

ARTICLES

Eighteenth Century Eskimo Land Cessions in Northern Labrador

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ABSTRACT

In the light of demands made by the Eskimo on the federal government during the past few years for official recognition of their aboriginal title to the land, this article is of particular interest, for it focusses attention on the only land cession treaties ever concluded by the Eskimo. During the second half of the eighteenth century Moravian missionaries purchased land from the northern Labrador Eskimo for three proposed mission stations. Descriptions of the negotiations as well as the text of the only extant land purchase agreement are here reproduced from records available in the Mission Archives at Herrnhut/Oberlausitz.

RESUME

A la lumière des demandes faites au cours des dernières années par les Eskimos à leurs gouvernements respectifs, pour une reconnaissance officielle de leur droit sur le territoire, cet article traite des seuls traités jamais signés par les Eskimos. Au cours de la seconde moitié du 18^e siècle, des missionnaires Moraves achetèrent des Eskimos du Nord du Labrador des terres pour l'établissement de trois missions. La description des négociations et le texte du seul traité existant d'achat de terres sont ici reproduits à partir des documents disponibles dans les Archives de la Mission à Herrnhut/Oberlausitz.

In March, 1977, the Labrador Inuit Association, representing the Eskimo and settlers of northern Labrador officially filed an application with the federal government in Ottawa for recognition of Eskimo legal claims to extensive land and sea areas which had been traditionally utilized by them. The term "settler" refers to that sector of the population of northern Labrador which identifies itself with the whites and their culture, irrespective of ethnic origin. A clear separation from the Eskimo is sometimes made difficult in that this group primarily involves the descendants of Europeans who have settled in the country since about the middle of the last century, after the expiry of work contracts with trading companies which operated in the southern part of northern Labrador, and who have married Eskimo women.

The type of recognition being sought by the Labrador Inuit Association had already been achieved in 1971 in Alaska and in 1975 in northern Quebec, and had been proposed in the case of the Northwest Territories in 1976. Hence the last regional Eskimo group in North America was now making its demands known. The

desire of the Greenlanders for self-government, which should find fulfillment with the introduction of autonomy within the Danish kingdom, planned for May 1, 1979, also belongs in this context.*

Reduced to a simplified and abbreviated formula these claims are to be interpreted as the attempt by an ethnic group, which has only recently become politically vocal, to protect and maintain intact at least parts of their traditional ecumene against the onslaught of Euro-Canadians and Euro-Americans as they exploit arctic reserves of raw materials. The last few years have shown clearly that this situation of diverging interests inevitably leads to competing spatial claims, and thereby increasingly to serious conflicts; for the Eskimo this signifies much more than just an economic question. A solution to the problem is only possible if one can succeed in guaranteeing that the minority will be protected, without at the same time ignoring the needs of the majority, which supports the development projects. Such a compromise can only mean that the claims of the Eskimo to usufruct and to ownership of the land, based on pre-European occupation, will be accepted by the government, but that in some areas at least title to the land will be extinguished in return for appropriate compensation, and that while the ethnic identity of the Eskimo would simultaneously be guaranteed, they would be granted the right of participation in the development of the Arctic (cf. Cumming, 1974; Treude, 1976). Since August 1973, when the federal government declared its basic readiness to negotiate future indigenous rights of ownership which had not been expressly recognized as such by treaties concluded in the past, the previously contested question as to whether the Eskimo demands are based on vested rights, or at best on a usufructory claim can now be left unanswered.

*[The reader will note that Dr. Treude published his article in 1977 prior to the adoption of Home Rule by Greenland on May 1, 1979. For a résumé of the report of the Commission on Home Rule in Greenland, *vide The Musk-Ox*, No. 22, pp. 84-86. Item 11 of the report lists the major areas of jurisdiction which the Commission recommended be excepted in the general devolution of powers. A general news report published the day after Home Rule was adopted appears in *The Musk-Ox*, No. 24, p. 79.] Ed.

Rather one can take as a point of departure the fact that, as has already been put into practice in Alaska and northern Quebec, and in northern Labrador as well, a solution satisfactory to all sides should be aimed at. The Labrador Inuit Association has already announced that at the present time it stands ready to negotiate an all-embracing contractual settlement of its land-ownership title.

