

**This is the News:
Donald Marshall, the Supreme Court and
Troubles on the Water at Burnt Church**

by

Paul Fitzgerald

A thesis submitted to Saint Mary's University
in partial fulfillment of the requirements for the
Degree of Master of Arts in Atlantic Canada Studies

March 2006, Halifax, Nova Scotia

© Paul Fitzgerald

Approved:

Dr. Chris McCormick
External Examiner

Kim Kierans
Reader

Dr. John G. Reid
Supervisor

March 17, 2006



Library and
Archives Canada

Bibliothèque et
Archives Canada

Published Heritage
Branch

Direction du
Patrimoine de l'édition

395 Wellington Street
Ottawa ON K1A 0N4
Canada

395, rue Wellington
Ottawa ON K1A 0N4
Canada

Your file Votre référence

ISBN: 978-0-494-17648-1

Our file Notre référence

ISBN: 978-0-494-17648-1

NOTICE:

The author has granted a non-exclusive license allowing Library and Archives Canada to reproduce, publish, archive, preserve, conserve, communicate to the public by telecommunication or on the Internet, loan, distribute and sell theses worldwide, for commercial or non-commercial purposes, in microform, paper, electronic and/or any other formats.

The author retains copyright ownership and moral rights in this thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without the author's permission.

AVIS:

L'auteur a accordé une licence non exclusive permettant à la Bibliothèque et Archives Canada de reproduire, publier, archiver, sauvegarder, conserver, transmettre au public par télécommunication ou par l'Internet, prêter, distribuer et vendre des thèses partout dans le monde, à des fins commerciales ou autres, sur support microforme, papier, électronique et/ou autres formats.

L'auteur conserve la propriété du droit d'auteur et des droits moraux qui protègent cette thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

In compliance with the Canadian Privacy Act some supporting forms may have been removed from this thesis.

Conformément à la loi canadienne sur la protection de la vie privée, quelques formulaires secondaires ont été enlevés de cette thèse.

While these forms may be included in the document page count, their removal does not represent any loss of content from the thesis.

Bien que ces formulaires aient inclus dans la pagination, il n'y aura aucun contenu manquant.


Canada

“This is the News: Donald Marshall, the Supreme Court and Trouble on the Water at
Burnt Church”

By Paul Wayne Fitzgerald

Abstract: This thesis will analyze the media coverage surrounding the Supreme Court of Canada’s landmark decision in the Donald Marshall Junior case and its subsequent clarification in 1999. This thesis will also review the media coverage surrounding the Burnt Church fishing dispute that occurred throughout the year 2000, which was a direct result of the Supreme Court’s decision and clarification. *The Globe and Mail* and *The National Post* are the two national newspapers used in this study. *The Halifax Chronicle Herald* and *The New Brunswick Telegraph-Journal* are the two provincial newspapers selected. *Windspeaker* and *The Mi’kmaq Maliseet Nations News* are the two Native newspapers being examined in this work. Moreover, this work underscores the similarities and differences in coverage among mainstream media and Native media outlets.

March 17, 2006

ACKNOWLEDGEMENTS

I must say, writing a thesis is not an easy task, but the challenges are certainly worthwhile and the rewards are endless as hard work certainly pays off. However, there are a number of people I must thank for their tireless support and understanding while I was undertaking this major project while holding a full time job as a Senior Public Affairs Officer at Saint Mary's and while doing freelance writing for a number of newspapers and magazines in Canada. Working as a professional in the field of media is something I am passionate about and the key reason why I took on this study which probed how the media — mainstream and alternative — covered the Supreme Court of Canada's landmark ruling and its clarification involving Donald Marshall Junior and the subsequent conflict that took place at Burnt Church in 2000. The newspaper stories that derived from the high court's actions in 1999 and the troubles that occurred at Burnt Church a year later were events that I found compelling and the reason why I decided to take on this extensive study.

First, I owe a great deal of thanks to my parents, Paul and Louise Fitzgerald, and to my brother and sister, Rob and Candace — all of whom continued telling me over and over with how proud they were to see me take on such a project and graduate with a Master of Arts (MA) Degree from Saint Mary's. Their loving support is the key reason why I have made it to the finish line and completed such a unique and extensive project. Next, I want to thank my Thesis Committee Members for their time, patience and support while working with me during the writing of this major project. They include: Dr. John Reid (Saint Mary's University), Dr. Chris McCormick (Saint Mary's University and St. Thomas University), and Kim Kierans (The University of King's College). Also, I want

to extend many thanks to Dr. Richard Giles (Mohawk College of Applied Arts and Technology) for his time and efforts in reading my paper and offering me beneficial advice.

I also want to thank my closest friends who were so supportive of my project. They include Dan Berruti, David Ryan, Boris Mirtchev, Cory Pye, Chris Alders, Kevin Rabjohn, and Chuck Bridges — all of whom took the time to listen and offer their support while I spent hours and days poring over newspaper articles for this work. Again, thanks to everyone for your support; it's something in which I shall never, ever forget.

Table of Contents

CHAPTER ONE.....	1
INTRODUCTION.....	1
BACKGROUND.....	5
<i>Marshall Wins</i>	5
SAMPLE AND METHOD OF ANALYSIS	8
<i>Sample: Fishing for News</i>	8
<i>Methodology: From text to context</i>	12
<i>Scope and Limitations</i>	13
CHAPTER TWO.....	15
MAKING SENSE OF THE MEDIA AND EXPLORING THE PRODUCTION OF NEWS	15
<i>The Principles of Journalism</i>	15
<i>Baudrillard on the Meaning of Media</i>	17
<i>The Factory Model of News</i>	26
<i>News Discovery</i>	27
<i>Links to Sources</i>	28
<i>Time as a Factor in News Making</i>	31
<i>Framing</i>	32
<i>Economic Influences</i>	34
<i>Conclusion</i>	38
CHAPTER THREE.....	41
DONALD MARSHALL, THE SUPREME COURT AND THE MEDIA.....	41
<i>Reading the Marshall Decision</i>	41
<i>Reading the Supreme Court's Clarification</i>	64
<i>Conclusion: Netting Media Theory while Reading the Marshall Decision</i>	80
<i>Showdown at Burnt Church</i>	86
CHAPTER FOUR.....	88
READING THE NATIONAL PRESS	88
<i>Reading The Globe and Mail</i>	88
<i>Reading The National Post</i>	99
<i>Conclusion: Reviewing the National Press</i>	108
CHAPTER FIVE.....	110
READING THE PROVINCIAL NEWS	110
<i>Reading The New Brunswick Telegraph-Journal</i>	110
<i>Reading The Halifax Chronicle-Herald</i>	119
<i>Conclusion: Probing the Provincial Press</i>	129
CHAPTER SIX.....	131
READING THE NATIVE PRESS	131
<i>Reading Windspeaker</i>	131
<i>Reading The Mi'kmaq Maliseet Nations News</i>	143
<i>Conclusion: Exploring the Native Press</i>	153
CHAPTER SEVEN	156
CLAWING THROUGH THE NEWS COVERAGE AT BURNT CHURCH	156
CHAPTER EIGHT.....	163
DIGESTING THE BOILING HOT NEWS.....	163
<i>Different Pots with Different Sized Lobsters</i>	163
<i>Burnt Church: Will We Ever Know the Full Story?</i>	164
<i>The Lobster Pot Simmers</i>	168
<i>Conclusion and Future Considerations for Research</i>	169
WORKS CITED.....	171

CHAPTER ONE

INTRODUCTION

This thesis will discuss, synthesize, and analyze the media coverage surrounding the Supreme Court of Canada's landmark decision in the Marshall case and its subsequent clarification. The thesis will also review the media coverage surrounding the Burnt Church fishing dispute in northern New Brunswick (hereafter referred to as NB), which was a direct result of the Supreme Court's decision, and its clarification, throughout the year 2000.

The events in the small fishing community of NB arose from the Supreme Court's landmark ruling in favour of Donald Marshall Junior on September 17, 1999. The Supreme Court ruled that Marshall, a Mi'kmaq from Nova Scotia (hereafter referred to as NS), held a treaty right to catch and sell eels out of season for livelihood purposes. The Supreme Court's decision produced strong reactions and caused a flurry of debate among Natives, non-Natives, and the government, consequently placing Atlantic Canada in the media spotlight on both the regional and national stage.

The tense rhetoric, standoffs, and violent confrontations that took place at Burnt Church received extensive coverage in the media. The quality of this coverage, as well as the points of view expressed, varied from outlet to outlet.

Burnt Church became the locale for a vast media 'fishing expedition'; the thesis will investigate how the print media — national, provincial, and Native — covered the events that took place throughout the year 2000 when feelings and actions were

heightened in response to the Marshall decision. Media outlets took a variety of approaches when it came to telling the story of the landmark ruling and what took place in the waters off this community, as this thesis sets out to prove.

