of settler encroachments beyond their former settlements was discussed at length, which is why the British proposed to draw up a separate treaty instrument addressing the rights and guarantees proposed to Indigenous peoples, as distinct from the peace treaty itself. The Penobscot negotiators asked to clarify that the proposed expression “former settlements” did not include that “the English design to build Houses further than there are any Houses now built or Settlements made,” to which the Treaty Commissioners responded that “When We come to Settle the Bounds We shall neither build or settle anywhere but within our own Bounds so settled, without your Consent.” They offered that no new settlements be made in contested areas before a formal survey is done by a committee which would examine the land deeds in collaboration with Indigenous communities, although they maintained that the fort on the St. Georges tract was lawful and would remain (Paul and Gaffney 1986, 45-48)
67. According to James (Sákéj) Youngblood Henderson (1999, 353-354), the Mi'kmaq rejected the preliminary drafts of Dummer's Treaty negotiated at the end of November 1725, stressing that although they respect the King of Great Britain as much as the King of France, they “reckon our selves a free People and are not bound.” It is only when Mascarene offered new terms on 15 December 1725, guaranteeing that they would “not be molested in their persons, Hunting, Fishing and Planting Grounds” that the Mi'kmaq decided to agree with the treaty, which they ratified the next year in Annapolis Royal.
68. This shows how important the protection of their own existing plantations was for the Mi'kmaq, contradicting assumptions that they had a purely nomadic lifestyle and did not farm land or build villages in specific locations. Specifically, Daugherty (1993, 13) summarized the 1725 treaty as “designed to protect the Indians from physical molestation (at the hands of incoming settlers) while following their traditional economic activities of hunting, fishing and planting,” before specifying that planting would only have applied to the Wolastoqiyik/Maliseet, “who were a semi-agricultural people”. While

it is widely acknowledged that the Wolastoqiyik engaged in agricultural practices, Daugherty's opinion that the Mi'kmaq were not farmers may be influenced by the preconception that the Mi'kmaq were a purely nomadic people whose livelihood depended entirely on hunting and gathering.

69. Wolastoqiyik agriculture is well documented, especially the field that was next to the large palisaded Wolastoqiyik town of Meductic, on the Saint John/Wəlastəkw River. In 1689, a captive from New England, John Gyles, remembered witnessing a "large Interval-Corn-Field" there. French explorer Cadillac saw the same field three years after Gyles was there, and noted that its inhabitants "clear the land and every year make fine fields of Indian corn, beans, kidney beans and pumpkins," using the plural "fields" to suggest that there were several multiple farmed stretches. In 1745, another captive, William Pote, also noted that there were "Several Small Spots Cleard land, where ye Indians had improved and planted Corn and beans". Samuel de Champlain was also told that there were corn fields on the banks of the Kennebec River (Hall 2015 72-74), and witnessed plantations along the Saco River (Leonard 1996, 175). As French and British settlers started farming the fertile lands on the banks of the river, they benefited from Wolastoqiyik knowledge of drainage patterns and growing conditions (20), contesting European ideas depicting precolonial landscapes as pristine and wild (394).
70. Although paleoethnobotanical research and the documentation of Indigenous plant knowledge and exchange is not as developed in the Maritime Provinces as in Western Canada, recent research suggests that "prehistorical plant use in the region was much more complex and diverse than previously thought," hinting at a "shift toward horticulture" that would have coincided with the intensification of intraregional trade in the decades preceding European contact (Deal 2008, 13-14). Charred plum pits were notably found in the late prehistoric Meductic site, in New Brunswick, suggesting that plums were planted around Indigenous campsites as a form of arboriculture (3).
71. It is hard to conceive that Wolastoqiyik and Mi'kmaq peoples could have lived side by side and engaged in marriages and alliances for centuries without exchanging horticultural knowledge. Because of the specific conditions allowing the preservation of perishable plants – seeds, for instance, needing to be charred to be preserved in the soil – the absence of archaeological evidence of Indigenous uses of a specific plant should not be taken as evidence of their absence. For instance, while various smoking pipes

were recovered in the Maritimes, no tobacco plant remains were found in the region's archaeological sites (Deal 2008, 8). Leonard (1996, 174) points out that if, as of 1991, 683 tobacco seeds had been recovered in the United States, and 3368 in Ontario, a single *Nicotiana rustica* tobacco plant holds about 42,000 seeds, which means that "the total number of tobacco seeds found in archaeological sites in North America is approximately one-tenth of the annual yield of seeds of a single tobacco plant."

72. Yet, the historical record suggests that the Mi'kmaq were planting tobacco when the first European settlements were established. In 1606, French lawyer and traveler Marc Lescarbot (2005, 298) wrote his observation that the Mi'kmaq near Port Royal "plant great store of tobacco, a thing most precious with them and universally amongst all those nations [...] the smoke whereof they suck up with a pipe. After that they have gathered this herb, they lay it to dry in the shade, and have certain small bags of leather hanging about their necks or at their girdles, wherein they have always some." Lescarbot also provides a plausible explanation why the Mi'kmaq are less known for farming, which is that they did not need to do it since they could get similar resources from settlers:

In the countries where they use tillage, as in that of the Armouchiquois [who lived south of the Saco River, in Maine] and farther off, the men do make an infinite quantity of earthen pots, like in fashion to night-caps, in which they seethe their meats, flesh, fish, beans, corn, pompions, etc. Our Souriquois [Mi'kmaq] did so anciently, and did till the ground, but since that Frenchmen do bring unto them kettles, beans, peas, biscuit, and other food they are become slothful, and make no more account of those exercises. But as for the Armouchiquois, which have yet no commerce with us, and them that are further off, they till the ground, do fatten it with shells of fish; they have their families distinct, and their plots of ground about them. (247-248)

73. Archaeologist Kevin James Malachy Leonard explains that similarly, even though Lescarbot did not observe the Mi'kmaq making pottery in the early 17th century, archaeological evidence clearly substantiates that they mastered pottery at that time. In any case, Beaubassin Acadian Pierre Arsenault recounted sighting corn fields next to Mi'kmaq wigwams in Shediac and Richibouctou in 1714, which suggests that such sites might simply not have been frequently visited by settlers or were left unrecorded (Leonard 1996, 178).

74. In any case, there is no reason to believe the protections of Indigenous “planting grounds” provided by the 1725 Treaty did not include the Mi’kmaq. This is especially the case when one considers’ the British tendency, influenced by John Locke’s theory of “improvement” where homesteading and farming created a proprietary relationship with the land, to consider that “Aboriginal title was restricted to lands Aboriginal people cultivated but not lands used for ‘hunting, fowling and fishing’” (Augustine 2024, 180), which were considered empty, unsettled lands which Europeans could legitimacy appropriate to improve. In part because throughout the 18th and 19th centuries, British authorities openly despised Indigenous “roving practices” and would privilege farmers as civilized interlocutors (Parnaby 2008, 75), some Mi’kmaq combined their hunting, fishing and gathering practices with agriculture in sites such as the Catholic Mirligueche (Malagawatch) mission established by the French on the shore of Cape Breton’s Bras d’Or Lake in 1725, as well as on Chapel Island (76-77). In the 19th century, many Mi’kmaq had to further increase their farming activities because their “ability to hunt, fish, and gather was sharply curtailed” by colonial development (97).
75. The survey of New Brunswick’s Mi’kmaq and Wolastoqiyik communities conducted by Moses Henry Perley in 1841 highlights their farming endeavours of most Indigenous communities, including important farms on the fertile banks of the Saint John River, where “most of the residents cultivate Indian Corn and Potatoes, for which purpose each family has a certain portion of ground set apart” (Perley 1842, 1); joint farming of hay, wheat, oats, potatoes, peas, bean and flax with French settlers on the mouth of the Madawaska River (2); potatoes, wheat and oats agriculture in Eel Ground (3); potatoes, oats and corn in Burnt Church (4); ten acres of land cleared or hay, potatoes, corn, cabbage and other vegetables near Pocksoudie Island (*idem.*); and attempts in Listiguj/Restigouche (5). Most importantly, Perley’s report highlights Indigenous peoples’ attempts to farm not only subsistence products, but products for sale and access to cash, notably hay grown on the Tobique flat which was sold for money, although the Indigenous sellers were taken advantage of by settler merchants (2). Although hemp is not mentioned explicitly in Perley’s report, the existence of premiums and bounties in exchange for hemp strongly suggests that growing cannabis would have been a good way for Indigenous farmers to obtain money.
76. In a context where the British were vastly outnumbered during Dummer’s War and faced a united front of Indigenous enemies – going as far as Mohawk communities near

Montreal –, the Treaty of 1725 secured peace for Massachusetts and Nova Scotia, as well as commitments to release prisoners and deserters, use British courts, and refrain from assaulting British subjects in their settlements. In exchange, the British promised to curb further settler encroachment, and to cease molesting Indigenous people in their hunting, fishing and planting grounds.

77. The fact that growing hemp was encouraged by the Crown, and it was used for quit-rent and a form of currency, would have been an incentive for Wolastoqiyik and Mi'kmaq people to grow cannabis in their planting grounds protected by the Treaty of 1725, and to exchange it against other products for their subsistence.

Treaty of 1752

78. The Treaty of 1725 was ratified in 1727 and 1728, when a new provision engaging Indigenous signatories to join British forces to enforce the peace if it was broken was added (Paul and Gaffney 1986, 66-67).
79. In 1729, the peace was threatened when Colonel David Dunbar was dispatched to build a new fort and settlement at Pemaquid, as well as to survey the 150 mile-wide tract of land between the St. Croix River and the Kennebec River, at the border between Nova Scotia and Maine, with a view to having “the said uninhabited tract settled with inhabitants, for the better producing more certain, future ample supplies of hemp and other naval stores, without further dependancy [sic] on precarious supplies from foreigners” (Calendar of State Papers 1728-1729, 140). Also explored was the possibility of sending convicts there to “to settle and inhabit under the like conditions with others of raising hemp and paying quit rent in the same to H.M. for the use of the Navy” (141). Both William Dummer and Richard Philips saw that this project would directly “violate the express terms of Dummer’s Treaty,” and fearing that it would provoke a war and postpone further settlements indefinitely, the British government ended up revoking Dunbar’s orders in 1732 (Paul and Gaffney 1986, 69-70).
80. The Treaty of 1725 was generally upheld throughout the 1730’s, as confirmed during a conference held in July 1738 between Wabanaki speaker Loron Saugaaram and the Governor of Massachusetts (Paul and Gaffney 1986, 74). However, many piecemeal encroachments of English settlers beyond the former boundaries were observed by

Indigenous parties, affecting their way of life, and in 1740, Loron warned Governor Belcher at Boston's Council Chamber, on behalf of all Eastern Tribes, that English settlers "got a little too far on their Hunting Grounds," and reminded him that "The two Great and Weighty things are, Not to Intrude upon Our Lands further than they are Possess'd or Purchased, and to Keep the Trade under good regulation according to the Treaty" (75). This enunciation of Wabanaki priorities perfectly illustrates the Indigenous principle, which the French previously had to learn, of the "inseparability of trade and alliance," (Rushforth 2003, 800), is essential to interpret treaties Wabanaki demands for a reliable and fair trading system with the British as a precondition for their alliance. As relational commitments to mutual respect, peace agreements and trade agreements were one and the same.