Earlier treaties of this type, in which an indigenous claim to a certain area was recognized and discharged by the assurance of appropriate compensation, were concluded in large numbers in Canada prior to 1923 between the Crown and the Indians, but not Eskimo groups. Northern Labrador occupies a special situation. In the agreements of land cession concluded here in the second half of the eighteenth century, it was not government agents who emerged as the partners to the negotiations with the Eskimos, but the missionaries sent out by the Evangelical Unity of Brethren of Herrnhut, Oberlausitz, who wanted to acquire land for the mission stations they had planned.

FOUNDING OF THE NAIN MISSION STATION

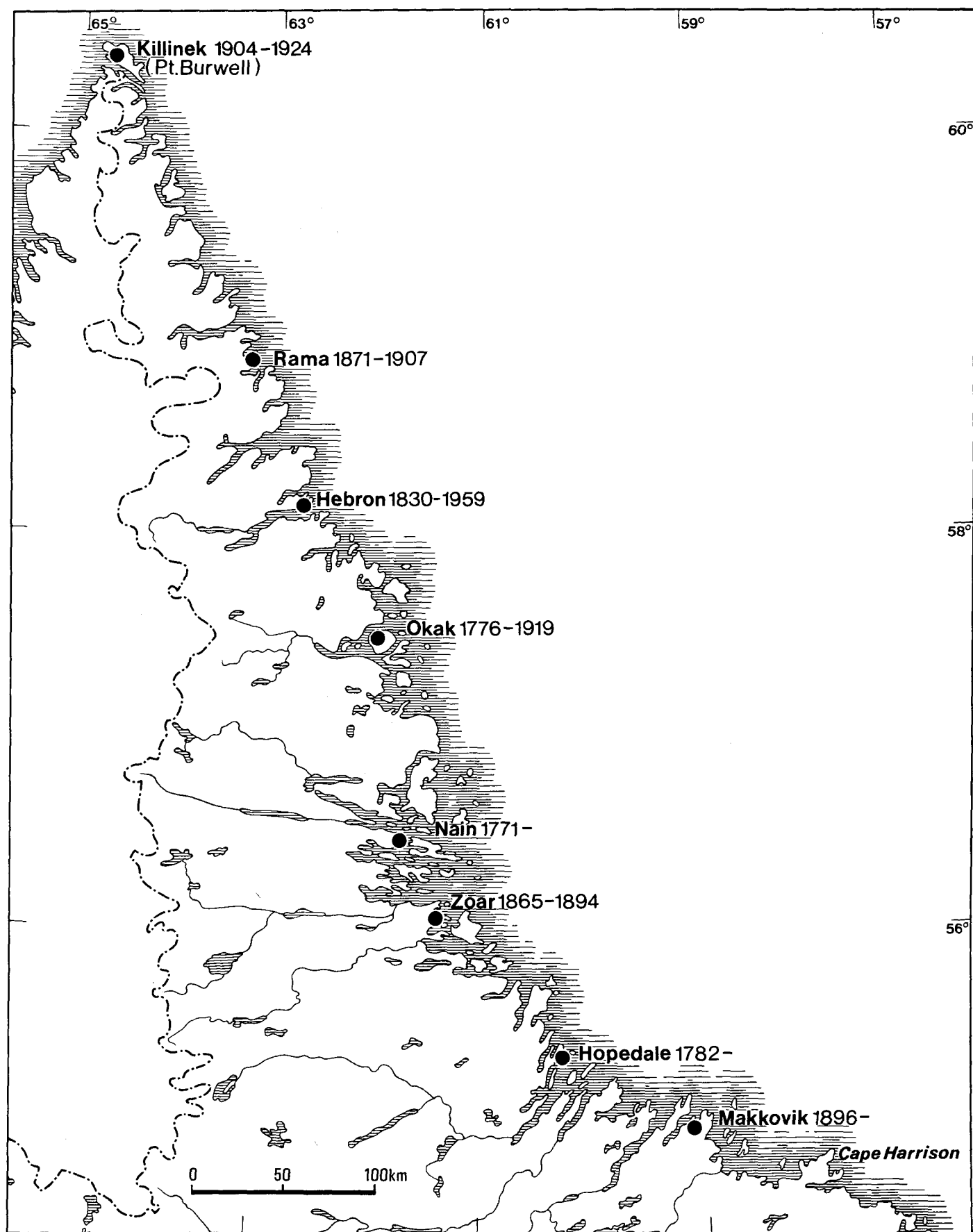
The Herrnhut Brotherhood, which had been active in Greenland since 1733, made its first attempt to gain a foothold on the coast of northern Labrador in 1752 in the vicinity of the present settlement of Hopedale. However, the attempt had to be abandoned when some of the ship's crew were murdered while establishing trading contacts with the Eskimo; the missionaries, who had already disembarked, were obliged to sail for home. This failure aroused the interest of a young Dane belonging to the Brotherhood, Jens Haven, who was to become the central figure in the establishment of the Labrador missions. More detailed treatments assessing the development of the missions and their influence on the Eskimo can be found in Kleivan (1966) and Treude (1974). A comparative investigation of the activities of the Herrnhuters in Greenland (from 1733), northern Labrador (from 1771), and Alaska (from 1885) is in preparation.