The Marshall decision brought national scrutiny to the confrontation that ensued between the Government of Canada, non-Native fishers, and First Nations peoples. In its decision, the Supreme Court upheld Marshall's fishing rights. Marshall had been charged on August 24, 1993, by officers from the Federal Department of Fisheries and Oceans (hereafter referred to as DFO) for fishing eels out of season, fishing without a license, and fishing with an illegal net in Pomquet Harbour, which is located on the north-eastern shore of mainland NS near the town of Antigonish (Wicken, 2002: p. 4). Marshall was no stranger to the judicial system, nor to coverage in the media. In 1971, he was wrongfully convicted of murdering Sandy Seale in Sydney, Cape Breton, N.S. and spent eleven years in prison. Marshall's conviction was overturned by the Nova Scotia Supreme Court; his case received a tremendous level of media attention. A provincial royal commission into Marshall's case prompted sweeping changes to Nova Scotia's legal system. Marshall's win in the fall of 1999, at the Supreme Court of Canada, meant that his name was yet again linked with a landmark case — one this time that gave Natives the right to hunt and fish for a living (Coates, 2000: p. 3).

Convicted on three criminal counts in Nova Scotia's Provincial Court for having caught 463 pounds of eels and selling them for \$787.00, Marshall appealed the lower court's decision to the N.S. Court of Appeal, and then to the Supreme Court of Canada. Marshall's defence centred on the contention that the treaties signed between the First Nations and the British during the eighteenth century, in particular the treaties of 1760-61,

gave him the right to access natural commodities, both land-based and marine, for survival purposes. From this standpoint, the Supreme Court had not established new rights for Natives, but had clarified and affirmed rights recognized in the treaties. In the treaties, made in the context of hostilities between the French and the British, the Mi'kmaq, known as traditional allies with the French, agreed to trade only with the British at "truckhouses" set up for that purpose. Interpretation of the treaties therefore formed the basis of the Supreme Court of Canada's decision. Following the decision, however, a total of thirty-four Native bands in the Maritime Provinces, which included Burnt Church and eastern Quebec, began fishing lobster off-season.

In the meantime, non-Native fishermen argued that lobster stocks would dwindle and advocated a government ban on trapping lobster off-season. In the Supreme Court's clarification, which was an attempt to bring a higher level of clarity to the matter, the Supreme Court emphasized that the Federal Government did have the power to regulate Native fishing, although primarily for reasons of conservation. To be administered, any such regulation required substantive consultation and consensus between the Federal Government and the Native communities. The treaties were comparable, in scope and authoritative powers, to others that had affirmed the rights of Native people over natural resources throughout disparate areas of Canada (Coates, 2000: p. 11).

The complexity of the Marshall decision and its effects were evident at Burnt Church. Events that took place mainly during the year 2000 offered an example of the legacy of colonialism in North America, demonstrating that such attitudes still exist today. These events have made clear the differences Native and non-Native people in society face as a whole — a reality which is also illustrated throughout Canadian history where

Natives, non-Natives, and the state have engaged in contests and debates with one another, mainly over land and natural resources, for many years. Current evidence of this crystallized in the debate that escalated in 1990 when the Supreme Court of Canada sided with Ronald Sparrow, a Native from Musqueam Reserve in British Columbia (hereafter referred to as BC), who was charged at the provincial level for using a fishnet that exceeded acceptable limits on the Fraser River. The Supreme Court in this case ruled that Native people had a treaty right to fish for subsistence or ceremonial purposes as Native treaty rights were outlined in Section 35 of the Constitution Act of 1982 (Coates, 2000: p. 88). Additionally, in the summer of 1990, the Oka Crisis occurred. Mohawk Natives of the Kahnawake and Kanesatake reserves in the Province of Quebec acted in accordance with what they believed were their inherent rights to protect an area of land where their ancestors were buried. The acreage in question was sacred to the Oka community, yet was desired by the government and non-Natives, both of whom were seeking a license to build a golf course on the disputed land. Both the Sparrow case and the seventy-eight day standoff at Oka would receive extensive coverage in the media for national news consumers to digest. Both situations exemplify the differences that have existed among Natives, non-Natives, and the government. This thesis can be considered as a window to the past, present, and future that underscores such pointed differences between non-Native and Native populations, and how, in turn, the media covers debates and conflicts involving marginalized populations; in this case, Natives.

The events that unfolded at Burnt Church certainly made for interesting news. Accordingly, the main question encompassing the theme of the thesis is: Did the citizens obtain the full story when it came to the background of the Marshall decision and the

events that took place at Burnt Church? This question will be addressed by investigating the media coverage directly, which will illustrate the degree to which the news coverage of the Burnt Church dispute differed among varying national, provincial, and Native print media outlets.

The intent of this thesis is not to offer indiscriminate criticisms of the media, but to address a fundamental question facing today's society. The underlying conflict which begs delineation revolves around the media's degree of professionalism versus the ability of citizens to determine how and why news is constructed.

BACKGROUND

Marshall Wins

Five of the seven Justices from the Supreme Court of Canada sided with Marshall. Those Justices who sided with Marshall included: Ian Binnie, Peter Cory, Antonio Lamer, Frank Iacobucci and Claire L'Heureux-Dubé. The two other Justices, Charles Gonthier and Beverley McLachlin, disagreed with the majority. Of the prevailing justices, Justice Binnie was tasked with writing the decision.

Key points from the decision include:

- 1) Justice Binnie understood that the British recognized and accepted the Mi'kmaq way of life when making the treaties in 1760-1.
- 2) The court ruled that Marshall had the right to catch and sell fish, but with controls. Justice Binnie made it clear that the extent of fishing was limited to individual livelihood purposes and not to large-scale commercial ventures.

- 3) The court agreed that Mi'kmaqs could sell a limited amount of their catch; that is, the court did not grant ownership or control of resources. Income from fishing purposes had to be reasonable and not used for the accumulation of wealth.
- 4) The court declared that the federal government could regulate the coastal fishery, including that of Natives.
- 5) The court held that any regulations limiting Aboriginal fishing rights had to be justified. In cases where rights were lost, compensation would occur.
- 6) The Supreme Court interpreted the treaty to mean that Mi'kmaq treaty negotiators connected trade with peace. That is, the Mi'kmaq people of 1760-1 had the need to provide for their livelihood; whereas the British did not want Mi'kmaqs to become a financial burden, nor did they want them allying with the French. The Court declared that the right to fish commercially was a collective right, held by each band and not by individuals.
- 7) The decision recognized that historical context was important in analyzing the intent of the treaties and therefore in interpreting them.
- 8) The Court saw a need to go beyond the words of the treaties to determine the actual intent of the treaties to ensure that the proper intents could be used today.
- 9) A general right to trade was not granted. That is, Mi'kmaqs surrendered their 'trading autonomy' in exchange for trading outlets, otherwise known as "truckhouses" (Coates, 2000: p. 10-11).

Justice Binnie saw one word in the treaty as key — "necessaries" (Wicken, 2002: p. 227). It is this word, "necessaries" that was the basis for the interpretation of the Supreme Court's decision. The term 'necessaries' limited the extent to which Marshall

had the right to fish for eels, to an amount from which he could sustain a reasonable living, at the same time as preserving conservation needs. Because Marshall had not harvested too many eels, he won his appeal, as the charges against him were seen to infringe on his treaty rights.

Unusually, the Supreme Court of Canada issued a clarification of the initial Marshall decision, exactly two months later, based on a request from West Nova Fishermen's Coalition that a stay of judgement be issued, pending a rehearing. The Supreme Court refused to re-open the case and hear any new arguments or evidence (Coates, 2000: p. 18). Instead, and based on the controversy the decision had caused, the Supreme Court's clarification emphasised that "any contemporary treaty right would have to be within the spirit of the original treaty and the historical practices at the time of the treaty" (Coates, 2000: p. 18).

The clarification of the Supreme Court ruling underscored limits on the harvesting rights of Native people, in addition to providing guidance for future court decisions. The clarification showed that the Marshall decision related specifically to eels and did not, as some Natives assumed, open up all natural resource sectors. Other resources needed separate court challenges. Some key points from the clarification included:

- 1) Most importantly, the clarification made clear that conservation issues had priority over Aboriginal harvesting rights. Some Natives assumed after the initial ruling that their rights were paramount.
- 2) The clarification indicated that the ruling applied to local groups and not individuals (Coates, 2000: pp 17-18).

The fact that the Supreme Court issued a clarification in such a unique way shows the controversy the original Marshall decision caused. While the initial ruling could be interpreted as limiting harvesting rights of all Native people to appropriate circumstances, articles that appeared in various national and provincial print media outlets, for the most part, raised fears that such a decision had opened the door for Natives to have unlimited harvesting rights for fishing in an industry already plagued with declining stocks due to over-fishing by private industry during the twentieth century (Wicken, 2002: p. 229). In the meantime, the Native press outlets viewed the Supreme Court's decision as a sweeping victory, and a benefit to their economies, and tended to underscore the practice of conservation in hunting and gathering natural resources among Natives, a value passed down to them by their ancestors throughout the centuries. However, the coverage of the Supreme Court's decision and the clarification would take side-stage as all forms of media would turn their attention to the "us-versus-them" scenario that would develop at Burnt Church.

SAMPLE AND METHOD OF ANALYSIS

Sample: Fishing for News

There were hundreds of news articles collected — from national, provincial, and Native newspapers combined — that covered the Supreme Court of Canada's decision, its clarification soon after, and the conflict that took place in the community of Burnt Church and on the waters of Miramichi Bay during the year 2000.

The review of a number of news articles, relating to each of these notable moments during a one-year span, will demonstrate how a number of different outlets embodied competing ideological views — perhaps knowingly, or even unknowingly.