81. Even though the British attempted to curtail trade between Nova Scotia's Indigenous people and the French, they still did not manage to provide proper trading post infrastructure to make trading with them more convenient. In 1732, Nova Scotia Lieutenant Governor Armstrong asked Massachusetts Bay Governor Belcher to establish a truckhouse in Acadia, as Nova Scotia lacked the funds to do so, but the project was turned down by the General Court because truckhouses operated at a loss. Armstrong then turned to the Lords of Trade, who also rejected the proposal, arguing that they would have to wait until there were enough settlers living in Nova Scotia to bear the expense of a truckhouse. Mi'kmaq people thus had no choice but to continue trading with the French to acquire European goods, although this potentially exposed them to breaching Dummer's Treaty of 1725 (Daugherty 1983, 39).
82. At a peace conference gathering several Indigenous tribes and Massachusetts authorities at the British fort on the St. George River in August 1742, Governor William Shirley promised that the British would not settle any lands east of the St. Georges River and "shall not take away an Inch of Land from you". Yet settler encroachments did not stop, leading Penobscots to write a letter to British authorities stating: "If persons would settle lands not their own we choose that they would tell us so plainly, and not wind themselves in, and encroach upon us by subtilty" (Paul and Gaffney 1986, 78).
83. In 1744 King George's War broke out between Great Britain and France, with Massachusetts and Nova Scotia being major theaters of operations. A mixed French and Indigenous force forced the surrender of the English garrison at Canso in May 1744, and

Annapolis Royal was besieged by 300 Mi'kmaq and Wolastaqiyik in July. In October 1744 the Massachusetts Bay colony declared war on the Mi'kmaq and Wolastaqiyik from Cape Sable (Nova Scotia) and St. John, and issued bounties for the scalps of Mi'kmaq and Wolastaqiyik men, women and children. Massachusetts troops suffered important defeats at the hands of French and Indigenous forces in 1746 in St. John's Island (Prince Edward Island) and in the Battle of Grand Pré (Minas) in February 1747, reducing British presence in Nova Scotia to Annapolis Royal alone (Paul and Gaffney 1986, 79-82).

84. After France and England made peace with the 1748 Treaty of Aix-la-Chapelle, discussions started in Boston in June 1749 to reestablish Dummer's Peace, with Penobscot representatives acting on behalf of all Indigenous groups, including the Mi'kmaq. A peace conference was planned to take place in September 1749 to ratify the Treaty of 1725. However, this plan for peace was compromised when the British proceeded that summer to build a new strongly fortified settlement in Chebucto, which would later become Halifax, without consulting the local Mi'kmaq people, who highly valued that land. Mi'kmaq chiefs sent a letter to the new governor, Edward Cornwallis, asking to vacate the new settlement, and were only told as a response that they were invited to renew Dummer's Peace at the new settlement. The British also occupied Minas and built a fort at Grand Pré, "capturing strategic pieces of real estate before a formal treaty was concluded" with the Mi'kmaq, who responded by attacking British ships and the Grand Pré fort. Treaty (Paul and Gaffney 1986, 84-85).
85. However, on August 13, 1749, several Mi'kmaq and Wolastaqiyik chiefs met Cornwallis to renew Dummer's Treaty, followed by Wolastaqiyik chiefs ratifying the treaty in September 1749, and Kennebec and Penobscot Tribes reaffirming the treaty in Falmouth in October 1749 (Paul and Gaffney 1986, 86-87).
86. Although important tensions subsisted, with incidents such as murders of Indigenous hunting parties by English settlers taking place in December 1749 (MAWIW et al. 1992, 72), peace managed to survive as Governor Cornwallis' aggressive policies to "annoy, distress and destroy the Indians everywhere" (MacFarlane 1938a, 161), including by paying bounties for Indigenous scalps, were opposed by the lords of trade, who wrote to Cornwallis in April 1750:

With respect to your Province in particular our first care certainly should be to make a proper Resistance to the Incroachments [sic] or Attacks of the Indians, and awe them into Obedience; but hereafter in time of more Quiet it should be remembered that too great Endeavours cannot be made to gain over the Good Will and fix to us the Preference of the Indians [...] It is true some expense may and will be necessary on this Account, but a little Money so laid out will be the means of avoiding many heavier Charges necessarily arising from the Indian War. (162-163).

87. A peaceful, diplomatic approach to peace seeking to bring Indigenous peoples on the side of the British rather than the French was thus couched in a financial commitment regarding trade, that is, to provide truckhouses offering fair prices for Indigenous goods. Providing truckhouses for exchanging goods thus represented an important point in peace negotiations, as shown by a parchment written in both French and English, which was signed, sealed and given to Shubenacadie Mi'kmaq chief Jean-Baptiste Cope, by the Council of the Governor of Nova Scotia in September 1752, to be shared with all other Mi'kmaq communities. Responding to Mi'kmaq demands to be "paid for the land the English had settled upon in this country," the letter offered the following "concessions":

We will not suffer that you be hindered from Hunting, or Fishing in this Country, as you have been used to do, and if you shall think fit to settle your wives and children upon the River Shibenaccadie, no person shall hinder it, nor shall meddle with the lands where you are, and the Governor will put up a Truckhouse of Merchandise there, where you may have everything you stand in need of at a reasonable price, and where shall be given unto you the full value for the peltries, feathers, or other things which you shall have to sell. (Daugherty 1983, 56-57).

88. In 1738, Loron had insisted, in a conversation with the Governor, on the necessity for Mi'kmaq people to receive money in exchange for goods traded at truckhouses "because we can tell better if we are Cheated" (Baxter 1916, 245). Truckhouses were also expected to provide basic goods for survival, as shown by the Penobscot telling the Governor of Massachusetts Bay in 1741 that truckhouse provisions were insufficient: "We heard lately that Corn is scarce with us: If there is none to be got here, we desire Flower may be sent in the Room of it. In the Spring we expected a good Crop, but being

deceived in that, we went to the Truck houses, where we found but a small quantity of provisions & we have sometimes been obliged to give as much for that which was moldy as at other times for that which is good” (277). Indeed, perishable goods, such as bread, would often spoil before being sold, and rum and molasses often leaked (Macfarlane 1938b, 53). The Penobscot also insisted on posting the prices of beaver, peltries and other goods in the truckhouses to make sure they were fixed on Boston prices (Baxter 1916, 270, 279, 285), to which the government tried to respond with a statute in 1731 specifying that the objective of truckhouses was to provide “such easy rates and prices as may oblige them to a firm adherence to His Majesty’s interest” (Macfarlane 1938b, 57). The truck-house system, originally established by the 1694 *Act for Regulating Trade with the Indians*, had been amended in 1699, following King William’s War, through *An Act for Giving Necessary Supplies to the Eastern Indians, and for Regulating of Trade with them*, whose purpose was explicitly to provide Indigenous people with clothing and other necessities “at such easy rates and prices as may oblige them to adhere firmly to the English interest” (49-50). In addition to a government-operated trading vessel ranging along the coast, the first truckhouses were built at Merrymeeting/Richmond and St George’s in 1700, were fortified and housed garrisons. Additional trading posts soon followed at Dunstable on the Merrimac, at Casco Bay, at Winter Harbor on the Saco River, in Georgetown on Arrowsic Island, near Salmon Falls, and at Maldon’s Fort/Northfield on the Connecticut. In the 1740s and 1750s, other posts were erected at Brunswick, and at Fort Western and Fort Halifax on the Kennebec River (50-51). The value of furs traded at public truckhouses reached its peak in 1753, after which it rapidly declined (58)

89. Because they were to “wean the Eastern Indians away from French influence” (Leach 1966, 147), the “principal objective [of the truckhouse system] was diplomatic, not economic” (149), echoing the inseparability of trade and alliance for Indigenous parties, as whatever profits they made were swallowed up by operation costs, bringing it to suffer constant deficits while simultaneously limiting free enterprise in the colony. This was the price to pay for establishing diplomatic alliances with Indigenous peoples that were necessary for the colony’s survival, Leach (1966, 149) observing that “the truck-house system was popular with the Eastern Indians and was largely responsible for luring many of them away from their previous French connections.” Macfarlane (1938b, 65) similarly states that “public management of Indian trade was a vital influence in eventually

winning the alliance, or at least the neutrality, of almost every Indian tribe in New England. It cost Massachusetts large sums of money, but not nearly so much as was expended in Indian wars. It won the friendship of most of the tribes, and it helped to bring peace to the troubled frontiers.”

90. On August 19, 1751, a peace conference took place at St. George's Fort with Penobscot and St. John River Wolastoqiyik chiefs, who had a mandate to represent the Mi'kmaq. Colonel Paul Mascarene of Nova Scotia promised that Nova Scotia “shall appoint Truckhouses at such Places as shall be judged most convenient, where the Indians shall be supplied with Provisions and such other Necessaries as they shall want, at the most reasonable Rates” (MAWIW et al. 1992, 21)

91. Peace arrangements between Mascarene and St. John valley tribes during the summer of 1751 allowed to cease hostilities, and in 1752, “the other tribes, mostly Micmac, made a formal peace... on the basis of the treaty made at Boston in 1725 (MacFarlane 1938a, 163). Indeed, the first article of the Treaty of 1752 referred to renewing the Treaty of 1725:

It is agreed that the Articles of Submission and Agreement, made at Boston in New England by the Delegates of the Penobscot Norridgwoik & St. John's Indians, in the year 1725 Ratified & Confirmed by all the Nova Scotia Tribes, at Annapolis Royal, in the month of June 1726, & lately renewed with Governor Cornwallis at Halifax, & Ratified at St. John's River, now read over, Explained and Interpreted, shall be and are hereby from this time forward Renewed, Reiterated, and forever Confirmed by them and their Tribe; and the said Indians for themselves and their Tribe and their Heirs aforesaid Do make & Renew the same Solemn Submissions and promisses [sic] for the Strickt [sic] observance of all the Articles therein contained as at any time heretofore that been done. (Government of Canada. 2025).