In 1764, on orders from the directors of the Brotherhood in Herrnhut, Haven made an initial reconnaissance trip to Newfoundland and southern Labrador during which, thanks to his knowledge of the Eskimo language, he quickly succeeded in making contact with the Eskimos who participated in barter there. On the basis of his report the leaders of the Church decided to initiate missionary work in Labrador and by early 1775, as an essential prerequisite, they had already broached the subject of the transfer with the Board of Trade in London which was responsible for this area, of a total of 400,000 acres (1,620 km²) for the four stations which they wished to establish. These land transfers are discussed by Whiteley (1964). Appropriate parcels of

land were to be selected on a second voyage in 1765 in which, apart from Haven, Christian Drachardt, who also had Greenland experience, and two other missionaries took part. In 1766 the Church authorities renewed their efforts to negotiate transfer of title. Initially, 100,000 acres (405 km²) were required for a station, this area apparently being necessary in order to carry out missionary work without hindrance or disturbance from outside; nobody was to settle within its boundaries without permission. Not until 1769, against the background of increasingly sharp encounters between the Eskimo and British fishermen in southern Labrador was this request met, in the form of a Royal decree. Next, in 1770, the missionaries Haven, Drachardt, and Jensen again travelled to Labrador in order to select the land they had been granted in "Esquimaux Bay" (Hamilton Inlet, south of Cape Harrison). This site was erroneously thought to be the centre of the Eskimo settlement area, as to the precise location of which they obviously had no clear idea.

The extensive field notes prepared by Haven and Drachardt are available in the archives of the Unity of Brethren in Herrnhut, but only in abstract form (Archive stack 15, K. a. 5. 5., pp. 311-382—Jens Havens 2. Rekognoszierungsreise 1770 and stack 15 K. a. 5. 6., pp. 383-442—Chr. Drachardt: Rekognoszierungsreise 1770: see Figure 2). On the basis of these field notes the mission historian Kølbing (1831) has described their encounter with the first fairly large group of Eskimo on June 18, 1770, probably immediately north of Cape Harrison (see Figure 1):

Drachardt then told them something of Jesus' life story and of his sufferings—then asked them whether, like the Greenlanders, they would like to hear something about Jesus every day, and whether they would like us to stay. 'Yes, yes,' they all shouted aloud, 'we want to remain friends with you and would like to hear often about the Lord in heaven.' 'If that is the case,' said Drachardt, 'we want to find ourselves a piece of land in Eskimo Bay where we can build a meeting house next year.' 'Fine,' they replied, 'we want to accept you as our countrymen and brothers.' Drachardt said, 'That is good; in that case we want to select a piece of land this year and buy it from you.' At this men, women and children stretched out their hands and shouted 'Good! Good! Pay us! Take as much land as you want!' Drachardt continued, 'But it is not enough that you want us to pay you for your high, rocky mountains. In your hearts you may still be thinking: 'When they come we will kill them and steal their boat and all their things.' Then they all shouted: 'No! No! We do not want to steal or kill any more. We and you are brothers!' 'I am pleased to hear that,' said Drachardt, 'but from whom should we buy the land? You do not have any rulers; each of you wants to be master in his own land. Hence we want to give each of you something, which will be much more useful to you in your fishing than the piece of land which you are giving to us.' They all shouted again, 'Pay us, so that you can take just as much land as you want.' Then Drachardt went with the Brothers from tent to tent and distributed all sorts of tools among the men, women, and children. Then he said to the men: 'Look, I have written your names down here. Now I want each of you to make a sign against it, with his own hand, to the best of his ability. This will be an everlasting