In order to capture the full scope of media coverage, news articles for this thesis were obtained through a large number of channels made available to academic researchers, and the public alike. These avenues included: the Saint Mary's University Patrick Power Library, the Nova Scotia Provincial Archives, the Dalhousie University Killam Library, and the Dalhousie University Archives. As well, a number of online research databases were utilized for this research, such as the Virtual News Library, the Canadian News Index, the Canadian Business and Current Affairs (CBCA), and the Public Affairs Information System (PAIS). A search from these sources yielded a total of 3,218 newspaper articles under the search headings of 'Donald Marshall' and 'Burnt Church' from August 1993 to the late fall of 2000, when the events at Burnt Church simmered down. There were 1,218 articles obtained from these sources from the time when the Supreme Court of Canada made its landmark ruling on the Marshall decision in September of 1999 to the late fall of 2000. The articles selected for this thesis connect with the key moments of the debates encompassing the Supreme Court's decision and clarification, as well as the events that occurred at Burnt Church.

The Globe and Mail and *The National Post* are the two national newspapers that will be used in this thesis, while *The Halifax Chronicle-Herald* and *The New Brunswick Telegraph-Journal* are the two provincial newspapers selected. All four newspapers are major dailies, and are widely read publications. Due to their widespread circulation and interest in readership, they are considered to be agencies that are part of the mainstream

media, which can also be referred to as the mass media or the popular media.

Windspeaker, a biweekly national publication, and *The Mi'kmaq Maliseet Nations News*, a bimonthly regional publication in Atlantic Canada, are the two Native newspapers being examined in this thesis. Since these publications fall outside of the traditional spectrum of popular media, by not being a daily publication and catering to a narrower and more specific readership, they are therefore classified as part of the alternative press.

It is important to acknowledge the comparative circulation levels of each newspaper used in this analysis encompassing the period when the Supreme Court announced the Marshall decision, its clarification soon after as well as the events at Burnt Church during 2000. According to the book, *Sources: Media Names and Numbers, 2000 Edition* (Sources, 2000), the circulation of following publications includes: *Globe and Mail* (335,090) (Sources, 2000: p. 158); *The National Post* (359,682) (Sources, 2000: p. 159); *The Halifax Chronicle-Herald* (88,859) (Sources, 2000: p. 162); *The New Brunswick Telegraph-Journal* (21,500) (Sources, 2000: p. 162). Furthermore, the Native press circulation numbers are as follows; *Windspeaker* (20,000) (Sources, 2000: p. 339); and *The Mi'kmaq Mailiseet Nations News* (12,000) (Sources, 2000: p. 227). The preceding data illustrates the disparity which exists between the national, regional (all of which are classified mainstream media), and the Native press (which are considered part of the alternative media).

Important for our understanding of how media agencies configure and execute coverage is the depth of resources which are brought to bear on stories of the day. Whereas *The Globe and Mail* primarily employed their own reporters in the field, *The Halifax Chronicle-Herald*, whose head office is based out of Halifax, relied on Canadian

Press (hereafter CP) reporters in most instances. *The New Brunswick Telegraph-Journal*, whom are situated in Fredericton which is not far from Burnt Church, to some degree relied on CP; however for the most part had staff writers reporting from Burnt Church. *The National Post* on the other hand mainly had reporters' cover stories from Toronto, Ontario, where their head office is located, and this locale is also where *The Globe and Mail's* headquarters is situated. Known as a multimedia bilingual — English and French — news agency, CP has been a widely used source of news content for newsrooms across Canada since its inception in 1917 (Canadian Press: www.cp.org). CP also has a division known as Broadcast News (BN). CP and BN combined have 98 member newspapers and 500 broadcast partners in Canada (Canadian Press: www.cp.org). The Native press opted to utilize stories submitted from its stable of freelance writers, all of which volunteer their time to provide content for publications. Some writers for the Native press are paid reporters, but for the most part contributions stem from its pool of volunteers. The head office for *Windspeaker* is located in Edmonton, Alberta, while *Mi'kmaq Mailiseet Nations News* is a newspaper based out of Truro, N.S.

When comparing the non-Native press entities with each other it may be observed that the mainstream press papers' — mainly that of *The Halifax Chronicle-Herald* and *The National Post* — frequency of CP wire stories was much higher and the use of stories from this service was based on editorial decisions of newspapers in terms of the allocation of resources. It should be noted that due to client confidentiality, CP does not provide working documentation of exactly how much money client newspaper pay for their services. This non-disclosure policy is in effect vis-à-vis its yearly service fees and wire stories.

The Native press relishes its independence and therefore would not aspire to use CP's services. Their reliance of submissions — paid or unpaid — by writers who maintain an interest in the issues at hand tells us that they are intent on articulating a Native message for a largely pro-Native readership, hence why they are part of the alternative landscape in the arena of media. This financial reality with which the Native press operates also reveals a lack of concerted resources when compared to that of the non-Native press. Overall however, it should be noted that the purpose of the Native press is to provide alternative voices for news consumers in our society. These publications, whether they be bi-weekly or bi-monthly, have more time to publish the news and of course more freedom to include commentary and analysis which of course is the role of the alternative press.

Summarizing our understanding of allocation and availability of resources, the stories selected in this analysis reflected newspapers which used their own in-house reporters as well as CP stories and submissions from outside writers. While this analysis will include how the media covered the reaction from the Supreme Court's decision and clarification, most of this work's focus will be on what the media covered the most: the events at Burnt Church.

Methodology: From text to context

This thesis will first underscore theories from academics who studied media and society and the construction process that goes into making the news. The thesis will then be broken down into separate chapters in order to explore how the news was manufactured and delivered to the nation, the region, and the Native population. In so

doing, a number of articles will be reviewed and the theories identified by a number of academics will probe how all outlets covered the Supreme Court's decision and its clarification two months later. The thesis will also spend much of its attention analysing the coverage of events that took place at Burnt Church the following year. The specific selection of articles utilized reflect what was generally accepted in journalistic parlance to constitute "hard news." Simply-stated, the majority of selected stories — all of which were over five-hundred words in length, which constitutes major news — in this analysis were given front page priority, while others received significant placing as top news stories. This work has also used a sample of articles authored by staff members of various newspapers and stories penned by CP reporters, which shows the approach taken by media outlets in providing consumers with news.

A separate chapter has been devoted to outlining the similarities and differences in news coverage among media outlets, which will also draw on the variety of theories relating to the media and society and the manufacturing of the news as outlined by scholars in this thesis. In the conclusion section of this thesis, a number of findings from the analysis of news articles in this thesis will be reiterated, and considerations for future research as they relate to this study will be identified.

Scope and Limitations

This thesis serves as a case study into the media coverage of the Marshall decision and the events that took place at Burnt Church. Therefore, out of necessity, the research had to be limited in scope on a number of fronts.

First, Marshall's three trials in the NS courts will not be explored in detail. Instead, the thesis will outline the Supreme Court's decision, and through a media analysis will draw on other key points that will provide a further understanding to the background of the treaties, mainly the treaties of 1760-61.

Secondly, the thesis will not delve extensively into Native history, or previous treaty rights cases throughout Canadian history. Rather, the intent of the thesis is to provide a snapshot of one particular treaty rights case and how the media, mainstream and alternative, in turn covered the Marshall decision, the Supreme Court's decision and clarification, and the events that spawned soon after.

Third, due to the number of articles collected, this thesis will analyze only a select number of news articles from each newspaper, most of which stem from the events at Burnt Church. In the special case of the Native press, opinion/editorial pieces will be used as a basis of analytical treatment. This is completely in concert with the traditional format and special exigencies of Native reporting (i.e. a bi-weekly or bi-monthly publication regime as compared to the non-Native daily's format).

Lastly, the thesis does not explore news coverage from broadcast outlets, such as television and radio, nor media found via the World Wide Web (WWW). Nor does it purport to be full discourse analysis or a media diary. Accordingly, the print articles included in this thesis are chosen to illustrate a broader sense of how different media outlets approached reporting of Supreme Court stories and the subsequent dramatic events which took place at Burnt Church.

CHAPTER TWO

MAKING SENSE OF THE MEDIA AND EXPLORING THE PRODUCTION OF NEWS

While there have not been any extensive studies on how the media — mainstream media or alternative media — covered the events at Burnt Church, there is a large volume of studies conducted among researchers of mass communications, cultural studies, political science, and sociology that identify theories as to how the media functions. While there are many viewpoints on how the media functions, there generally appear to be two focal tracks which characterize the research. The first is an emphasis encapsulated in the idea of news as a manufactured product, while the second is an emphasis on the true meaning of media.

The Principles of Journalism

It is first important to also look at authors who have identified the essential principles of journalism so as to gain a sense of perspective on the perimeters journalists at least make a cursory attempt at adhering to. This area offers insight with the characteristics of this industry and its relation to the public sphere, hence providing more insight to the news analysis employed in this work.

Bill Kovach and Tom Rosenstiel, in their work, *The Elements of Journalism: What Newspeople Should Know and the Public Should Expect* (2001), outline nine major points that serve as the foundation of journalism. Each of those major points will certainly be familiar to most who consume news on a regular basis, or even to those who

study it for academic/research purposes for that matter. Their points serve as a beneficial understanding as to what shapes news.