92. Moreover, the Treaty of 1752 established a commercial partnership based on “good Harmony & mutual Correspondence between the said Indians & this Government,” in addition to providing yearly provisions of food, tobacco, blankets and ammunition to the Mi'kmaq.

93. Paragraph 4 of the Treaty of 1752 contained a clause concerning trade:

It is agreed that the said Tribe of Indians shall not be hindered from, but have free liberty of Hunting and Fishing as usual and that if they shall think a Truckhouse needful at the River Chibenaccadie or any other place of their resort, they shall have the same built and proper Merchandize lodged therein, to be exchanged for what the Indians shall have to dispose of, and that in the mean time the said Indians shall have free liberty to bring for Sale to Halifax or any other Settlement within this Province, Skins, feathers, fowl, fish or any other thing they shall have to sell, where they shall have liberty to dispose thereof to the best Advantage. (Government of Canada. 2025).

94. Nova Scotia Governor Hopson assured the Lords of Trade that presents and truckhouses promised in the treaty may prove to be expensive, it was the only possible route for peace and would be less expensive in the long run than the continuation of hostilities (MacFarlane 1938a, 163). The Treaty of 1752 was designed to support Mi'kmaq economy by providing outlets for them to sell their commodities at competitive prices (market rates at Boston) that would prevent the Mi'kmaq from pursuing their trade alliance – which was inseparable from a political alliance – with the French (MAWIW et al. 1992, 91).

95. In addition to being a continuation of the 1725 treaty, the 1752 treaty was intended to include all Indigenous groups in the region. Article 3 of the treaty states that

The said Tribe shall use their utmost endeavours to bring in the other Indians to Renew and Ratify this Peace, and shall discover and make known any attempts or designs of any other Indians or any Enemy whatever against His Majestys Subjects within this Province so soon as they shall know thereof and shall also hinder and Obstruct the same to the utmost of their Power, and on the other hand if any of the Indians refusing to ratify this Peace, shall make War upon the Tribe who have now confirmed the same; they shall upon Application have such aid and Assistance from the Government for their Defence, as the case may require. (Government of Canada. 2025).

96. Although it appears that Jean-Baptiste Cope signed Treaty of 1752 on behalf of the Shubenacadie Mi'kmaq community alone and was expected to rally other communities afterwards, the treaty's terms renewed previous treaties which apparently had not been signed by the Shubenacadie Mi'kmaq (Daugherty 1993, 5-6), suggesting that the British

readily conceived the promises and commitments contained within the Treaty of 1752 as encompassing all Mi'kmaq groups, the same way that many Mi'kmaq would later largely consider its promises as applying to all their communities. For instance, Marie Anne Battiste (1984 6-7) described the Treaty of 1752 from the Mi'kmaq point of view as forming "a political confederation or alliance similar to the treaty with the Holy See of Rome" that "would bind all Micmac families and clans," as Jean-Baptiste Cope had signed the treaty as a "Grand Chief", who would then share the terms of the agreement with all Mi'kmaq communities. James (Sákéj) Youngblood Henderson also describes Cope as the "Great Chief" of the Wabanaki Confederacy, whose dealings with British authorities responded to the latter's invitation, the previous year, to negotiate peace with all Indigenous groups in Nova Scotia (Henderson 1995, 356), while Janet Chute (2023, 286) states that Cope's "highly strategic" diplomatic actions "suggests they were worked out in councils that drew upon the ideas and interests of the entire Mi'kmaw nation."

97. In Battiste's view, the substance of the treaty was that the Mi'kmaq promised to offer protection to British settlers as "a minority within Micmac territory" while the Crown "recognized the independent polity of the Micmac Nation as a member of the family of states in international law" (Battiste 1984, 6). Peace was proclaimed in accordance with the Mi'kmaq law of *hapenkuiduik*. In this perspective, the British promised to regulate the activities of their own settlers, and "in exchange for the exclusive right to trade with the Micmac, His Majesty agreed that the Micmac would always be free to sell their goods anywhere in the British settlements at a price to their best advantage," (7) with the promise of a truckhouse installed at Shubenacadie or anywhere the Mi'kmaq felt necessary to exchange their goods.
98. The British never delivered the truckhouse they promised, however, and violent episodes - such as a 1753 incident where six sailors scalped six Shubenacadie people, including a mother and her child (Daugherty 1983, 58; Chute 2023, 290) - compromised the implementation of the Treaty of 1752 and Cope's efforts to rally Mi'kmaq communities. In Halifax, Captain Charles Morris worried that the settlers' murders of Mi'kmaq people compromised the Treaty of 1752, writing to Cornwallis that the Mi'kmaq "would have signed articles of peace this spring [...] if this accident [...] does not prevent them" (Chute 2023, 284). Yet, according to the joint assessment between Canadian Federal authorities and the MAWIW District Council, such individual acts of violence could not result in the "abrogation" of the treaty, however, as they were "frequently disregarded by

the victim Tribes or Governments in the Northeast in terms of their Treaty implications” (MAWIW et al 1992, 72).

99. Notwithstanding the incidents of violence and continuous encroachments of British settlers upon the territories the Mi'kmaq were desperately trying to protect, chiefs Claude Gagliosh of La Have and Jean-Baptiste Homa of Panuke Lake went to Halifax in April 1753 to add their marks on a “document similar to the one Cope had signed the preceding November,” while Chief François Shagwaough of Cape Sable also pushed for peace (Chute 2023, 292). However, the Seven Years War between Great Britain and France renewed hostilities officially in 1756 and postponed these peace efforts. According to Battiste (1984, 8), it is only when peace treaties were signed at the end of the Seven Years War, in 1760-1761, the general peace envisioned in 1752 was finally realised.
100. The French having been generally defeated in the region after the British captured Louisbourg, Cape Breton, in 1758, peace treaties were incrementally signed with Indigenous peoples in Nova Scotia through renewals of earlier peace compacts. Peace was established with the Wolastaqiyik and Passamaquoddy at Halifax on February 23, 1760; with the Mi'kmaq from Shubenacadie, La Have and Richibuctou on March 10, 1760; with Mi'kmaq communities from Cape Breton, Miramichi, Pokemouche and Shediac on June 25, 1761; with the Chignecto Mi'kmaq on July 8, 1761, with the Pictou Mi'kmaq on October 12, 1761, and with the remaining Penobscot, Passamaquoddy and Machias in August 1763 (Mawiw et al. 1992, 44-45; Wicken 2010). The Seven Years War ultimately resulted in the French surrendering the territories they claimed in the Northeast by way of the 1763 Peace of Paris, which transferred Canada, Cape Breton and Prince Edward Island to Great Britain.
101. The treaties of 1760-1761 included similar terms as Dummer's Treaty of 1725-1726 prohibiting the molestation of British settlements, and renewed the promise of truckhouses referred to in the Treaty of 1752 (Wicken 2010, 14). Yet, the age of truckhouses was about to come to an end, as established in *R. v. Marshall* (1999 3 S.C.R. 456), “Soon after the treaties were entered into, the British stopped insisting that the Mi'kmaq trade only with them, and replaced the expensive truckhouses with licenced traders in 1762. The system of licensed traders, in turn, died out by the 1780s.”

102. The last peace and friendship treaty between the Crown and several Mi'kmaq chiefs, including chief Julien (Miramichi) and chief Augustine (Richibucto) was the 1779 Miramichi Treaty, which followed the American Revolution. It was negotiated aboard the British ship, *The Viper*, which protected British traders from the Mi'kmaq on the Miramichi River, and would later be confirmed in Nova Scotia (Augustine 2024, 185). The Mi'kmaq committed to refrain from associating with the American rebels and to protect the lives and property of British subjects and traders, while the Crown promised that “the said Indians and their Constituents shall remain in the Districts before mentioned Quiet and Free from any molestation of any His Majesty's troops or other of his good Subjects in their Hunting and Fishing” (Daugherty 1993, 8; original copy at Nova Scotia Archives. 2026). The treaty also ratified and confirmed all the former treaties that the parties had entered, stating that “we do also by these presents for ourselves, and in behalf of our several Constituents hereby Review, Ratify and Confirm all former Treaties entered into by us, or any of us, or these heretofore with the late Governor Lawrence, and other of His Majesty King George's Governors who have succeeded him in the Command of this Province (Augustine 2024, 185; Nova Scotia Archives. 2026.).
103. According to the Claims and Historical Research Centre, Claims Research and Assessment Directorate, the following treaties “remain or may remain in force”: the Treaty of 1725, the Treaty of 1752, and the Treaty of 1779 (Daugherty 1993, 8-9).
104. The analysis of treaties between the English/British Crown and the Mi'kmaq demonstrates renewed commitments to both diplomatic and trade alliances, centered on freedom to pursue traditional hunting, fowling, fishing and farming activities on unceded Indigenous hunting grounds and plantations, and on government-protected trade facilities, “truckhouses”, where Indigenous allies could exchange all their goods against provisions and money at lower prices than private merchants would provide.
105. In these early years of colonization, hemp/cannabis represented a core strategic asset around which British diplomacy operated in the colony of Nova Scotia, being used for naval cordages, rigs and sails – the word “canvas” is derived from cannabis –, and to make oakum for caulking ships, mixed with pitch, tar or grease (Duval 2014, 123-124; Grenier et al. 2007, IV85). Although British plans to rely on North American hemp were ultimately unsuccessful – as Russian hemp was found to be of better quality and was

preferred by the British and, later, the American fleet (Abel 1980, 92) –, the fact that five separate clauses in the instructions to Nova Scotia governors concerned exclusively mast trees and hemp for the Royal Navy indicates their importance for the British authorities, whose Parliament considered by the 1750s that “future national security could depend on properly managing the vast potential for producing naval stores and wood products in the North American colonies” (Hully 2012, 84). Because of its role in naval stores, cannabis was essential for the British fleet to develop and secure the British Empire that would encompass much of the world in the centuries to come.