token of the fact that you have sold the land to us.' After they had all done this, he showed the names to the children and all the others who were in the tents and said, 'When, in time, your children learn to read and write like the Greenlanders, then they will themselves be able to read these names, and they will remember what they are seeing and hearing now.' They all replied, 'That is good; we never want to forget it.' Drachardt added: 'When you come back to Eskimo Bay from caribou hunting in the future, you will see four large stones which you have never seen before. Now where you see these stones, with many figures on them, which we call letters, you will know that this is the land which we have bought from you.' Then the Eskimo, of whom more than a hundred had assembled, gave the Brethren their hands and again shouted: 'We love you; we want to be your countrymen and your brothers. Our alliance with you will last as long as the sun shines' (Kölbing, 1831, pp. 43-44).

The proceedings were repeated on August 2 when about 700 Eskimos were encountered in the vicinity of the present settlement of Nain:

Drachardt then called all the men together and said: 'We are very pleased that you all love us, and in time want to become our brothers. We are also very grateful to the Lord in Heaven, that he has brought some among you to the point that you would like to hear about Jesus, Our Saviour, every day. And hence we want to select a site among you where we can build a meeting house next year. Now we would very much like to hear from you where we are to live. Give us your opinion.' They replied: 'You can choose a site on the Salmon River, where there are good sites, or if you prefer to live on the islands, you can select the best islands out at sea here.'

Next day when asked again the old men repeated the same thing and added: 'You can build, live, and do what you want in our land. You can locate inland or out towards the sea; you have the same freedom as ourselves. You are indeed Inuit, i.e. good people, just as we are, and not *kablunat*, i.e. bad people, like the other Europeans.' 'That is good,' replied Drachardt, 'we, you, and the Greenlanders are therefore like one family.' The Eskimos: 'Yes, that is so. But only our family is good, and hence we and you are good friends and brothers.' Drachardt: 'When you dear people speak thus, do you really mean it in your hearts and souls?' 'Yes, yes,' they all shouted, 'you can truly believe that as our brothers we will show you nothing but love and kindness.'

Gifts were now distributed from tent to tent among both old and young, whereupon the old men, 67 in number, attested with their signatures that they had transferred to the ownership of the Brethren the land demarcated by four large stones at Nunenguak in Kangerluk. Drachardt explained to them: 'These signatures will indicate to you, your children and your children's children, that you have accepted us as countrymen and brothers and have given us the marked piece of land as our property. At the same time it will also remind your children and children's children of their parents as if you were saying to them after your deaths: "We, your fathers and grandfathers, invited the Brethren here for our sakes and for your sakes. They have built a meeting house so that you can daily congregate and can hear about Our Lord in Heaven. Never forget that we, your parents, have given this piece of land to our brothers, who came to us from the east, from Greenland, as their own property." When you have been converted to Jesus, you should live near the meeting house, and should love your teachers and follow them, as the Greenlanders do.'

Drachardt continued: 'Do you want both what you have heard from me and what you yourselves have said, to be made known to your families, so that your wives and children also know about it?' They replied: 'Yes, we want to do that; we have already begun to broadcast it through our land, and want to continue doing so' (Kölbing, 1831, pp. 48-50).

The actual treaty, if indeed it ever existed as a separate document, is not to be found, but the names of the 67 Eskimos who "signed" it have survived in Drachardt's journal (Figure 2). The fact that in each case the initial letters precede the name, as well as Drachardt's comment to the effect that: "the men, husbands and family heads, one to each family, who signed with two or three letters, are as follows," makes one suspect that by analogy with the treaty concluded in 1777, the Eskimos' hands were guided in "signing" this document as well. Nor can the possibility be entirely excluded that the list of names represents not simply a copy of part of the treaty, but the treaty itself.