The authors' nine major points include:

- 1) Journalism's first obligation is to the truth.
- 2) Its first loyalty is to citizens.
- 3) Its essence is a discipline of verification.
- 4) Its practitioners must maintain an independence from those they cover.
- 5) It must serve as an independent monitor of power.
- 6) It must provide a forum for public criticism and compromise.
- 7) It must strive to make the significant interesting and relevant.
- 8) It must keep the news comprehensive and proportional.
- 9) Its practitioners must be allowed to exercise their personal conscience (Kovach and Rosenstiel, 2001: pp 12 & 13).

The authors derived these points from several years of research with media outlets and the editors/journalists who produce news in the United States — print and broadcast alike — through the Committee of Concerned Journalists, a prominent and active association whose mandate is to address issues/topics of interest that evolve in the media arena. Their study also included input from citizens who utilize media on an ongoing basis. Interestingly, the both authors did not include balance and fairness as points worth noting, and argue that impartiality is not necessary for the news media. For example, the authors note that “as journalists know, often there are more than two sides to a story. And sometime balancing them equally is not a true reflection of reality” (Kovach and Rosentiel: p.77).

The authors also argue that journalism at present is moving towards a more market-based system which stems from the advent of new technologies, such as with the Internet. The authors contend that this new technology disconnects journalism from geography and that this could hamper the delivery of accurate information to consumers.

The authors also point out that the media are being changed by globalization and how this is producing more entertainment-driven news, such as with stories involving the O.J. Simpson trial, the Monica Lewinsky case, and the suspicion surrounding Princess Diana's death, all of which occurred during the 1990s.

Additionally, the other pressing change that is taking place in the media stems from conglomeration, in that more newspapers, television and radio stations are merging together. This has clear implications for the survival of the press as an independent institution.

Still, however, while the media industry is undergoing change. The authors' nine major points are important to note, as providing an understanding of the core values that journalists have and should continue to have when covering the news, despite changing climates in the industry.

Baudrillard on the Meaning of Media

Jean Baudrillard, who is a theorist on media and society, provides paradigmatic models of the media as all-powerful and autonomous social forces, which produce a wide range of effects on those who purchase the news in the post-modern and democratic world. Baudrillard's work, which spans the latter half of the twentieth century, is highly

complex; yet his work provides a useful insight into the media and its connection with society in a sophisticated fashion that illustrates the true meaning of media.

In Baudrillard's work, *The Critique of the Political Economy of the Sign* (Baudrillard, 1981), he studied, at length, how the accelerating role of the media in modern society marks an era of production, characterized by the rise of industrial capitalism and the hegemony of the bourgeoisie, while post-modern society is an era of simulation that is dominated by signs, codes, and models. This process, which Baudrillard identifies as modernity, centres on the production of things — commodities and products — while post-modernity is characterized by radical semiurgy, by a proliferation of signs. Baudrillard interprets modernity as an explosion of commodification, mechanization, technology, and market regulations, while post-modernity is the site of an implosion of all boundaries, regions, and distinctions between high and low culture, appearance and reality. Furthermore, while modernity could be characterized as a process of increasing differentiation of spheres of life, post-modernity could be interpreted as a process of de-differentiation, and attendant implosion (Kellner, 2004: p. 2).

For Baudrillard, the emergence of technological advances in the media is an important factor in post-modernity, along with the increasing dissemination of signs and simulacra in every realm of social and everyday life for citizens who have access to the very tools of media and any advancement that derives from them (Kellner, 2004: p. 3). In fact, Baudrillard interprets the media as key simulation machines that reproduce images, signs, and codes which constitute an autonomous realm of hyper-reality and which come to play a role in everyday life and the obliteration of the social (Baudrillard, 1981: p. 7). Baudrillard's analysis of simulations and hyper-reality constitutes his most important

contributions to social theory and media critique, especially during the modern era when movie actors simulate politics and charlatans simulate TV-religion. Therefore, the category of simulation provides an essential instrument of radical social critique, while the concept of hyper-reality is an extremely useful instrument for social analysis of media, cybernetic, and information society. Baudrillard's analysis in this work (Baudrillard, 1981) points to a significant reversal of the relation between representation and reality. Previously, the media believed to mirror, reflect, or represent reality, whereas now the media, as a result of increases in technology, are coming to constitute a hyper-reality, a new media reality — more real than real (Kellner, 2004: p. 4). Baudrillard suggests the real is subordinate to representation leading to an ultimate dissolving of the real, which fuels intrigue and interest among media consumers (Kellner, 2004: p. 4).

In Baudrillard's work found in "The Implosion of Meaning in the Media" in his work, *Simulacra and Simulation* (Baudrillard, 1994), he claims that the proliferation of signs and information in the media obliterates meaning by neutralizing and dissolving all content — a process which leads both to a collapse of meaning and the destruction of distinctions between media and reality. Baudrillard suggests that in a society supposedly saturated with media messages, information and meaning implode — collapsing into meaningless noise, pure effect without content or meaning (Kellner, 2004: p. 5).

Therefore, information via the media is directly destructive of meaning and signification, actually neutralizing them. The loss of meaning is directly linked to the dissolving and dissuasive action of information, through all forms of communication. Baudrillard argues that information devours its own contents; it devours communication and the social;

information dissolves meaning and the social into a sort of nebulous state leading not at all to a surfeit of innovation but to the very contrary, total entropy (Baudrillard, 1994: p. 96).

Baudrillard also suggests a model of the media as a black hole of signs and information which absorbs all contents into cybernetic noise where all content implodes into a mere form for the citizen to interpret and decipher (Kellner, 2004: p. 6). In adopting the popular theory from Marshall McLuhan that the medium is the message, Baudrillard makes the following proposition:

The medium is the message signifies not only the end of the message, but also the end of the medium. There are no longer media in the literal sense of the term; that is to say, a power mediating between one reality and another, between one state of the real and another, neither in content nor in form. Strictly speaking this is what implosion signifies: the absorption of one pole into another, the short-circuit between poles of every differential system of meaning, the effacement of terms and of distinct oppositions, and thus that of the medium and the real. Hence the impossibility of a sense [meaning], in the literal sense of a unilateral vector which leads from one pole to another. This critical — but original — situation must be thought through to the very end; it is the only one we are left with. It is useless to dream of revolution through content through form, since the medium and the real are now in a single nebulous state whose truth is undecipherable (Baudrillard, 1994: pp 102-103).

Essentially, Baudrillard suggests that the very project of developing a radical theory of media is impossible because there really are no media in the sense of institutions and cultural machines mediating between dominant political and economic powers and the population (Kellner, 2004: p. 7). Baudrillard claims that the media and reality implode so that it is impossible to distinguish between media representations and the reality they supposedly represent (Kellner, 2004: p. 7). Baudrillard also suggests that the media intensify the content of news by producing mass audiences with an enormous amount of ideas and experience (Kellner, 2004: p. 7). On the other hand, Baudrillard claims that the

masses absorb all media content, neutralize, or even resist, meaning, and demand and obtain more spectacle and entertainment, thus further eroding the boundary between media and the real (Kellner, 2004: p. 7). In this sense, the media implode into the masses to an extent that the effects the media have on the masses and how the masses process the media become unknowable. The media implosion into undifferentiated messages, and the masses' processing of the messages have effects that are difficult to measure.

Consequently, in Baudrillard's view, the media do pander to the masses, reproducing their taste, their interest in spectacle and entertainment, their fantasies and way of life, producing an implosion between mass consciousness and media phantasmagoria (Baudrillard, 1994: p. 107). In this way, Baudrillard short-circuits the manipulation theory which sees media manipulation imposed from above, producing mass consciousness. Yet Baudrillard seems to share the contempt for the masses in standard manipulation theory, claiming that they want nothing more than spectacle diversion, entertainment and escape, and are incapable of — or uninterested in — producing meaning (Kellner, 2004: p. 8).

In *On Seduction* (Baudrillard, 1983(1)) Baudrillard uses the distinction between what he calls “hot” and “cool” media in order to identify the ways in which media obtain and process information and in the end exterminate meaning, just as McLuhan originally identified. The media, according to Baudrillard, take “hot” events such as sports, wars, political turmoil, and transform them into “cool” media events, which he interprets as an altogether different kind of event and experience (Kellner, 2004: p. 6). Concerning a televised sports event, he writes: “Do not believe that it is a matter of the same game: one is hot, the other is cool — one is a contest where affect, challenge, mise-en-scene, and

spectacle are present, whereas the other is tactile modulated (visions in flash-back, replays, close-ups or overhead views, various angles, etc): a televised sports event is above all a televised event, just as the Holocaust or the Vietnam War are televised events of which one can hardly make distinctions” (Baudrillard, 1983(1): p. 217). Baudrillard argues that the dominant media becomes “cool,” and this process neutralizes meaning and involves the audience in a flat, one-dimensional media experience, which he defines in terms of a passive absorption of images, or a resistance of meaning, rather than the active processing or production of meaning (Kellner, 2004: p. 7).

In Baudrillard’s paper, “The Ecstasy of Communication” in the *Anti-Aesthetic: Essays on Post Modern Culture* (Baudrillard, 1983(2)), he identifies the media as instruments of obscenity, transparency, and ecstasy — in a special sense of these terms (p. 10). Baudrillard suggests that in the post-modern media landscape, the domestic scene – or the private sphere per se – with its rules, rituals, and privacy is exteriorized, or made explicit and transparent,

...in a sort of obscenity where the most intimate processes of our life become the virtual feeding ground of the media. Inversely, the entire universe comes to unfold arbitrarily on your domestic screen (all the useless information that comes to you from the entire world, like a microscopic pornography of the universe, useless, excessive, just like the sexual close-up in a porno film): all this explodes the scene formerly preserved by the minimal separation of public and private, the science that was played out in a restricted space (Baudrillard, 1983(2): p. 130).