106. Because hemp was essential to the British, it was used as a quit-rent, and land grants in Nova Scotia systematically contained an obligation to plant part of the land with hemp/cannabis (Labaree 1967, 583). Surveys of lands suitable for growing hemp in Nova Scotia as well as premiums offered on the cultivation of hemp were renewed throughout the 18th century. At the beginning of the 19th century British attempts to rely on North American hemp to circumvent its reliance on Russian hemp were deemed to have generally failed because of mismanagement (Wissett 1808, iii). Yet the efforts to promote hemp cultivation in the region continued well into the 19th Century, as attested by premium announcements published in 1806 (Quebec Gazette 1806, 3) and 1825 (Quebec Mercury 1825, 485), offering prizes for hemp grown in Nova Scotia and New Brunswick. Some instances show that hemp grew very well in the region, as the surveyor general of Nova Scotia remarked in 1767 that a group of disbanded New England soldiers who had settled on the northern side of the Saint John River, opposite to Oromocto River, had grown hemp that “succeeded beyond their expectation,” growing “nine feet high” (Raymond 1910, 332)

107. Nova Scotia and New Brunswick’s past success growing hemp also served to attract Anglophone settlers. On October 31, 1758, Governor Lawrence published a Proclamation in the pages of the *Boston Evening-Post* to invite New Englanders to settle in Nova Scotia after the destruction of several French settlements vacated land. The Proclamation advertised “upwards of One Hundred Thousand Acres of internal Plow-Lands, producing Wheat, Rye, Barley, Oats, Hemp, Flax, etc.” which “have been cultivated for more than a Hundred Years past, and never fail of Crops, nor need manuring” (Boston Evening Post, 1758). This followed a proclamation adopted in council on October 12 regarding the opportunity for New Englanders to settle lands from which Acadians had just been forcefully deported, notably near Gaspé, Miramichi and St.

John's River, following the prospect of taking advantage of previous French agricultural work, including for growing hemp (Murdoch 1866, 355).

European Hemp in Nova Scotia and New Brunswick

Hemp in Acadia

108. In French Acadia, hemp was said to be “everywhere prolific” in the alluvial lands near the Bay of Fundy (Murdoch 1865, 2), and grew as well in Chedabucto Bay as in France (159-160). Hemp also prospered at Port Royal (245, 308), where it grew since the town's foundation in 1606, where it was part of North America's very first European-style garden, established by French explorer Samuel de Champlain's apothecary, Louis Hébert (Laberge and Barash 1975, 113; Booth 2005, 39).
109. Hemp was also an important crop within the “aboiteaux” (Broussard 2014, 163), a network of wooden dykes that the Acadians built on the shores of the Minas Basin to transform 2100 acres of tidal marshland into rich agricultural land (Saint-Maurice 1888, 37-38). In 1699, the Governor of Acadia, Joseph Robineau de Villebon, remarked that “Flax and hemp, also, grow extremely well” near Port Royal (Webster and Villebon 1934, 128) and that French settlers in the Minas Basin made linen and stockings “skillfully from the hemp they have grown” (132). In the same era, French military engineer Pierre-Paul Delabat, however, also alleged that there was already wild hemp that could be found in abundance in the Saint John River valley, but which Acadians were too lazy to use: “The St. John River is a very convenient site for a large settlement, for commerce and for trade... In certain places there is a great deal of wild hemp, which is said to be good for making cloth, but the settlers neglect it because of the effort it requires to go and get it” (quoted by Doda 2019, 294)
110. Just like the British would later do with Nova Scotia, the French envisioned hemp as a central component of their American colony's economy. In the report he presented to the Chamber of Commerce of the city of Paris in 1618, Samuel de Champlain enthusiastically estimated that in New France “a notable profit could be gained from the hemp, which the same soil yields without cultivation and which in quality and texture is in no wise inferior to ours; and there could be obtained from it annually to the value of

300,000 livres”, in addition to 400,000 livres that could be obtained from “cloths, such as sail-cloths” that “could be made from the hemp of the said country; as well as cables, ropes and rigging for all sorts of vessels” (Biggar 1925, 342-343).

111. Naturalist Pierre Boucher (1664, 82-83) noted in 1664 that European hemp cultivated in New France grew “higher and more beautiful than it did in France”. Hemp production in New France was so abundant during certain periods, especially between the 1680’s and 1730’s, that the colony’s manufacturing infrastructure was insufficient to transform its product, making hemp accumulate in French Royal warehouses (Laberge and Barash 1975, 27-28). The prices of this staple crop were highly regulated to control production (43), and in 1721 the French Crown even forbade the cultivation of hemp and flax in their colonies to favour the industries in France – although this did not apply to Acadia, which was under British control since 1713 (Thiessen 2021, 27).
112. Hemp was strategically essential for French authorities, to the point where French Royal warehouses promised to buy all cannabis plants grown by Canadian farmers. However, as farmers often preferred to grow food for their subsistence than to grow fiber hemp for the French navy, the first intendant of New France, Jean Talon, confiscated all the thread in the colony’s shops in 1666, declaring that colonists could only obtain thread to repair their clothes in return for hemp stalks, which could also be used to pay certain taxes (Booth 2005, 39).

Basques

113. However, evidence supports the presence and use of European cannabis before the establishment of the French colony of Acadia in 1605, as by then the Mi’kmaq had already long been interacting with Basque people (coming from Basque country between France and Spain), who had been fishing and whaling on the coasts of Newfoundland, Labrador, Nova Scotia and Maine for several decades.
114. In May 1602, an English crew commissioned by Sir Walter Raleigh and led by Captain Bartholomew Gosnold landed on the coast at the north of Massachusetts Bay. According to crew member John Brereton, they saw on the shore “sixe Indians, in a Baske-shallop with mast and saile, an iron grapple, and a kettle of copper, one of them apparelled with a waistcoat and breeched of blacke serdge, made after our sea-fashion,

hose and shows on his feet,” and who had seemingly spent time with Basques because of the words they used (Burrage 1932, 330). Another crew member, Gabriel Archer, gave more details, noting that there were rather eight Indigenous people who

Came towards us a Biscay shallop with sail and oars, having eight persons in it, whom we supposed at first to be Christians distressed. But approaching us nearer, we perceived them to be savages. These coming within call, hailed us, and we answered. Then after signs of peace, and a long speech by one of them made, they came boldly aboard us, being all naked, saving about their shoulders certain loose deer skins, and near their wastes seal skins tied fast like to Irish dimmie trowsers. One that seemed to be their commander wore a waistcoat of black work, a pair of breeches, cloth stockings, shoes, hat and band, one or two more had also a few things made by some Christians; these with a piece of chalk described the coast thereabouts, and could name Placentia of the Newfoundland; they spoke divers Christian words, and seemed to understand much more than we, for want of language could comprehend. (Massachusetts Historical Society 1838, 73).

115. Importantly, Archer also recounts an incident that later took place when Gosnold was approached by Indigenous people who “with all courteous kindness entertained him, giving him certain skins of wild beasts, which may be rich furs, tobacco, turtles, hemp, artificial strings colored, chains, and such like things as at the instant they had about them” (Massachusetts Historical Society 1838, 78).
116. The fact that even before the first European settlements were established in North America these Indigenous people were sailing a ship of European conception which would have realistically used hemp sails and hemp rigging, wearing European clothes, using European metalware and using European words – even naming their land “Placentia”, a word derived from the French “plaisance” (Martijn 2003, 67) shows the extent of cultural exchange that had already taken place by then between Europeans such as Basques and Atlantic coast Indigenous people prior to colonization.
117. Bourque and Whitehead (1985, 333) argue that these Indigenous people were using a lingua franca developed in the Gulf of St. Lawrence during the 15th and 16th centuries, corroborating Marc Lescarbot’s assessment that Gaspé shore Indigenous people spoke

“half Baske” in the early 17th century. They also confirm that the Native mariners would have been Mi'kmaq.

118. Through this relationship, the Mi'kmaq also acquired the knowledge required to build Basque shallops, called *txalupa*, which were well suited to sail high waters. A Mi'kmaq chief, Messamouet, “is known to have been an accomplished shallop builder for French fishermen and Native navigators, and he spent a winter in France about 1580” (Loewen 2016, 178). In 1607, another Mi'kmaq chief, Membertou, “summoned a fleet of 50–70 shallops, manned by 400 warriors, and sent them from Port Royal (Nova Scotia) across the Gulf of Maine to avenge the death of his compatriot, Panounias, at the hands of the Armouchiquois of Saco (Maine)” (178). The Mi'kmaq were using French muskets (Bourque and Whitehead 1985, 334). Marc Lescarbot, who was among the first French settlers in Acadia, was surprised when he understood that one of the two European shallops that approached Jean Poutrincourt's ship saw on the horizon was sailed and built by Mi'kmaq people, having the effigy of a moose painted on its sail (Bourque and Whitehead 1985, 333; the English translation refers to a “stag” but the French original is an “élan”, a moose, Lescarbot 2005, 84).
119. As the Mi'kmaq were themselves building Basque-inspired shallops, they would have realistically used the same cannabis sails and riggings that the Basques used. The sheer scale of their shallop fleet, with between 50 and 70 boats summoned by a single Mi'kmaq chief in 1607, would have required extensive hemp/cannabis growing and processing capabilities that would have been in place before the French established Port Royal, the very first European settlement in the region, merely two years earlier. The evidence establishes substantial technological and commercial interaction between Mi'kmaq and Basque mariners and establishes the use of hemp in Basque maritime technology. The available evidence does not permit me to determine with certainty whether hemp used by Mi'kmaq mariners was locally cultivated, acquired through trade, or obtained through another source.
120. The Mi'kmaq were acting as middlemen conducting trade as far west as Massachusetts bay (Bourque and Whitehead 1985, 335), in a highly dynamic commercial environment leading European copper, brass and iron items to become common in Maine's hinterland before the first European settlements were established (337).

121. Basque shallops required a variety of hemp-based products for their sails, fittings and rigging, primarily made of cannabis. Underwater archaeological explorations of the San Juan Basque galleon that sank in Red Bay, Newfoundland, in 1565, resulted in the discovery of samples of “unprocessed hemp (*Cannabis sativa*) mixed in some cases with pine tar pitch” (Grenier et al. 2007, 88). This confirms the presence of cannabis in or around Mi’kma’ki territory before the first European settlements.