A few days later the site was selected on which the Nain mission, representing the first Herrnhuter mission station in northern Labrador, was to be erected the following year:

The Brethren had selected a site for their establishment at 56° 36'N which was provided with good timber for a building and several streams, (and) where a ship can lie comfortably off the beach. Here on August 6, in compliance with the agreement reached with the Eskimos, they set up a marker stone on a headland called King's Point. On one face of it was inscribed G.R. III (Georgius Rex) 1770, and on the other three U.F. (Unitas Fratrum) 1770. They then took solemn possession of the land in the presence of the sailors, in the name of the King of England, for the benefit and use of the Unity of Brethren, to whom it had been granted by the Crown. The other two identically inscribed stones were buried on the shore of the harbor, to be set up at a more convenient time on the southwest side, 12 English miles from the first one, to mark the boundaries of the land (Kölbing, 1831, pp. 51-52).

FOUNDING OF THE OKAK MISSION STATION

In founding the station at Nain, the fact had been overlooked that the selected site represented only a briefly-visited summer meeting point the resources of which could not support a fairly large winter population. However, from their own earlier experience in Greenland the Brethren knew that it was possible to guarantee economic survival only if the Eskimo followed a nomadic way of life, their movements determined by the abundance of game, even though mission activities would be greatly complicated by such decentralization. The Brethren thus had to be prepared to expand their radius of operations by the establishment of auxiliary stations. By 1773, reconnaissance trips had already been made south and north from Nain in order to locate suitable sites. In the spring of 1774, by royal decree, the Brethren received the right to take possession of the land necessary for two more stations, of 100,000

acres (405 km²) each. In the summer of 1775 missionaries Jens Haven and Stephan Jensen were given the task of selecting a suitable location to the north. On August 21 they sailed from Nain, reaching Kivalek on the north side of the north Okak Island on August 31:

I [Haven] told the people of the purpose of our visit and portrayed the crucified Christ to them. . . . Our Lord had bidden us go to Kivalek and to ask the people there whether they wanted to learn about him, and on hearing about him wanted to renounce the bad old ways. . . . I also said that Our Lord had bidden us build a house among you, and to live among you, but that up until then we had not located a suitable site. It was certainly to be in Okak, but we did not know the precise location. Tomorrow morning Stephan Jensen and I want to go out and select a site; would this be all right? They all shouted with joy, 'Oh, yes. Come soon; we want very much to have you here! Oh, if only the winter was over!' We then visited all the tents, 12 in number, containing over 100 people, including children.

On September 1 we travelled overland to Okak to reconnoiter. Half an hour from the tents we reached the southwest end of a bay. There we saw a site which would be very suitable for building; however we walked right around the bay looking at the timber and streams, but did not find a site which did not have major drawbacks. . . .

. . . so we summoned the men, totalling 11, to our tent. . . . I said: 'Now we have found a site where we can build our house; but before we do this we are in the habit of buying the land so that we can do with it what we want; however it is not our intention that you should not live near us. On the contrary, the more Inuit live at Kivalek, the more we will like it. But you cannot then sell your land to anybody else, since we have bought it from you. From now it will belong to us and to all our brothers and sisters who come after us. When we two, who now buy the land from you, when our bodies are dead, we want the land to belong to all our brothers and sisters who come after us. But we want to say to you that we do not want people who steal, nor those who steal other men's wives, nor men who kill, living on our land.' They all shouted: 'We do not want people like that living with us either; chase them away and use your rifles; we want to learn about the Saviour and to be your friends and to live with you as a united community!' I continued: 'We also have a custom that when we buy land we erect markers to show how far our land extends, and for this purpose we have brought some stones in Niakok's and Saveruk's boat which we will erect tomorrow so that you can say to your children: "This is the Brethren's land." And hence we want to erect one stone on the other side of Uivak, and one on the corner of Okak, south of the point, and the third one we will erect on this side of Uglek when we are going back.' They all shouted: 'We want to go with you tomorrow and help you; oh, if only the winter were soon over, so that you can come and live with us. . . .'