Additionally, the spectacles of the consumer society and the dramas of the public sphere are being replaced by media events that provide images (still or moving), which show citizens everything instantaneously without scruple or hesitation. “Obscenity begins

precisely when there is no more spectacle, no more scene, when all becomes transparency and immediate visibility, when everything is exposed to the harsh and inexorable light of communication” (Baudrillard, 1983(2): p. 130). The “ecstasy of communication” implies that everything is explicit, ecstatic (out of, or beyond itself), and obscene in this transparency, detail, and visibility: “It is no longer the traditional obscenity of what is hidden, repressed, forbidden or obscure; on the contrary, it is the obscenity of the visible, of the all-too visible, of the more visible-than-visible. It is the obscenity of what no longer has any secret, of what dissolves completely in information and communication” (Baudrillard, 1983(2): p. 131). With this identified, one may think here of recent media obscenities that have made the news, such as the trials in the United States involving O.J. Simpson and Michael Jackson, and in Canada, with the Gomery Inquiry. Such examples link to Baudrillard’s claim that in this world, via the media, everything becomes transparent, and there are no more secrets, privacy, depth, or hidden meaning. Instead an overload of information and communication unfolds in which the media disseminate a teeming network of cool, seductive, and fascinating sights and sounds to be played on one’s own screen, terminal, or newspaper. With the disappearance of exciting scenes (in the home, or the public sphere), passion evaporates in personal and social relations, yet new fascination emerges — “the scene excites us, the obscene fascinates us” (Kellner, 2004: p. 9) — with the very universe of media and communication. In this universe we enter a new form of subjectivity where we become saturated with information, images, events, and ecstasies. Without defence or distance, “we become a pure screen, a switching centre for all the networks of influence.” (Kellner, 2004: p. 9) In the media society, the era of interiority, subjectivity, meaning, privacy, and the inner life is over; a new era of

obscurity, fascination, vertigo, instantaneity, transparency and overexposure begins (Baudrillard, 1983(2): p. 133).

Interestingly, in *On Seduction* (1983) and Baudrillard's most recent work, *The Spirit of Terrorism* (Baudrillard, 2002) - which probed the meaning of the media and coverage relating to the terrorist attacks on the United States on September 11, 2001 — he provides a framework for one to understand the acts of terrorism and how related events are transformed into images for news consumers. Baudrillard goes so far as to indicate that with terrorism-related events, television, as one example of media, enacts and enables terrorism, but more broadly, enables our desire for the experience of terrorism. Baudrillard writes, "The role of [moving or still] images is highly ambiguous. For, at the same time as they exalt the event, they also take it hostage" (Baudrillard, 2002: p. 27).

However, insofar as the televised image is complicit in the production of terror, so is the television viewer similarly culpable, and not, as Baudrillard cautions, simply for being a spectator:

The fact that we have dreamt of this event, that everyone without exception has dreamt of it — because no one can avoid dreaming of the destruction of any power that has become hegemonic to this degree — is unacceptable to the Western moral conscience.... At a pinch, we can say that they did it, but we wished for it. If this is not taken into account, the event loses any symbiotic dimension. It becomes a pure accident, a purely arbitrary act.... Without this deep-seated complicity, the event would not have had the resonance it has, and in their symbolic strategy the terrorists knew that they can count on this unavowable complicity (Baudrillard, 2002: pp 5-6).

Baudrillard offers a unique perspective on the media and how its codes, signals, and messages are delivered to the masses. Baudrillard's works, those referenced in the thesis and those which study media and society, cast a much larger net on the meaning of

media, and provide scholars and general audiences alike with a wide scope of how the media function and their impact on the citizen. Baudrillard's work, used in this thesis, serves as a beneficial insight of how imagery and messages through the media are not only complex, but also how they can be interpreted among those who purchase the news or use the various forms of media. From Baudrillard's work one learns the complexities of communications, how moving images, or still images, are presented in a one dimensional fashion through the eye of a camera lens, hence why consumers may not obtain the full scope or understanding of a particular event being presented.

Through interpreting Baudrillard one can assume that nothing in the private sphere can be kept hidden through the lens of a camera, instead is imploded for news consumers to digest. Additionally, Baudrillard questions what is real and what is not real, citing the terrorist attacks on the United States, and calls into question the deceptive role images play in the eyes of the consumer and how, in turn, they make one desire more tragedy, just as the consumer had once dreamt about (Baudrillard, 2002: p. 27).

Regardless of whether the images given are moving or in still-form media properties are attempting to convey the essence of a story. Baudrillard's main points on the meaning of media can certainly be applied to the study of how the media covered the Marshall decision and the events that unfolded at Burnt Church. The full debate over the Supreme Court's decision clarification, and the events in northern NB were public events that were not hidden, but instead played out on a stage for the public to witness. Overall, Baudrillard's work on the meaning of media and society shows us that because so much goes on in the dynamics of media, meaning is simply lost in the end and the true story becomes eroded.

The Factory Model of News

While Baudrillard provides a useful insight into the meaning of the media, it is still important to review how the news is assembled among outlets of the media in a finite approach. News, as many scholars — like Kellner (2004) — may agree with Baudrillard, is in fact a construction of reality, rather than a true picture of reality. This is not in itself surprising, considering that media is required to meet an inexhaustible demand for a staple commodity, but it does place oddly with the conventional notion that contents of news are, in some sense, novel and unexpected and are responses in the form of reports of unexpected events, which claim to be true reflections of reality. The reason for this stems directly from the fact that news is created as a factory model which can be categorized into the following set of headings: news discovery, ‘links to sources’, time as a factor in news making, framing, and, economic influences. These key areas, in the factory model of news, are identified by the scholars Charles Whitney, Randall Sumpter and Denis McQuail in their work entitled, “News Media Production: Individuals, Organizations, and Institutions” which is included as a chapter in *The Sage Handbook for Media Studies* (Whitney, Sumpter, and McQuail, 2004). A number of other works produced by such notable contemporary scholars such as Chris McCormick, Edward Herman and Noam Chomsky, Robert Entman, and Richard Ericson, Patricia Baranek and Janet Chan and

even the findings from *The Final Report of the Royal Commission on Aboriginal People* (Government of Canada, 1996) all portray news as a manufactured product. These studies connect with the main themes outlined by Whitney, Sumpter, and McQuail, and argue for the most part that citizens gain only a marginal version of news stories relating to a variety of events; planned or unexpected. Thus, limitations or boundaries exist in the process of making the news, in accordance with the journalistic principles given voice by Kovach and Rosenstiel earlier in this chapter. Additionally, contemporary events that have made for popular news in Atlantic Canada, Canada, and around the world will also be woven into the discussion of the key points that derive from the factory model of news in order to illustrate further the production of the news in this fashion.

News Discovery

Whitney, Sumpter, and MacQuail argue that the first stage of the manufacturing process is that of assembling raw material for conversion into the typical contents of newspapers or news bulletin on TV or radio (2004: p. 403). Several strategies have been described in research for organizing the search for material, although the underlying basis is typically laid down by a fixed allocation of resources to different topic areas and “news beats” — the places where news events tend to become visible (Whitney, Sumpter, MacQuail, 2004: p. 403). These are places where situations or events happen, planned or unplanned, and there are people around to whom it happens — those who are newsworthy. The places include law courts, police and military headquarters, parliaments, stock markets, sports stadiums, and also locales where unexpected events unfold and where news stories become readily available for a substantial period of time,

such as with the Oka stand-off in 1990. Media outlets from across Canada sent reporters to this Native community once the blockades and barbed wire fences were put in place. Mohawk band members, in their black ski masks and camouflage headbands holding their weapons, set out to protect their sacred land. The lengthy stand-off in this case is a prime example of news discovery. The Canadian Broadcasting Corporation (hereafter referred to as CBC) — Canada's public broadcasting outlet — gave an ample amount of live coverage to the seventy-eight day stand-off, while other TV and radio stations in Canada provided up-to-the-minute coverage on a daily basis. Despite the obvious format differences and ability to convey immediacy newspapers tended to mirror their broadcast brethren in approach and execution of subject matter. Therefore, it also may be claimed newspapers from across Canada ensured that the standoff garnered daily front page attention for consumers to consume.

Links to Sources

Whitney, Sumpter, and MacQuail suggest that one key to solving the problem of a constant supply of raw material for processing as news is to have dependable sources, but this can also mean having ties of interdependence with sources and opening the way to collaboration (2004: p. 403). In Ericson, Baranek, and Chan's study, entitled, *Negotiating Control: A Study of News Sources* (Ericson, Baranek, and Chan, 1989), they refer to a special category of 'source media' whose main activity is to supply journalists with what they are looking for on behalf of various source organizations that often have a deep interest in the news as a communications tool. The media concerned include press conferences, press releases, and public relations. Ericson, Baranek, and Chan argue that

the organizations that supply news are not usually disinterested. Often, they consist of government officials, the police and other authorities or businesses, lobby groups and special interest groups that may be accurately called elements of elite authority. In turn, journalists report facts for news articles based on information from a regular flow of news sources and the facts are validated in the sense that reporters rely on information provided by authoritative groups and other key individuals involved in a particular story (Ericson, Baranek, and Chan, 1989: p. 378).