Vikings

122. In August 2018, extensive archaeological investigations at the Viking settlement of L’Anse-aux-Meadows, Newfoundland, lead to the discovery of a sedimentary layer containing “ecofacts”, or ecological materials brought to the site by humans, dating back to the 12th or 13th Century. Alongside two species of beetles not native to the region, the layer also contained *Juglans* (walnut) and what is described as “*Humulus* type (hops or cannabis)” pollen (Ledger et al. 2019, 153041).
123. The scientific community has yet to determine whether these ecofacts were carried on the site by the Viking, the wind, birds, or other Indigenous peoples such as the Beothuks, as suggested by Paul Ledger, the lead archaeologist at L’Anse-aux-Meadows (Jarus 2019). In any case, this discovery corroborates previous suggestions that Vikings could have brought cannabis to the Americas, including by Booth (2005, 35), who notes that the Vikings “extensively used hemp, samples of hempen rope, fishing line and sail cloth having been found in Britain and Iceland.”

Precolonial cannabis

Early hemp sightings

124. Whereas evidence attests to the very likely presence and use of European cannabis (Basque, French and/or Viking) in Mi’kma’ki before the first European settlements in North America, sightings of hemp by early European explorers suggests a real possibility that the plant was already widespread in the region before contact with Europeans.

125. Florentine navigator Giovanni da Verrazano reported during a French expedition to Virginia in 1524 that his crew found Natives “wearing a covering made of certain plants, which hung down from the branches of the trees, tying them together with threads of wild hemp” (Murphy 1875, 175)
126. French navigator Jacques Cartier reported seeing hemp during each of his three voyages to Canada, in 1534, 1536, and 1541. First, in 1534, when sailing around what would become the Iles de la Madeleine, Cartier noted that the Native populations, likely related to the Mi’kmaq, were catching mackerel using fishing nets “of a kinde of Hempe that growth in that place where ordinarily they abide” (Burrage 1932, 24). Second, in 1536, near the Iroquoian village of Stadacone, which would later become Quebec City, Cartier reported that under the trees “growth as faire tall hempe, as any in France, without any seeded or any mans worke or labour at all” (47). Third, in 1541, westward of the Cap-Rouge River, close to Stadacone again, Cartier remarked in a meadow “the land groweth full of Hempe which groweth of it self, which is as good as possibly may be seene, and as strong” (98-99).
127. Jacques Cartier, who grew up in Brittany, an epicenter for cannabis plantations at the time (Besselièvre 2020), was so convinced that he saw the plant growing in the St. Lawrence valley that a list of crew members for his future voyages in 1538 included “two Master rope-makers and two assistants, because there is hemp for making rope” (Cartier 1993, 127), suggesting that the crew could simply use the hemp that was already growing in the Americas.
128. Because cannabis is known to have been an old-world plant, some authors assume that it would not have been present in precolonial North America and suggest that the hemp Cartier saw was another plant that Indigenous people used to make fibres. However, these commentators fail to agree on which plant Cartier would have referred to, if not cannabis. In his 1906 edition of Cartier’s *Voyages*, James P. Baxter (1906, 146) suggested that Cartier referred to *Apocynum cannabinum*, commonly called “dogbane”.
129. Baxter’s suggestion was probably based on botanist Peter Kalm reporting in 1749 that Iroquois people in Pennsylvania and New Jersey used *Apocynum cannabinum*, a perennial plant, to make ropes, bridles and nets. The Swedes living in their vicinity called it “Indian hemp”, but Kalm noted that Europeans made no use of it (Kalm 1771, 131-132). There is no doubt that *Apocynum cannabinum* was used by Indigenous

people, but Kalm also witnessed very large patches of “hemp” – likely cannabis, because not specified as *Apocynum cannabinum* – in fields between Trenton, New Jersey, and New York (221), and noted that “hemp grows spontaneously, and in great abundance, near old plantations” in upstate New York (288), without specifying if these were European or Indigenous plantations.

130. In any case, Baxter’s suggestion that Cartier saw *Apocynum cannabinum* is contradicted by botanist William F. Ganong’s 1909 suggestion that Cartier rather witnessed a species of *Asclepias*, also called “Swallow-wort” or “Milkweed”. (Dickenson 2008, 31). More recently, Ernest L. Abel (1980, 97) invoked a third candidate, *Amaranthus cannabinus*, also called “Acnida cannabina”. For his part, Michel Bideaux (1986, 363) rather suggests that Cartier’s hemp “almost certainly” referred to *Laportea canadensis*, commonly called “Wood-nettle”, while also noting that according to Jacques Rousseau (1937, 198-199), *Tilia glabra* was also used by Indigenous people for threads (Bideaux 1986, 336).

131. Commentators have thus suggested five different plant species – *Apocynum cannabinum*, *Asclepias*, *Amaranthus cannabinus*, *Laportea canadensis* and *Tilia glabra* – as the true indigenous North American plants which Cartier had called – or mistaken for – *Cannabis sativa*. The only explicit explanation I have found is Pierre Morisset and Catherine Fortin (in Bideaux 1986, 77) suggesting that because Cartier was not a botanist, he tended to see plants that he was already familiar with, amalgamating unknown American species with other plants fulfilling similar purposes in the Old World, hence his use of the term *chanvre* for other fiber plants (in a context where the word “cannabis” was not in use yet). This hypothesis could explain Cartier’s first quote, where Cartier uses the word *chanvre* to describe the plant which natives used for making fishing nets, as Verrazzano used “hemp” in relation to a thread. Yet Cartier’s two other quotes manifestly do not allude to the plant’s use or function, but rather highlighted, explicitly compared with French cannabis in the case of the Stadacona sighting.

132. It requires a stretch of the imagination to suppose that when Cartier visually described a plant he saw growing he was actually referring to its use to make threads, which would have required for someone to provide him this explanation while Cartier makes no reference to its use or to a conversation about its use, and in a context where they did not have a common language to communicate. At this point in history, hemp

referred to *Cannabis sativa*, and it would be surprising that Cartier would be the first person to use this term for other plants without providing any explanation. There is no reason to doubt that Indigenous people also used other plants for fibre, but the most probable explanation is that Cartier described what he saw as cannabis, a plant he was very familiar with. Although Rousseau (1937, 158) thought that cannabis was not Indigenous to Canada and that Cartier sometimes mistook American plants for European ones, he admitted that Cartier often noticed minute differences between plants, describing for example the “wild wheat” in the St. Lawrence Gulf as not a real wheat, having a spike similar to rye and a grain similar to oats. It would certainly be difficult to confuse cannabis with any of the other plants commentators have suggested because of their physical dissimilarity – especially *Tilia glabra*, which is a tree. Most importantly, it would be very surprising that Cartier would have decided not to bring European hemp in his future voyages because he could rely on another plant growing wild in North America while Europeans had no expertise whatsoever using these unknown plants. This may be why more recently, renowned scientists such as paleoenvironmentalist Lydia Querrec, archaeologist Réginald Auger and geographer Louise Filion simply report that the plant Cartier witnessed was *Cannabis sativa* (Querrec et al. 2014, 47). It is possible that earlier writers feared professional marginalization and were led to hastily dismiss questions and reflections on cannabis because they were writing at a time when cannabis was illegal and stigmatized.

133. However, Abel (1980, 96-97) suggests that it is precisely because Jacques Cartier reported that cannabis grew well in the Americas that future settlers planned to grow cannabis in their gardens, bringing their seeds from Europe to be able to plant them readily and conveniently. The same phenomenon happened with Walter Raleigh, who planned to cultivate hemp on a large scale in America after Thomas Heriot reported that hemp grew wild in the colony of Roanoke, Virginia, around 1585 (Massachusetts Historical Society 1838, 117), and a report that “The ground bringeth forth, without industry, pease, roses, grapes, hemp, besides other plants” (96). Abel (1980, 76) believed both Cartier and Heriot would rather have seen *Amaranthus cannabinus*, but this is improbable for all reports emphasizing the strength of its fibre, because the fibre of *Acnida cannabinum* is far inferior in strength to *Cannabis sativa*.
134. Hemp sightings by European settlers in North America are very numerous throughout the colonial period. Some refer to threads or cloth as hemp, others to plants. I

cannot claim I have gathered all the mentions of hemp in the historical record, but only provide a collection of examples referring to hemp directly, by contrast with references to a “sort of hemp”, such as Jesuit missionary Louis Nicolas mentioning a “bag made by an Indian woman from this sort of hemp” whose flowers are “full of an extremely sweet liquid”, (Gagnon 2011, 47) which suggests it was milkweed (*Asclepias syriaca*).

135. Early 17th century New England settlers often refer to hemp growing wildly, before any European plantations existed. Thomas West, third Lord Delaware, wrote in his 1611 *Relation* that near the Potomac River there were trees suitable for masts as well as “Hempe better than English, growing wilde in abundance” (Wisconsin Historical Society 2011, 213). In 1641, the legislature of Salem, Massachusetts “required masters to instruct their children and servants to work on wild hemp ‘growing all over the country’” to provide them with linen while waiting for their own hemp fields to grow (Felt 1845, 252). It would be surprising that said hemp would have been a plant that Europeans did not know how to transform into thread. In 1634, William Wood states in his account of life in New England that both Indigenous wild hemp and cultivated hemp coexist: “This land likewise affords Hempe and Flax, some naturally, and some planted by the English” (Wood 1634, 15). In 1667, an account of the “commodities of the Plantation of Quebec” similarly noted that hemp grew both wild and cultivated, not making any distinction between both: “1. The soil very good to produce hemp. 2. Great store of hemp growing naturally in the Huron’s country, with whom the colony has great trade for furs and beaver skins. 3. The country replenished with fir, pine, and all sorts of timber. 4. There may be yearly made and sent over great quantities of tar and pitch” (Calendar of State Papers 1667, 522).