Then we completed the purchase; what should we give them for a piece of land covering 100,000 acres or 12 English square miles or three German square miles? And the 11 men who were present received their payment. Then their wives and the girls, and then the young men and boys were each given a gift. I then wrote down the names of the 11 men and each of them with my help wrote the first letter of his name. They understood clearly that this would be an everlasting token that we had bought their land. Everything proceeded in love and friendliness.

On September 2nd we put to sea early in the morning in

order to set up the stones. The wind was foul and hence we had to tack to reach Uivak. We permitted six of the most important and strongest men to go with us. . . . In the meantime around 12 noon we reached Uivak; I first repeated the details of the purchase and demonstrated to them once again the purpose of the marker, and asked them to explain it to their countrymen and to their children; and then we set up the first northern stone in front of the houses, and they assisted us diligently. We inspected the land again, then we headed back and set up the second stone on the Okak point, then returned to Kivalek around 2 o'clock. . . .

On September 4th we got ready early and rowed away in calm weather. The people were very helpful and were very sorry that we were about to leave them. Around 12 noon we got a bit of a breeze and at 3:30 reached the spot where we wanted to set up the third and last stone, about a mile north of Uglek on the mainland. . . . Setting up the stone was accomplished with the usual formality, namely: 'In the name of our God and Saviour, under the protection and shelter of our most gracious monarch George III, King of England, we take possession of this land for the united evangelical Unitas Fratrum and its Society for the Spreading of the Gospel for a mission settlement. . . .' (R. 15, K. a. 10 a.3., pp. 29-30, 32, 33).

The following year, 1776, the Okak Mission Station was established in the vicinity of the settlement of Kivalek; 143 years later the station had to be abandoned when during the winter of 1918-1919 only 56 Eskimos out of the total of 263 residents, including women and children, survived an influenza epidemic.

FOUNDING OF THE HOFFENTAL (HOPEDALE) MISSION STATION

Selection of the site for the third station, south of Nain, and the marking-out of the land already allocated by the government, occurred in 1777; however, construction of a station did not begin until 1782. The missionaries Johann Schneider, Christian Lister, and Stephan Jensen left Nain on July 2, 1777, reaching the settlement of Arvertok five days later:

[July 7] . . . we reached Arvertok safely in good time and pitched our tent at Arvertuarsuk. We found only four tents here and were concerned when we heard that the remainder of the local people had in part gone farther up the bay, and partly to Allavik, south of Makovik, to hunt. We summoned all the men present to our tent and told them the reason for our coming there, namely to buy a piece of land where we could build a house and live among them, so that they could learn about the Creator and the Redeemer. To the question as to whether they would permit us to do this they all replied: 'Oh, yes!' We further told them that we would speak to them again next day. . . .

[July 8] In the morning we again called all the people together and Brother Schneider preached to them concerning the Saviour and His love. He then repeated the reason for our arrival in their land, which had occurred mainly out of love for them, and told them that if they turned to the Saviour He would lighten their hearts and make them very glad. He further told them what sort of area was desired: namely from the north headland to Tikkerarsuk in the south. Within this area nobody else should live among them, except we

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[illegible]

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Gottes ein Willen mitgetheilt, die uns anzufragen wollten, damit ich
 einen Briefen jagen könnte: Nicht ist der Geisler ist Land! und ich
 wollte mir 2 Bienen bey Arverthausen und dem von der Lande gegen
 Kanten 2. die andere hinter die Tickeräusfen gegen Kanten setzen. Als
 die Bienen waren wieder fertig und angesetzt; ich darauf ausgehen, in
 von der die bestmögliche Pflege. Ich bin von oben angesetzt 2 Bienen
 an der folgenden Tage in Kanten der folgenden Bienen. Damit
 das Land von Arverthausen gegen Kanten, die Tickeräusfen ge-
 gen Kanten, so wie ich die folgende Geisler in Kanten, so wie
 Kanten in Kanten-Establishment 2. einen Kanten-Platz für
 glückliche Bienen und alle Bienen, die ganz der folgenden Bienen
 wollen, von denen Bienen, die nicht aber Kanten Bienen, geben
 ich den 2. und die Bienen ansetzten Kanten Bienen Bienen
 mit einigen Bienen, all in Kanten Bienen, so wie ich, absetzen
 haben, nicht aber ich Kanten Bienen Bienen Bienen, nicht
 Bienen mit Kanten Bienen Bienen Bienen Bienen Kanten, nicht
 Bienen.