Herman and Chomsky contend in their work, *Manufacturing Consent: The Political Economy of the Mass Media* (Herman and Chomsky, 2002), that news outlets are drawn into a symbiotic relationship with their sources of information which is based on economic necessity; that is, many media outlets rely on a regular flow of news in order to meet their tight deadlines, and are also not able to afford placing reporters everywhere, unless an event is sufficiently newsworthy to warrant the presence of news reporters (Herman and Chomsky, 2002: pp 18-19). Herman and Chomsky suggest that whether it is public or private institutions, the media deem those who work in official capacities as “credible sources.” In arguing this, Herman and Chomsky emphasize the magnitude of the public information operations of large government and corporate bureaucracies that constitute the primary news source for many media outlets in the United States. For example, the Pentagon, during the late 1970s and early 1980s, had a public information service that involved thousands of employees and cost the United States Government millions annually. As well, based on data from 1979 to 1980, the United States Air Force operated a massive public information outreach program, which included 140 newspapers (690,000 copies per week); *Airman Magazine* (monthly circulation of 125,000); 34 radio

stations and 17 TV stations, primarily overseas; 615,000 news releases in the United States in each year over a two-year period; 45,000 headquarters and unit news releases; 6,600 interviews with the news media; 3,200 news conferences; 50 meetings with editorial boards; and, 11,000 public speeches, mainly for the mass media (Herman and Chomsky, 2002: p. 20). Other examples of public outreach Herman and Chomsky use are those from the corporate sector, such as the United States Chamber of Commerce and Mobil Oil, both of which in the early 1980s spent billions on public relations staff, news conferences, news releases, advertising campaigns, and various sorts of publications funnelled to the media and the public alike (Herman and Chomsky, 2002: p. 20).

McCormick's work, *Constructing Danger: The Misrepresentation of Crime in the News* (McCormick, 1995), refers to the "links to sources" process as pack journalism, which he describes as a uniform approach reporters and their media outlets take in reporting stories (McCormick, 1995: p. 197). McCormick uses the Westray Mine Explosion, in Pictou County, NS, coverage in the early 1990s as an example of pack journalism and its results for consumers. McCormick's study of this tragic event, which took the lives of twenty-six miners provides one with an understanding of pack journalism, as citizens were inundated with information concerning the number of deaths and the impact the tragedy had on families and the Pictou County community. McCormick cites this tragedy as an example of how the media readily sought out government officials, lawyers, and public relations practitioners, reporting the story mainly as a tragedy rather than portraying Westray as a safety hazard (McCormick, 1995: p. 213). The overall coverage, McCormick suggests, tended to focus less on the poor condition of the Westray mine that led to the disaster in the first place, which was

highlighted during the inquiry that followed (McCormick, 1995: p. 213). The headlines that followed this tragedy included everything from “Explosion Triggers Media Marathon,” to “Inside the Westray Disaster,” (McCormick, 1995: pp 202 & 204) to name a few examples. Taking in the entirety of news coverage, the few articles pertaining to the mine’s safety record, coupled with the exploitive coverage of the deaths, indicated that a tempered objective analysis of the events was not undertaken by the media. This position, McCormick argues, is clearly validated in that, once the inquiry began, the number of news articles about Westray declined (McCormick, 1995: p. 214).

Time as a Factor in News Making

By definition, news is certainly timely, and news media operates on fixed schedules of production, with a cycle that may be a week, a day, every few hours, or even more or less continuously, according to Whitney, Sumpter, and MacQuail (2004: p. 404). News production, and the news itself, has to fit within the time available, with consequences for the kind of event that figures in the news and is most likely to have news value for citizens. Whitney, Sumpter, and MacQuail suggest editors and journalists alike facilitate the allocation of their resources by typifying news events according to a certain time scale (Whitney, Sumpter, MacQuail, 2004: p. 404). Whitney, Sumpter, and MacQuail distinguish between events in terms of their degree of expectedness or pre-scheduling, ranging from those long predicted, such as an election campaign, to the completely unexpected, which happen as the news is in its final moments of assembly (Whitney, Sumpter, and MacQuail, 2004: p. 404). There is a third timeless category consisting of soft news stories that are not connected to any particular schedule and can

be saved up or used at will. Examples of this could be feature stories, such as profiling an entrepreneur who has made leaps and bounds in his/her field of business. Whitney, Sumpter, and MacQuail indicate that another dimension is the type of news stories, in which time is also a key component. A general category is hard news, which is always scheduled with three subcategories: spot news (isolated and recently completed events); developing news (incomplete and ongoing); and, continuing news (where stories are added up to a sequence following a particular event or theme) (Whitney, Sumpter, and MacQuail, 2004: p. 404). Interestingly, Whitney, Sumpter, and MacQuail indicate that the media's preoccupation with time has consequences. One is to reduce the meaningfulness of news when points have to be made quickly. Another is the fact that items may lose a place in the news forever, if they do not find a time slot when they are immediately current. Finally, it gives an extra advantage to well-placed sources whom can time their own interventions and events to maximize the chances to gain success (Whitney, Sumpter, and MacQuail, 2004: p. 404).

Framing

Whitney, Sumpter, and MacQuail contend that framing is about selection and salience. It is the process by which journalists select topics, define the underlying issue, and interpret causes and effects (Whitney, Sumpter, and MacQuail, 2004: p. 405).

Whitney, Sumpter, and MacQuail point to the work produced by Entman, who has extensively studied this area of communications and suggests that a frame is essentially a way for editors and reporters to organize fragmentary pieces of information in a thematic way that facilitates news gathering, news production, and, in principle at least, audience

comprehension and learning (Whitney, Sumpter, and MacQuail, 2004: p. 405). However, at this last stage, framing is more likely to be an unknowing source of bias and even miscomprehension; that is, a news frame has affinities with more familiar notions of news “peg” or “angle” or “theme,” and it helps to join apparently similar events into a connected whole. Stories relating to crime, war, and protests — all of which define conflict or fear in their own right — encompass the true meaning of framing in effect. Entman, in his article, “Framing of US Coverage of International News,” in the *Journal of Communication* (Entman, 1991), illustrates how two similar incidents, the shooting down of a Korean airliner by Soviet forces and the downing of an Iranian airliner by the U.S. Navy, were framed in different manners among major news outlets in the United States, leading to quite different evaluative conclusions. The Korean/Soviet incident was often framed as an unwarranted attack, an act of war, in the context of the ongoing cold war. The Iranian case was treated as an unfortunate accident and a tragedy, without any negative reflection of motives or responsibility of the perpetrators. Canadian media typically followed the lead of the their U.S. brethren concerning the coverage of these high profile incidences. For example, a review of an extensive number of print articles from the Virtual News Library of *The Winnipeg Free Press* and *The Globe and Mail*, two major Canadian news sources, emphasized the destruction of the Korean Airliner was an act of war and that the U.S. demolition of the Iranian airliner constituted simple misfortune during a tense time between United States and Iran. Either way, framing occurred as Entman indicated (i.e. that conflict is a form of framing). The examples above illustrate that frames are rarely neutral or value-free, nor chosen by chance. They open the

way to manipulation of news by interested parties and indeed are often used in this way, whenever a choice of frames is available.

McCormick discusses framing in the context of the Halifax, Nova Scotia race riot in the summer of 1991. The so-called riot took place in late July, 1991, stemming from a group of African Canadians who had been refused entry at a bar near downtown Halifax during the early morning hours, and who following this entry refusal began assaulting white bystanders and vandalizing local storefronts in protest. The news media, as McCormick suggests, framed their news articles by way of interchangeably connecting “rioting” on the streets to “racial tension” simply for the reason that the events involved an altercation between two races, and which made for compelling front page articles in newspapers (McCormick, 1995: p. 122). Race was portrayed as the root of the problem by police authorities and by newspapers such as *The Globe and Mail* and *The Halifax-Chronicle Herald*, both of which provided readers with articles that lacked depth and proper explanation to the overall issue at hand. The newspapers instead provided reports that mainly described the downtown core of Halifax as a “war zone” and the rioting in the streets as “chaotic,” “destructive,” and “rebellious,” and an example of “disorder” was clearly illustrated (McCormick, 1995: p. 124).

Current evidence of framing can be further illustrated in “One War, Two Stories” — a short documentary produced by the British Broadcasting Corporation (BBC) in 2004. This story compared how the Central News Network (hereafter referred to as CNN) in the United States and the Al Jazeera Television Network in the Middle East covered the war on terrorism from the fall of 2003 to the early summer of 2004. The documentary demonstrated that each outlet framed its story from a different perspective. The broadcast

showed how CNN favoured the United States-led attack, while Al Jazeera covered the events overall as an act of terror, in-and-of-itself. The short film concluded that, in the case of the war on terrorism, as one example, consumers of each outlet gained one-sided versions of news.

Economic Influences

The single largest influence on the production of news is money. Whitney, Sumpter, and MacQuail argue that news organizations have the main goal of earning profit in order to operate, and add that even when this is not the case — there are non-profit and publicly owned news services — the high costs of modern news production and distribution introduce economic criteria at every stage, from selection to distribution (Whitney, Sumpter, and MacQuail, 2004: p. 406).