136. Some sightings refer to hemp for its fibre used in items such as the Iroquois bags which Megapolensis (1634, 158) witnessed, further inland, being plaited “from hemp which grows wild here”. Others refer to hemp as a plant such as Robert Juet’s journal of his 1609 voyage with Hudson, recounting Indigenous people going aboard their ship “some in Mantles of Feathers, and some in Skins of diuers sorts of good Furies. Some women also came to us with Hempe. They had red Copper Tabacco pipes, and other things of Copper they did weare about their neckes” (Juet 1625, 592). Other mention hemp as a plant that is seen growing wild or in fields, Recollect Father Louis Hennepin (1683, 133, my translation) also witnessed in his description of French Louisiana “fields covered with very good hemp that grows naturally six or seven feet high” – a height that

only *Cannabis sativa* regularly reaches, out of North American fibre plants. In 1765, Croghan would witness even taller hemp on the banks of the Wabash River in Ohio, which he suggested that it had been “the artifice of the French to keep us ignorant of the country” full of “spacious and beautiful meadows” where grew “wild hemp ten or twelve feet high, which, if properly manufactured, would prove as good, and answer all the purposes of the hemp we cultivate” (Thwaites 1905, 145). Croghan had also seen grounds “overgrown with wild hemp” in other locations during his travels (140, 143, 149).

137. Thirty years after Hennepin, in 1719, Le Page Du Pratz (1774, 238-239) also saw hemp in Louisiana, where he had been appointed to manage plantations around the new French colony, noting that “hemp grows naturally on the lands adjoining to the lakes on the west of the Mississippi. The stalks are as thick as one’s finger, and about six feet long. They are quite like ours in the wood, the leaf, and the rind.” Du Pratz further explained that “Between these lakes and the banks of the Mississippi, there is some thin herbage, and among others, natural hemp, which grows like trees, and very branched. This need not surprise us, as each plant stands very distant from the other” (146) Finally, Du Pratz suggested that “As to hemp, it grows so strong as to be much fitter for making cables than cloth” (179). These graphic descriptions from an individual who was employed by the French Crown for his horticultural expertise strongly suggests that the plant he witnessed was the same as European *Cannabis sativa*.

138. Historical evidence also suggests a strong possibility that wild hemp grew in Mi’kma’ki territory. French lawyer Marc Lescarbot, who was present when the French colony of Acadia was established, mentioned that an old Indigenous woman once approached Acadia’s Governor, Poutrincourt, with “a loaf of bread, made with the wheat called *mahis*, or maize, and in these our parts Turkey or Saracen wheat, then very fair hemp of a long growth; item, beans, and grapes newly gathered, because they had seen Frenchmen eat of them at Chouakoet” (Lescarbot 2005, 102). Lescarbot also reported his colleague explorer Samuel de Champlain finding “stores of vines and excellent hemp” near the St. Lawrence River, where Cartier had previously found it (144). Lescarbot indicated, however, that Armouchiquois Natives used what seems to have been *Asclepias*, whose pods are “softer than common cotton” (296), noting that the Mi’kmaq did not grow that plant and traded fishing lines with the French (245).

139. Samuel de Champlain, who would later state that the soil of New France yields hemp “without cultivation” echoed his earlier observation, noting, when exploring Cap St. Louis, Nova Scotia between 1605 and 1607, that the Indigenous people used hemp threads for fishing. Champlain did not specify which plant they used, except that their hooks used a bone “fastened on by hemp, like that in France, as it seemed to me, and they told me that they gathered this plant without being obliged to cultivate it; and indicated that it grew to the height of four or five feet (Champlain 1907, 68). Champlain also observed that Indigenous peoples’ “robes are made of grasses and hemp” near Island Cape (73). Writing about Cape Breton, historian Claude Charles Le Roy de Bacqueville de la Potherie would later state, in 1722, that “hemp comes naturally there, and we find the countryside full of it” (Potherie 1722, 20, my translation).
140. In conclusion, historical evidence from the early colonial period supports the hypothesis that cannabis was present in Northeastern Canada before European colonization. If sources do indicate that other fibre plants were also used by Indigenous people, I have not found any suggestion that cannabis was not Indigenous to North America in historical writings before the 19th century. In 1814, Frederick Pursh (1814, 199) would suggest that “common hemp is frequently found in fields, apparently indigenous, though it is one of those plants introduced from Europe” – a view that would be repeated until today, though no rationale was offered to explain why this apparently Indigenous plant would not be Indigenous, but making this assumption without any demonstration. In other words, these studies systematically exclude *Cannabis sativa* as a potential candidate before their research has begun.
141. The fact that European settlers started growing hemp as soon as they set foot on the continent makes it nearly impossible to determine if subsequent wild hemp sightings in zones that were already colonized concerned Indigenous *Cannabis sativa* plants or naturalized escapees from colonial plantations, given the plant’s tendency to cross-pollinate and hybridize with other cultivars (Small 2015, 189). It is likely that any precolonial cannabis subspecies would have bred with European varieties, obscuring their distinct origins. In any case, *Cannabis sativa* is now found “spontaneously growing almost anywhere in southern Canada” (Darbyshire 1988, 65). As Small et al. (2002, 224) point out, “were it not for long-continued efforts by law-enforcement personnel to eradicate ruderal plants, it would be more common.” As a matter of fact, according to the data from the Drug Enforcement Administration, 243 million of the estimated 247 million

marijuana plants destroyed by law enforcement in 2003 were classified as “ditch weed”, that is, growing spontaneously and untended (Norml 2004). This most certainly further obscured *Cannabis sativa* from the historical record.

Archaeological and palynological evidence

142. Archaeological evidence of the presence of *Cannabis sativa* in North America before European colonization is complicated by the fact that it is perishable organic material. Seeds are most often preserved when carbonized, which is notoriously rare, as are fossilized leaf imprints. Fleming and Clarke (1998, 12) note that they could not “find many references dealing with analytic evidence of Cannabis pollen for the entire Asian region and no archeological finds of Cannabis remains at all from southern India,” even though its presence in those regions is found in the historical record, which does not exist for precolonial North America.
143. The criminalization of cannabis throughout the 20th century resulted in a lack of specific scientific investigations of its presence in pre-Columbian North America. Even though the founder of the center of origins theory, Nikolai Vavilov, deemed it “probable that the cultivation of hemp arose simultaneously and independently in several places” (McPartland et al. 2019, 700), many commentators from the 19th century onwards assumed that cannabis was only Indigenous to Eurasia, where its presence was properly documented. However, as one “the oldest human domesticates,” cannabis is now found to have spread across Eurasia much faster than previously imagined, possibly as early as during the Pleistocene (Rull 2022, 1).
144. Palynology, the study of fossilized pollen, is one of the few methods that can identify the presence of plants and be dated with relative precision according to the layer where samples are extracted. In the case of cannabis, however, palynological research faces the challenge of the visual and chemical resemblance, even under scanning electron microscopes (SEM), between the fossilized pollen of *C. sativa* and that of *H. lupulus* (humulus, common hops) – the other main member of the Cannabaceae family –, which often cannot be distinguished (Bassett et al. 1978, 130). Because their variable and overlapping morphological and phytochemical characters make attempts at differentiating Cannabis and Humulus pollen by grain diameter “unreliable”, “dubious”

and “suspect” (McPartland et al. 2018), archaeobotanical research often conflates them, variously reporting evidence for “*Cannabis sativa*, *Cannabis*, *Cannabis*-type, *Humulus lupulus*, *Humulus*, *Humulus-Cannabis*- type, or *Cannabaceae* pollen” (Clarke and Merlin 2013, 66). Genetic research also faces the same difficulty, as the DNA barcodes of *Cannabis* and *Humulus* are “nearly identical” (Boutain 2016, 352).

145. Recent palynological research on *Cannabis sativa* concluded that its center of origins would be the Tibetan plateau (McPartland et al. 2019), based on a method using ecological proxies to distinguish cannabis from hops pollen. Ambiguous “*Humulus-Cannabis*” type pollen was identified as hops when it was accompanied by pollen from plants typically found in forests, while pollen associated with steppe environments was identified as cannabis. This distinction led the authors to argue that “the ancestral distribution of *Cannabis* resembles that of *H. lupulus*, except *Cannabis* dispersed to South Asia, and *H. lupulus* crossed the Bering land bridge” (McPartland et al. 2019, 700). The authors admit, however, that their method is “inherently probabilistic” (698), and depends on the unlikely assumption that cannabis seeds would have never crossed the Bering strait either through the wind, with birds, or with the humans who either crossed the strait’s ice bridge by foot, or sailed the 50-mile gap between the coasts of Eastern Russia and Alaska.
146. It is hard to believe that cannabis would have been among the rare plants that have never crossed the Bering strait, in a context where “flora on both sides of the Bering Strait is identical with few exceptions,” to the point where “Alaska and the Yukon immediately present the picture of a floristic appendage to Asia,” according to Ickert-Bond et al. (2018, 2), who also note that there are more species that are specific to the American side of the Pacific than to the Asian one.
147. In 1999, botanist Ernest Small, one of the foremost Canadian experts in the biology of cannabis, declared in an interview that the presence of *Cannabis sativa* in precontact North America

Is a sensitive topic, since some Native Americans have contended that they have utilized *Cannabis sativa* as a source of “hemp fibre” since pre-Columbian days, and therefore should be exempted from current laws. Certainly almost all authorities subscribe to the belief that hemp is a native of Eurasia, not elsewhere. Curiously, the same was said about the hop plant (*Humulus lupulus*, the source

of flavoring for beer), the nearest relative of *Cannabis sativa*. Until a few decades ago, it was believed that all wild hop plants growing in North America were simply escapes from cultivated hops imported to North America from Europe. However, fossil pollen has definitively shown that the hop plant was present in North America before mankind, and moreover my own research has shown that there are three distinctive varieties of the hop plant that occur only in North America (Small, interviewed by Clarke 1999). Small then suggested identifying precolonial hemp fabric to clarify the issue.

148. However, it is notoriously difficult to identify plant species such as *Cannabis sativa* once they are woven into fabric, even using transmitted light microscopy (Frankel 2018). Indigenous fabrics made with cannabis, such as the ones reported by Whitford (1941), are generally assumed to be postcolonial based on the belief that the plant originated in Europe, but have not undergone a proper carbon dating test to establish when they were made. On one occasion, the presence of unprocessed plant skeins allowed the identification of cannabis in a precolonial burial site. In 1896, Smithsonian Institute ethnologist W. H. Holmes reported about discoveries made by A.J. McGill from a rock shelter on Cliff Creek, in Morgan county, Tennessee: “the friends of the dead deposited with the body not only the fabrics worn during life but several skeins of the fiber from which the fabrics were probably made. This fiber has been identified as that of *Cannabis sativa*, or wild hemp” (Holmes 1896, 34; picture found on page 35). Interestingly, Holmes (32), compared the design of garments found in the burial site with descriptions of Indigenous weaving techniques used in the same region by Du Pratz, where the latter had also identified hemp “quite like ours in the wood, the leaf, and the rind” (Du Pratz 1774, 146). At the end of the 19th century, archaeologists would realistically have identified the skeins as cannabis through macroscopic comparative analysis, ruling out other plants such as *Apocynum cannabinum* (whose stalks are reddish brown, compared to green cannabis stalks) to narrow down possibilities.