Ich habe in Kanten Bienen. Ich habe die Arverthausen-Geisler
 2. 10. July. 1777.

Kafun da Manis.

Pannios (Capitula)
Käpik,
Skpiarfuk,
Pörina
Kipxo
Angëskanna
Pörimek

Niveruna
 Orisfur
 Mixxillerar
 Marro
 Puale
 Pionina (Annona Loe)
 Kippington
 Orterana.

Figures 3a and 3b — Eskimo and German text of a land purchase agreement signed on July 10, 1777, prior to establishing a new mission station: Hopedale (Herrnhut Archives R. 15. K. a. 7. 1., pp. 276-79).

Brethren. . . . And how great our joy would be if many of them were to come and live with us and wanted to believe in the Saviour, and would like to experience in their hearts and feel what He had won for us through His death and suffering and were to become our brothers and sisters. Next we called just the men into our tent; their names were written down as proof that they had sold the land to us, and then they received payment for their land. Next the women and children received the same, at which they were all very happy.

Subsequently we set off in the boat and set up the one boundary stone on this piece of land at Arvertok in the name of our Lord and Saviour, according to the privilege given us by our grant. . . .

As we passed by we landed on Arvertok Point and inspected the site where the mission house was to stand; then we continued on our way. We found four tents on Amomiokoktok and expected to find a number of men here; but there were only a few women and children at home. . . . [We told them we] intended building a house at Arvertok and living among them, and for that reason their countrymen at Arvertuarsuk had received payment for the land; they should tell their men about this on their return, and also that we had promised to do the same for them, if they would come to Nain. . . . Brother Schneider . . . repeated yesterday's discussion with their countrymen at Arvertuarsuk concerning their land. He then asked them whether they too were all of the opinion that we should come and live with them. At which they all said: 'Yes! Come! we want you very much!' We then took the men into our tent, gave them payment for their land, and wrote down their names, with three letters, so that this could be proof that we had bought the land from them, and that nobody else could settle between Tikkerarsuk and the north side of Arvertok, and that they could not now sell the land to anybody else, since we had bought it from them. Subsequently the woman and children also received their payment. . . .

[July 13] Wind . . . carried us rapidly across Kannigiktok Bay to Tikkerarsuk, where we set up the other boundary stone in the name of Our Lord . . . by virtue of the grant awarded to us for a mission settlement at Arvertok (R. 15 K. a. 5., pp. 64-68).

The separate text of the treaty (which again was a memorandum rather than a real agreement) concerning the land purchase effected on July 10, 1777, exists in both German and Eskimo versions (Figure 3). Minor differences in detail — for example, according to the journal the Eskimos signed with the first three letters of their names, whereas the agreement asserts that they signed only with the first letter — may well have arisen because of the time lapse between the recording of the two versions:

In the year 1777 after Christ's birth, in the month of July, we three Brethren, Johann Schneider, Christian Lister and Stephan Jensen, from Nain, were here at Arvertok, for the purpose of marking with boundary stones a piece of land for the establishment of a mission of the Evangelical Unity of Brethren, by special permission of our all-merciful sovereign, King George III, King of Great Britain, and of taking possession of it in the name of the aforesaid Unity of Brethren and of its Society for the Spreading of the Gospel in London. In pursuance of our task we made known this intention to the inhabitants of the country and asked them