News that meets professional standards of originality and novelty value, as well as embodying high production and presentation values, is no doubt bound to be expensive, not only because of necessary operational costs, but also because of its market value under competitive conditions. This especially applies to investigative and other forms of in-depth reporting (Whitney, Sumpter, and MacQuail, 2004: p. 406).

There is no shortage of low-cost content from agencies, or free content from self interested suppliers to fill space, but to be first and to be original with news almost always requires an organization to use its own well-qualified employees at all stages of the news process (Whitney, Sumpter, and MacQuail, 2004: p. 406). It is the recovery of the cost of expensive news that leads to strong content. If the main source of revenue is the paying consumer the audience has to be large or, if small, willing to pay over and

above the standard amount for quality (Whitney, Sumpter, and MacQuail, 2004: p. 406).

The second case hardly applies to general interest news services. To attract large audiences, news has to have audience-maximizing strategies, with likely popularity guiding selection rather than judgements of significance.

Whitney, Sumpter, and MacQuail, as well as Herman and Chomsky, contend that advertising is another key source of revenue for media outlets and advertising space is a driving force in distributing the news and defines the tenor of news — both for print and broadcast media (Whitney, Sumpter, and MacQuail, 2004: p. 406; Herman and Chomsky, 2002: p. 14). Whitney, Sumpter, and MacQuail add that established news media are likely to be owned by large organizations or wealthy individuals (Whitney, Sumpter, and MacQuail, 2004: p. 406). This raised the danger of monopoly and opens the way for influence on news content that tends to favour big business interests. Importantly, owing to the corporate nature of these media enterprises, it is estimated that 80 % of newspaper revenue is derived from advertising. Such influence is not unrestrained and is not often easy to demonstrate, but it does exist, with little effective counterweight in the mainstream media and the alternative media (Whitney, Sumpter, and MacQuail, 2004: p. 406).

The Final Report of the Royal Commission on Aboriginal People (Government of Canada, 1996) was an extensive five-volume study commissioned by the Government of Canada at an overall cost of \$58 million which investigated a number of social issues facing Native people in Canada. The Commission noted that Native publications do not have the advantages or economic influences that more established media institutions gain from big business (Government of Canada, 1996: p. 623). Volume III of this study, entitled, “Gathering Strength” (Government of Canada, 1996), addresses the need for

Natives to seek ways of producing more publications that tailor to their social values, which will only offer more citizens with the opportunity to gain other viewpoints when it comes to reading the news. The Commission does point out that portrayals of Natives as the noble and savage victim and villain are realities woven within narratives of Canadian culture. With recent conflicts between Natives and non-Natives, such as Oka, more needs to be done in order for both populations, Native and non-Native, to understand differences that exist (Government of Canada, 1996: p. 623). The development of First Nations publications, such as *Windspeaker*, is an essential step in fostering better relations between First Nations and non First Nations. First Nations-centered publications provide an accessible and authoritative source through which non First Nations People can better understand what First Nations have accomplished as well as outlining for other populations what the cultural, economic and political needs of First Nations people, as well as First Nations accomplishments and developments in society (Government of Canada, 1996: p. 624).

Any form of media can have a concentration of ownership, whether it is the mainstream or alternative media. The monopoly of media exists within the publications used in this thesis — mainstream and alternative. According to a recent study, “Ownership of Canadian Newspapers,” which was released by the Observatory on Media and Public Policy at McGill University (McGill University, 2005), Bell Globemedia owns *The Globe and Mail*, and Canwest operates *The National Post* (McGill University, 2005: p. 1). *The Halifax Chronicle-Herald* is a family-run newspaper owned by long-time Halifax business person Graham Dennis, and *The New Brunswick Telegraph-Journal* is operated under the aegis of the Irving family-owned subsidiary *Brunswick News Inc.*, who not only dominate

ownership in the media industry in Atlantic Canada, but also other sectors central to the region's economy (McGill University, 2005: p. 4). *Windspeaker* and the *The Mi'kmaq Maliseet Nations News*, are owned and operated by a collective of Native bands within Canada (McGill University, 2005: p. 7). All these publications rely on advertising revenue in order to operate. In spite of who owns what in the media, differences in ownership are inevitable in a free press. The real benefit in all this is that Western society offers its citizens a variety of media, which they may purchase at their discretion. Therefore, the part of ownership is offset by the ability of news consumers to obtain news from a number of publications or broadcast news stories at low cost, or, in many cases free of any charge. Public libraries across Canada, for example, offer free memberships, and provide access to a variety of publications — newspapers and magazines — free of charge, as well to information databases through computer terminals, and broadcast TV stories posted on TV and radio network sites, and other free publications offered online. Varieties of ownership are necessary in a free economy, and provide consumers with choices in the media they obtain.

Conclusion

This chapter has utilized the works of numerous scholars interested in the study of media. Their concepts identify the dynamics influencing the workings of media. Most importantly, the works by these scholars have paved the way for one to gain a better understanding of the workings of media, and thus their theories can be applied to the media analysis in this thesis.

Journalistic principles, as seen through the eyes of Kovach and Rosenstiel, began our scholarly journey. Their theory revolved around nine core points. Interestingly, they choose to exclude the usual theme of balance, claiming that balance can be deceptive where the facts are known to be overwhelmingly in favour of a particular perspective. Also, on issues where there are more than two viewpoints, balance can be a limiting factor which prevents journalists from getting at the truth of a matter. Kovach and Rosenstiel see journalists as ideally independent thinkers who are capable of intellectual diversity and who eschew easily obtained ‘facts’ as spoon-fed to them via elites.

In addition to Kovach and Rosenstiel, there are two other paradigms of thought used in this chapter. The first derives from Baudrillard, who offers critical thought on the meaning of media — in the context of modernity and post-modernity — such as his notion of hyper-reality, or the fabricated system of meaning that does limit human participation in the world to the role of the consumer or responder — rather than the producer or initiator (Kellner, 2004: p. 7). The second paradigm is the discussion of the theories stemming from the production of news; that is via the factory model of news. Here, one learns of the precincts that do exist in day-to-day activities in making the news for consumers to purchase. While the factory model of news may be interpreted by some as an unduly pessimistic outlook on the news media and how news is shaped, this overall production theory is still useful when conducting any media analysis. There are obvious boundaries in the production of news, such as with news discovery and timing, as current events tend to take precedence in the formation of news. In any event, these two paradigms are useful to employ when looking at how news is formed. Other points, such as sourcing of news — otherwise known as pack journalism — framing, and economic

influences also serve as boundaries in news production, and these points too are important when looking at how the media — mainstream and alternative — covered the Supreme Court's decision and its clarification, as well as the events at Burnt Church. While there are confines that exist in making the news, which has been made evident in identifying the factory model of news, these points will be used to show how different forms of media-generated news of the Supreme Court's landmark decision and its clarification, and the events that unfolded in a small Native community. The themes noted in this chapter will serve directly as an anchor that will aid in illustrating the similarities and differences that existed in the Supreme Court of Canada's decision on Marshall's charges, as well as the events that took place at Burnt Church. Most importantly, the themes illustrated will prove how sides were taken by mainstream and alternative publications and will address whether or not readers obtained full coverage from the many newspaper stories that derived from the Marshall decision.

CHAPTER THREE

DONALD MARSHALL, THE SUPREME COURT AND THE MEDIA

When the Supreme Court issued its initial ruling in the fall of 1999, Burnt Church was its usual self; there were no crowds gathered along the lapping shores of Miramichi Bay, no media satellite trucks blocking side streets, nor roadblocks on the highway leading to the community. Word of the Supreme Court's decision spread quickly, among Mi'kmaq residents from Eastern Quebec and across Atlantic Canada, that Donald Marshall had been acquitted, and affirmed to Natives their treaty rights to fish in the open waters — no matter where they lived. The Supreme Court's decision was a time of celebration for Natives, but also caused concern among non-Native fishermen and government officials, as fish stocks were being further threatened. By examining this cross-section of articles in reaction to the Supreme Court's ruling and its clarification, one can gain an insight into how the media covered these events. In exploring the articles released by media outlets, and in tying in the media theories outlined by a number of scholars one begins to understand the similarities and differences from the mainstream and alternative press.

Reading the Marshall Decision

The day after the Supreme Court of Canada announced its landmark decision, *The Globe and Mail* ran an article on its front page entitled, "Donald Marshall Wins Again: Man set free in landmark case spearheads native-rights victory in Supreme Court" (Makin, 1999). A head-and-shoulders photo of Marshall wearing a baseball cap ran

alongside one of the newspaper's top national news stories of the day. The headline alluded to the fact that this was not the first time Marshall or his legal representatives had made an appearance in the Supreme Court, which was reiterated in the text of the news article. Publication of this article on the front page the day after the Supreme Court's decision was an example of news discovery and timing.

The lead paragraph started off with: "A Nova Scotia Native whose name has become synonymous with injustice led his Mi'kmaq Indian band to major legal victory yesterday in a dispute over fishing rights" (Makin, 1999: p. A1). The description of Marshall's name is synonymous with injustice. Interestingly, the word "Indian" was used in the lead to identify Marshall's band. Since the word "Indian" is no longer an acceptable way to describe Natives and their bands, it seems surprising the newspaper would posit this word and not use more acceptable terms such as aboriginal or Native. The beginning of this article serves as an example of what Entman would describe as unknown bias positioned into framing.