149. Another method that produced evidence that cannabis could have been present in America before European colonization is the identification of THC in the hair of pre-Columbian Peruvian mummies dating up to 1500 A.D., establishing “the use of these substances during life” (Balabanova et al. 1992, 91). 39 out of 60 samples from mummies tested positive for THC (Parsche et al. 1994, 111). Surprisingly, the researchers also discovered the same drugs (THC, as well as cocaine and nicotine) in

Egyptian mummies dating back to about 1000 BC, even though the plant genera *Erythroxylum* (acknowledged as the sole source of cocaine) and *Nicotiana* (the sole source of nicotine) “are both considered to have only a New World distribution before European contact during the 15th century” (Fleming and Clarke 1998). This evidence undermines the longstanding yet increasingly criticized notion that indigenous Americans were entirely isolated from the world before Columbus.

150. Further research and testing might be necessary to shed light on these findings, in a context opportunities for such research is complicated by the unavailability of a historical record from precolonial North America, the difficulty identifying plants in processed fiber, the rarity of fossilized plant imprints or charred seeds, racialized assumptions surrounding the criminalization of cannabis, and the absence of dedicated research on the precolonial presence of cannabis resulting from the assumption that it was exclusively an Old World plant and the subsequent academic marginalization of evidence questioning this assumption.
151. A relatively accessible avenue for this research, however, would be to apply the ecological proxies proposed by McPartland et al. (2019) to parse ambiguous “*Humulus-cannabis*” pollen found in North America according to the landscape type suggested by the plant assemblages found within pollen at the same layer. For example, the samples from l’Anse-aux-Meadows (Ledger et al. 2019) contained ecological proxies typical of cannabis steppe environments rather than hops, featuring a significant increase in apophytes (native plants growing in disturbed environments, such as abandoned fields) and herbs, as well as a decrease in trees and shrubs. The layer also showed a significant increase in Poaceae pollen, one of the main indicators of steppe assemblages used by McPartland et al. (2019, 619) to identify environments consistent with *Cannabis sativa*. Dedicated palynological research remains to be done to determine the extent to which “*Humulus-cannabis*” pollen in precolonial North America is consistent with *Cannabis sativa*.
152. In conclusion, archaeobotanical evidence suggests a serious possibility that *Cannabis sativa* was present in North America before European colonization, which would corroborate historical evidence from early European explorers.

Mi'kmaq smoking culture

153. Smoking is a distinctive aspect of Mi'kmaq culture. As a testament to this importance, a type of stone pipe found throughout the continent bears the name “micmac pipe,” characterized by a bowl resembling an inverted acorn, on a keel-like base (McGuire 1899, 479-480). Among the materials used for pipes were stone, stones pipes having been found in burial sites on Skull Island and Merigomish Harbour (Leonard 1999, 172), including chlorite stone found on Grand Manan Island (Lockerby 2004, 414), as well as using wood and crayfish claws according to Nicolas Denys in 1672 (Denys 1908, 424), and birch bark – with a technique still used Mi'kmaq elders at the beginning at the 20th century (Leonard 1999, 173). Lescarbot (2005, 167) also observed that the Mi'kmaq “have the industry both of painting and carving, and do make pictures of beasts, birds, and men as well in stone as in wood, as prettily as good workmen in these parts; and, notwithstanding, they serve not themselves with them in adoration, but only to please the sight and the use of some private tools, as in tobacco-pipes.”
154. On May 27, 1603, Samuel de Champlain and French merchant François Gravé du Pont stumbled on a “tabagie” (tobacco-centered feast) organised by Innu Sagamore (chief) Anadabijou and attended by between 80 and 100 Innu, Anishinaabe and Mi'kmaq participants at St. Matthew's point, near Tadoussac, Quebec (Champlain 1922, 99). They were offered tobacco and witnessed its central importance in Indigenous diplomacy, ritual and commerce, marking the beginning of a lasting strategic alliance between these Indigenous nations and the French.
155. Basque mariners previously traded tobacco with Mi'kmaq people, as shown by a deposition made by Captain Martin Sance de Arestega before the High Court of the Admiralty, in London, on December 30, 1597. Arestega recounted trading tobacco, pelts and cod in Newfoundland, likely near the Strait of Belle Isle with either Beothuk or Mi'kmaq people, who were “noted tobacco consumers” (Martijn 2003, 66).
156. Although tobacco seems to have been the main plant smoked by the Mi'kmaq, it was not the only one. Similarly to other North American peoples who mixed tobacco with other plants in mixtures known as *Kinnikinnik*, which included a large variety of plants including bearberry, sumac, the bark of red osier, silky cornel, and ground dogwood (Chamberlain 1902, 246), the Mi'kmaq used smoking mixtures called “spebaggan”

(Marshall 1997, 27-28). Fragments of “punk wood” used in a Mi’kmaq smoking mixture were collected in Pictou County by anthropologist Wilson D. Wallis in 1912, and are preserved at the National Museum of the American Indian (Wallis 1912). Although the specific contents of spebaggan are hard to identify with certainty because they are perishable and not well preserved in the archaeological record, a large number of ingredients were included in smoking mixtures, including arrow root, laurel, iron wood, burning bush, huckleberry, black birch, mullein, cherry bark, maize and muskrat glands. The use of plants with psychoactive properties such as *Datura stramonium* and *Lobelia inflata* is also recorded (Rutsch 1973, 31-32). Although archeologist Carl Feagans (2019) mentions colleagues anecdotally reporting that “residue discovered on pipes or pottery came back testing positive for cannabis,” such tests are rarely performed or published. Moreover, the perishable nature of smoking mixtures complicates the search for evidence. According to Pennsylvania State Museum archaeologist John Witthoft (1966, 204), “perishable materials such as woolen fabrics; hemp (marijuana) may also have been an important commodity” in precolonial North America, and suggests that that early 17th Century small brass pipes found on Iroquois and Susquehanna sites may have been used for hemp (206). Similarly, after identifying an Oneida bag from 1854 as being made of *Cannabis sativa*, Becker (2013, 33) regrets that so few of these objects, such as the hemp bags seen by Roger Williams amongst Rhode Island Natives in 1643 (29), have survived.

157. However, it is clear that for the Mi’kmaq smoking mixtures “were important both medicinally and in a religious and spiritual sense” (Lacey 2000, 102). Spiritually, rising smoke was understood as a means of communication with the spirit world by way of dematerializing an earthly plant (Engelbrecht 2005, 55). The centrality of smoking mixtures in Mi’kmaq traditional religion is also attested to by its presence in creation myths. After creating the Wabanaki people, the Creator, Koluskap/Gluskap, held a council with them, where they shared a sacred pipe (Acculturation of Curriculum Project 2012, 37). The Creator said:

I smoke my Sacred Pipe to honor all of Creation. I smoke my Sacred Pipe to honor everyone within the circle and to remind everyone that we should always speak with truth and honesty. The Sacred Pipe will give us an open mind and a good heart. Your words will come from a compassionate and caring heart. The words that we use in council will be respectful and our discussions will lead to

unity and harmony. The Sacred Pipe reminds us that we are one with all (Acculturation of Curriculum Project 2012, 30).

158. In 1915, anthropologist Frank G. Speck recorded a similar cosmogonic story recounted by the Mi'kmaq in Cape Breton: "Taken-from-Guts gave Gluskap a pipe to smoke. Gluskap drew on it once and smoked it dry. Then he gave Taken-from-Guts a pipe, and said, "Fill this." And Take-from-Guts smoked it dry. Twice he did this" (Speck 1915b, 63)

159. The combination of bark, leaves and sweetgrass in Mi'kmaq smoking mixtures is said to represent the Creator's grandmother, nephew and mother (Marshall 1997, 27)

160. In the first years of the 17th century, Lescabot described at length the ceremonial importance of tobacco, recounting an elder telling him that

At another time there was a man who had Store of tobacco (which is an herb the smoke whereof they take), and that God came to this man and asked him where his pipe was. The man took his tobacco-pipe and gave it to God, who drank very much tobacco. After he had taken well of it, God brake the said tobacco-pipe into many pieces, and the man asked him: 'Why hast thou broken my tobacco-pipe, and thou seest well that I have none other?' And God took one which he had, and gave it him, saying unto him: ' Lo, here is one which I give to thee; carry it to thy great Sagamo, let him keep it, and if he keep it well, he shall not want anything, nor any of his companions.' The said man took the tobacco-pipe, which he gave to his great Sagamo, who (whilst he had it) the savages wanted for nothing in the world. But that since the said Sagamo had lost this tobacco-pipe, which is the cause of the great famine which sometimes they have among them. I demanded of him whether he did believe all that; he told me Yes, and that it was true. Now I believe that this is the cause why they say that God is not very good. (Lescarbot 2005, 159).

161. Lescarbot (2005, 298) also described Indigenous people carrying tobacco in "certain small bags of leather hanging about their necks or at their girdles, wherein they have always some, and a tobacco-pipe withal," and use it both to avoid hunger and as a religious activity, claiming that God smokes tobacco.

162. Lockerby (2004, 409) reports the Mi'kmaq ceremonial uses of smoking that were recorded on Prince Edward Island by Father Maillard in 1832:

We would all gather together and, so that no member of the families which had camped there since the autumn should be absent, we sent out young men to fetch those who were missing. Then, when our numbers were complete, we would gather round when our numbers were complete, we would gather round and, without regard to rank or age, light our pipes at the fire. We would suck in the smoke and keep it in our mouths, and one by one would puff it out into the face of the woman who had last preserved the spark, telling her that she was worthy above all to share in the benign influence of the Father of Light, the Sun, because she had so skilfully preserved His emanations.