whether they were willing to sell us a piece of land such as would be suitable for our purpose. In so doing it was not our intention that none of them could live there anymore; on the contrary the more Inuit who live on the land . . . the better and more pleasant it will be for us. They would have to realize however, that they could not subsequently sell the land to anybody else, no matter who they might be, once they had sold it to us, and once the land belonged to us and to all our Brethren who would come after us. When all the above had been clearly explained to the men present, and they had them *all* declared that they wanted the Brethren to live on this land . . . and that they gladly wanted to sell us the land we asked for, we came to an agreement on the sale, and on what we should give them as payment for the land. We further told them that when we bought land we were also in the habit of setting up markers to indicate how far our land extended, and that we had brought stones for this purpose. We wanted to erect them so that they could say to their children: 'This is the Brethren's land!' And hence we wanted to set up two stones at Arvertuarsuk on the barren land to the north and the other two at Tikkerarsuk to the south. Both old and young were pleased and happy at this; and they received from us the payment specified. That the above-mentioned three Brethren today have purchased, in the name of the Evangelical Unity of Brethren, the land from Arvertuarsuk in the north to Tikkerarsuk in the south, as indicated by the boundary stones we have set up, for the building of a missionary establishment of the Brethren and a meeting place for converted heathens and for all those who wish to hear the Gospel, from those Inuit who occupy the land at present, and that the said Inuit have relinquished it, with full consent, to us and to our Brethren coming after us as our permanent possession, will be confirmed by the signing of their names. This occurred in the tent of us Brethren on Arvertok Point on July 10, 1777.

Names of the men: Panniok (Captain), Kapik, Ikpiarsuk, Angekanna, Sirmek, Uivernuna, Piorina, Nipko, Marro, Pualo, Piorina (Panniok's brother), Okigsuk, Mikkillerak, Kippingok, Erkerana (R. 15. K. a. 7.1., pp. 276-277).

The agreements reached between the Labrador Eskimo and the Unity of Brethren may correspond in form to those cession agreements which have been expressly recognized since the Royal Proclamation of 1763 respecting the rights of ownership of the indigenous people which were quite common between the Crown and Indian groups until 1923. Whether the Unity of Brethren indeed had the right to enter into them is only one of many questions which must remain unanswered at this point [but see commentary by W. H. McConnell below]. It will be a task for the lawyers, during the process of settling Eskimo land claims to consider, as well, the legal significance of the documents reproduced here.

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R.15.K.a.7.1., pp. 276-279. *Besitznahme eines Stückes Land für ein neues Missions-Etablissement (Hoffenthal)*, 1777 [Taking possession of a piece of land for a new mission establishment (Hopedale), 1777].

R.15.K.a.10.a.3., pp. 24-35. *Bericht des Br. Jens Havens von seiner u. Br. Steph. Jensens Reise von Nain nach Kivalek zur Besitznahme des Landes zu einem Missions-Settlement ...* 1775 [Report by Brother Jens Haven on his and Br. Stephan Jensen's voyage from Nain to Kivalek to take possession of land for a mission settlement ... 1775].

R.15.K.a.10.a.5., pp. 63-73. *Bericht der Brüder Johann Schneider, Lister, und Stephan Jensen von ihrer Reise aus Nain nach Arvertok ...* 1777 [Report by the Brethren Johann Schneider, Lister and Stephan Jensen on their voyage from Nain to Arvertok ... 1777].

2. Literature

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slightly incongruous about German missionaries and Inuit who were still in the Palaeolithic age being considered to be bound by British law in the wilds of Labrador at this time? If the matter were mentioned to them, they would probably stare at their interlocutor with incomprehension.

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[For a background study of the Moravian Brethren beginning with their origin in what is now Czechoslovakia, please see the note prepared by Dr. T. D. Regehr of the History Department, University of Saskatchewan, entitled "The Moravian Brethren — A Historical Introduction", see page 80].

COMMENTARY

Both the Moravian Brethren and the Inuit (MS pp. 10-11) apparently thought that their transaction involved an actual conveyance of legal title to land. However, *The Royal Proclamation of 1763*, and subsequent legal decisions (e.g. *Calder v. A.-G. B.C.* [1973] S.C.R. 313) emphasize that an alienation of aboriginal title could be made, not to private persons, but only to the Crown. The interest being alienated, moreover, was not an interest in land, as Mr. Justice Mahoney emphasizes in the recent *Baker Lake* decision [as yet unreported but see text below, p. 65], but something in the nature of what the Romans called a "usufruct", that is, a right to use or possession of the land. Of course, neither the Moravians, nor the Inuit could be expected to know this, and at this early date the legal theory was just in the process of formation. Is there not something