163. Finally, in his 1691 *New Relation of Gaspesia*, Father Leclercq (1691, 298-299) states that Mi'kmaq men women and children living in the Gaspesian peninsula all use tobacco, and

consider, esteem, and regard it as a kind of manna which has come to them from Heaven, since Papkootparout gave the first use thereof to the Gaspesian people, as we have noted in the chapter on their belief concerning the immortality of the soul. In fact tobacco, which they call *tamahoé* seems to them absolutely essential to enable them to endure the misfortunes of human life. It diverts them in their voyages, gives them wisdom in their councils, decides upon peace and war ; it satisfies their hunger, serving both for drink and food ; and when any one is dangerously ill, they still hope to see the sick person again in his original health provided that he can still smoke tobacco, while contrary is a sure indication that he will die.

164. In his PhD thesis on Iroquois medical botany, Herrick (1977, 306) similarly records *Cannabis sativa* being used as a psychological aid related to assessing recovery: “used when the patient gets well but hasn’t gotten it into his head that he’s recovered. This plant will get him going.”

165. As suggested by Leclercq, besides being for communicating with non-human spirits in ritual settings, smoking is used for easing communications with other humans in both ceremonial and diplomatic contexts (Dumouchel 2005, 29-30). Early colonial accounts

presented peace pipes as the very first objects presented to foreigners to dispel potential hostilities and “establish a peaceful climate facilitating trade” (Wonderley 2005, 233). As a matter of fact, Lescarbot (2005, 256) noted that tobacco pipes are presented to guests to show respect, “in such sort that if one refuseth to take the tobacco-pipe, it is a sign that he is not a friend” (298).

166. Smoking thus appears to be at once a spiritual, social, and political practice among the Mi'kmaq, which can be defined as having a “smoking culture” similar to Central Asian smoking cultures where the first mentions of cannabis smoking occurred, and in contrast with European drinking culture (Merlin 2003, 313). Despite the difficulty of obtaining conclusive archaeobotanical evidence, I believe that it is likely that cannabis could have been smoked by the Mi'kmaq on its own and/or as part of smoking mixtures.

Recreational use by Indigenous people

167. Canadian society was barely aware of the psychoactive properties of cannabis before the plant became illegal, when “Indian Hemp” was mentioned in the schedule of the Opium and Narcotic Drug Act, in 1923, without any explanation, evidence or debate regarding its effects. For this reason, according to Green and Millier (1965, 500), “cannabis was made illegal in Canada ten years before any empirical evidence of its non-medical use emerged” in the 1930s. The Opium and Narcotic Drug Act was mainly concerned with opium, in a context where it was associated with racialized fears concerning Chinese immigrants and included marijuana alongside opiates before cannabis was even known as a drug by Canadians (Carstairs 2018). Between 1930 and 1946, there were only 25 convictions for cannabis possession throughout Canada (Green and Miller 1975, 498).
168. Evidence suggests that Indigenous people in Canada may have been aware of the psychoactive properties of cannabis, and that they used and sold the plant for recreational purposes before the Eurodescendant population of Canada, as in the wake of the Opium and Narcotic Drug Act banning the cultivation of Cannabis in 1938, one of the country's largest “drug busts” took place in the Mohawk territory of Kahnawá:ke/Caughnawaga, near Montreal.

169. On September 29, 1938, an article from the *Montreal Gazette* revealed that the Department of Indian Affairs had ordered the RCMP to destroy some 3,500 pounds of marijuana plants in Kahnawá:ke. The article explained that the eradication efforts had already been going on since three weeks when a survey discovered “many patches of marijuana, even in sections supposed to have been cleaned out”, noting that “it appeared unlikely that at the present rate of progress the job would be finished before the snow flies” (Montreal Gazette 1938). The article stressed that what makes marijuana dangerous is that it is “so easy to grow and prepare”, as it grew wild both on private properties and vacant lots in Kahnawá:ke, *Cannabis sativa* was said to “affect a wide area.” Even though Mohawk police officer J.K. Jocks was quoted stating that “as far as he could learn no one in the reserve was using the drug”, the article reported that “Marijuana has been growing in Caughnawaga as long as residents can remember” and that “several people knew of its properties, however, from visits to United States cities where it is widely used.”

170. Another article, “Mounties Grab Tons of Dope”, published in *The Globe and Mail* on September 29, 1938, reported that the Kahnawá:ke marijuana raid was “one of the thickest in the Province, if not in Canada,” and contained evidence that Kahnawá:ke people used *C. sativa* for its psychoactive properties, also very likely trading it:

Royal Canadian Mounted Police lately have made at least two raids on a dance hall within the reserve and seized marijuana found on young men attending the dance. It is believed these raids led to discovery of the growth in the district (...). Police fear the Indians would secure quantities for themselves or to sell at high prices to the dope peddlers (Globe and Mail 1938).

171. This quote suggests that at the time that the plant became illegal in Canada, Indigenous people were already smoking and selling cannabis. At the time the recreational use of cannabis had started to become more important in the underground venues of large American cities such as New York and Chicago (Abel 1980, 214-36). The fact that Mohawks from Kahnawá:ke used cannabis as a recreational drug, grew cannabis on a large scale, and were suspected of selling it in the United States by the RCMP suggests that Mohawks might have played a role in popularizing cannabis in these American boomtowns, where they frequently traveled for high steel work on bridges and skyscrapers (Beard 2014).

172. It is known that Mi'kmaq communities have close familial, alliance and trade ties with the Mohawk community of Kahnawá:ke, which was the “capital” of a network of alliance regrouping Mi'kmaq and other Wabanaki communities with Anishinaabe, Abenaki and Mohawk villages in or near the St. Lawrence River valley. Speck (1915a, 493) estimates that this alliance, potentially reflecting an expansion of the Haudenosaunee confederacy (regrouping the Mohawk, Oneida, Seneca, Cayuga and Seneca), may have originated in the mid-18th century and continued until the end of the 19th century (498). Kahnawá:ke guarded the central council fire of the alliance (496), and Mi'kmaq delegates traveled there to participate in confederacy peace ceremonies, which were “opened by lighting a pipe and passing it around the company as a formal pledge of sincerity,” in accordance with the smoking ceremony of *nimskep'skulé'tame*, “to stop in and light the pipe,” preceding the presentation of wampum belts enacting diplomatic agreements (501, 507). Kahnawá:ke delegates also regularly visited Mi'kmaq communities. In 1841, Moses Henry Perley surveyed Wolastoqiyik and Mi'kmaq populations on behalf of the government of New Brunswick, and was told by Noel Nicholas, a “Senior” from the Saint John River Wolastoqiyik that their community’s “head Chief” at Kahnawá:ke “had sent them his words by a Wampum Belt, and told them never to part with one inch of their land, and by that they wished to abide,” showing their strong political link with Mohawks (Perley 1842, 1). Most importantly, based on discussions held in 1915 with Cape Breton Mi'kmaq Grand Chief John Denys, anthropologist Frank G. Speck (1915a, 507) realized that “On the whole the Micmac seem to have been less intimately united with the other three tribes of the Wabanaki group proper than they were with the Mohawk and the larger aspect of the confederacy,” as “the old peace compact with the Mohawk [was] still a live issue” for the band, while their links with “their Wabanaki neighbors seems to have lapsed before 1840, beyond the memory of the oldest man at the Bear river village” (506). According to David Blanchard (1983, 16), these ties with Kahnawá:ke were still strong in 1981, when many Mohawks travelled to the Mi'kmaq community of Listiguj/Restigouche to support them “in their struggle with Quebec fish and game authorities.”

173. The alliance between Mi'kmaq communities and Kahnawá:ke strongly suggests that the latter’s pioneering practice of selling cannabis for recreational use before growing cannabis was outlawed could likely have involved Mi'kmaq communities as well.

Conclusion

174. This report established the following points:

- a. The British Crown entered into treaties with the Mi'kmaq in the 18th century to establish peace in a context where the colony's very existence was threatened, due to the British demographic and military weakness, by contrast with the Mi'kmaq and the French. The Treaties of 1725-1726 guaranteed that Indigenous people would not be disturbed in their hunting, fishing, fowling and planting activities, whereas the Treaties of 1725-1726 acknowledged their right to trade their goods at fair prices within truckhouses. The Crown viewed the expenses entailed by these treaties as a long-term investment in securing peace in the colony with a view to settler colonization;
- b. Cannabis cultivation was strongly encouraged by the British Crown throughout the 18th century and beyond, notably through premiums and its use as "quit rent" by both settlers and Indigenous people, also playing the role of a form of currency. Cannabis was a legal item of trade at the time, and would realistically been part of the goods that could be sold at government truckhouses;
- c. Cannabis was an important crop for Acadians during the French regime, characterized by intensive cultural, kinship and commercial exchanges with Mi'kmaq people. Cannabis was one of the main crops in North America's first European garden, established by Louis Hébert in Port Royal (now Annapolis Royal) in 1606, and was further encouraged by the French Crown;
- d. Cannabis was present in Mi'kma'ki territory before the first European settlements, having been brought by the Basques, and possibly the Vikings, or spread via the Bering strait. Mi'kmaq people very possibly used cannabis for the sails and cordages of Basque shallops they were building before the first European settlements on their land, and potentially other uses.
- e. It is likely that cannabis was already present in North America and Mi'kma'ki territory, and was used by Indigenous people, before European colonization;

- f. Smoking is a distinctive feature of Mi'kmaq culture, playing a central role in spirituality, medicine and diplomacy;
- g. Cannabis was grown, smoked and very possibly sold by Mohawks from Kahnawá:ke at the time it was criminalized, and before its psychoactive properties were widely known among non-Indigenous Canadians. This trade could have involved Mi'kmaq people given their strong links with Kahnawá:ke.

Certification And Acknowledgment Of Duty

175. I certify that the opinions, conclusions, and assessments expressed in this report are my own and are based upon my education, training, research, fieldwork and professional experience, together with the historical, archival, anthropological, archaeological, ethnographic, scientific and other materials identified in this report.
176. I understand that my duty as an expert witness is to assist the Court impartially on matters within my expertise and that this duty overrides any obligation I may have to the persons who retained me.
177. I have endeavoured to provide evidence that is independent, objective and unbiased, to confine my opinions to matters within my expertise, and to distinguish between established historical evidence, reasonable historical or anthropological inference, and matters that remain uncertain or contested.
178. I understand that the interpretation of the treaties, the existence and scope of Aboriginal or treaty rights, and the determination of the constitutional issues before the Court are ultimately matters for the Court.
179. I confirm that the contents of this report are true and accurate to the best of my knowledge, information and professional judgment, and that the opinions expressed herein represent my professional opinions as of the date of this report.

Dated at Montréal, Quebec, this 20th day of August, 2026.

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