The article went on to indicate that the Supreme Court acquitted Marshall on three charges of illegally catching eels and notes that the treaty of 1760 signed with the British allows both him and his band the right to catch fish and sell them for sustenance. Then the article continued by indicating how Marshall was wrongfully convicted for murder as a teenager in Sydney, Cape Breton, in 1971 and that his conviction was "quashed" by the Nova Scotia Supreme Court in 1983. McCormick's theory on framing would connect this use of information as showing Marshall in a negative light, in that Marshall's past (murder conviction) was reiterated.

The article explained how Marshall never wanted to see a day in court again, and how he felt like giving up his fight to protect Native treaty rights in Nova Scotia's courts and, in the end, the Supreme Court of Canada. Marshall is then quoted: "In the end it paid off.... At the time I almost gave up, but in the back of my mind I knew that I had dealt with bigger problems" (Makin, 1999: p. A1). The article did not make any other mention of Marshall's conviction for murder, nor did it quote him anywhere else in the text.

The article, which noted the five-to-two-majority in the Supreme Court's decision, then proceeded to outline the decision by the Supreme Court and highlights comments made by Justice Binnie, who stated: "I would allow this appeal because nothing less would uphold the honour and integrity of the Crown in its dealings with the Micmac people to secure their peace and friendship — as best the content of those treaty promises can now be ascertained"(Makin, 1999: p A1). The article stressed Justice Binnie's point that the Supreme Court's decision did not mean that Natives in Atlantic Canada were allowed open season when it came to harvesting fish *en masse* and selling them in bulk, and that if there were concerns from the government, then limits on catch would have to be identified in order for Natives to earn a moderate livelihood, but no more.

The article provided a quotation from only one legal expert, Patrick Monahan, a professor at Osgoode Hall Law School at the University of Toronto, who saw the Supreme Court's decision as yet another example of a jurisprudential vein that frowned on narrow niggling views of age-old treaties in Canada. "It [the Supreme Court's decision] is significant in that it confirms a liberal approach to the interpretation of the treaties and that one should go outside the actual words of a treaty to ascertain their meaning to the parties at the time" (Makin, 1999: p. A1), according to Monahan. In reading the article thus far,

the use of sources appears limited; especially with the use of Monahan as the only expert, given the high density of treaty rights experts across Canada.

“Links to sources” can also be seen throughout the remainder of the article, as it is comprised of quotations from the Judges of the Supreme Court. The article then addressed a statement from the Supreme Court, where the majority decided that it was only fair that they look beyond the actual wording of a treaty and examine other documents and oral utterances at the time in order to add valuable context (Makin, 1999: p. A1).

The article then included more background to the majority decision from Justice Binnie, who felt that Nova Scotia’s lower courts were too stringent in their decision and who “failed to appreciate the treaty’s broad context” (Makin, 1999: p A1). The article also referred to how the high court felt about the parallel that existed between Marshall’s fishing expedition to an entry found in a missionary’s 235 year old log. The article quoted Justice Binnie: “Two Indian squaws brought seal skins and eels to sell. The transaction apparently completed without arrest” (Makin, 1999: p. A1), Justice Binnie then added, “The thread of continuity between these events, it seems, is that the Micmac people have sustained themselves in part by harvesting and trading fish [including eels] since Europeans first visited the coasts of what now is Nova Scotia in the 16th century” (Makin, 1999: p. A1).

The article afforded only a small space for comments from the dissenting judges in the decision — Gonthier and McLachlin, both of whom viewed that the agreement between the Mi’kmaq and the British involved precisely what it had stated — the right to trade goods at a trading post, also known historically as a “truckhouse.” The article quoted both as saying in their vote that “The exclusive trade and ‘truckhouse’ system was a

temporary mechanism to achieve peace in a troubled region between parties with a long history of hostilities.... When the restriction on the Micmac fell, the need for compensation for the removal of their trading autonomy fell as well” (Makin, 1999: p. A1).

This article appeared to follow the factory model of news, in that the Supreme Court’s decision was timely, and news discovery was evident as this was an historical event. This article, which covered the Supreme Court’s decision, does lack information for the reader on a number of fronts. The article could have provided more quotations from Marshall himself, who endured a battle in the court system in order to have his treaty rights upheld. The article also lacked sufficient information on the overall background to the treaties and the Supreme Court’s decision, and did not afford comments from expert historians who were involved in the trial and who provided interpretation of the treaties as they were outlined over three centuries ago. The article also did not outline any other past treaty rights cases in Canadian history where the outcome was similar, if not the same, as the Supreme Court’s case involving Marshall. Moreover, the article does not provide reaction from other Natives in Atlantic Canada nor in Canada, nor did not provide any quotations from those in the natural resource industry, such as from members in Atlantic Canada’s fishing sector. With these vital points left out, the article was not as comprehensive as it may have appeared after a quick, first read. The article then demonstrates pack journalism in that it provided quotations mainly from the Supreme Court and one legal expert, and provides little space on Marshall, who was, of course, directly involved with the case. This was despite the fact that he held a lengthy press conference in Halifax the day the Supreme Court made the decision. Framing was

exemplified in this article by showing Marshall as someone with a history of being in trouble with the law, as well as not ensuring proper terminology was used in reference to Natives. The component of political economy, from the factory model of news, was present in that the newspaper was able to quickly produce an article for its readers on the next day copy. While *The Globe and Mail* had other angles to convey to its readers in the days which followed the Supreme Court's decision, the cited article reflected the overall approach taken by the newspaper.

In the wake of the Supreme Court's decision *The National Post* published an article entitled, "Experts divided on whether Supreme Court would grant stay" (Chwialkowska, 1999). This article, on one of the lead national news pages, ran a black and white photo of an unidentified Mi'kmaq Native waving a warrior society flag through a broken window at an undisclosed Native reserve in Atlantic Canada. Entman's theory on framing and bias was displayed here in that the image showed the side on which the newspaper would fall on the debate.

The article led: "Legal opinion is divided as to whether the Supreme Court would agree to suspend its decision in a controversial Native fishing rights case in the Maritimes, should the federal government request such a delay" (Chwialkowska, 1999: p. A4), and went on in the next paragraph to say: "The court may be unlikely to take the unusual step because it has made clear that constitutional rights, including Native treaty rights, are to be respected above all other concerns, including public safety and the rule of law, except in extreme circumstances" (Chwialkowska, 1999: p. A4). These first two paragraphs instantly impressed citizens with the sense that the Supreme Court's initial ruling was not

as clear as was intended. The article also emphasised the notion that there had been some unrest and misunderstanding surrounding the initial decision.

The article goes on to explain that the government had thirty days to request a suspension of the landmark decision, and that both parties had the right to respond to such a request. The article also mentioned that such requests are rarely granted, but are not ruled out completely. The example of a 1985 Supreme Court decision in Manitoba, which invalidated 100 years of statutes (since they had not been translated into French), was offered to show the unlikelihood of a suspension. The focus of the story centred on the Supreme Court's granting the federal government several years to conduct the translation to avoid the havoc that could have been caused by eliminating so much law. This was the key news item of the day for the publication. Wayne MacKay, professor of constitutional law at Dalhousie University, was brought in to indicate the fact that there must be extreme circumstances in order for the Supreme Court to suspend its decision. "The situation in Manitoba shows how extreme it has to be. Invalidating 100 years of statutes is quite different from responding to a few protests, even if they are violent" (Chwialkowska, 1999: p. A4).

The article then went on to mention that some scholars were unsure as to whether the Supreme Court would change its mind in the Marshall judgement. Mark Walters, professor of Native and Constitutional Law at Queen's University Law School, was brought in to express his belief that the Supreme Court cannot just confirm a right and then abridge it in the face of governmental pressure: "It is politically inappropriate to ask a right holder, the native people in the case, after several centuries of seeking to uphold the right, to waive the right further more" (Chwialkowska, 1999: p. A4). So far in this

article, two highly qualified experts had been quoted. The newspaper made an attempt to go outside of the factory model of news component of “links to sources” by obtaining quotations from people other papers may not have thought to request information from.

The article then outlined the political bind the government was in and that its only chance, other than introducing new legislation, which would have been challenged by the courts, was to ask for a delay. The article also informed the reader that the notwithstanding clause did not apply to the ruling as treaty rights were involved.

The article finished with the opinions of two different scholars: Ted Morton, political science professor at the University of Calgary, and Monahan. While Morton was critical of the judicial system as a whole, since it tried to solve such a complex problem through a constitutional ruling, Monahan also suggested that the Supreme Court should have been far clearer as to its definition of moderate livelihood. Monahan further suggested that the Supreme Court should suspend the judgement for six months. This again demonstrated the newspaper’s political economy in that they had the clout to obtain quotations from these numerous experts, as well as the staff to interview these individuals, and of course provide readers with news with immediacy.

The article did provide its readers with a wealth of scholarly opinions while not even mentioning the expressed opinions of other Natives. Even with the scholars’ aid in the article, why the government was pushing for a suspension in the case was barely discussed. The tension that was mounting as a result of the Supreme Court’s decision involving Marshall was only briefly mentioned. The Supreme Court’s decision was criticized abundantly, but the specific portions of the ruling in question are never put to the test or discussed, which demonstrated the framing tactics of the newspaper. Also, the

newspaper acted in accordance with the theories relating to timing and news discovery as it too was quick to cover the Supreme Court's decision.

This piece aided the reader in understanding about the interaction between the Supreme Court and the federal government. However, it also failed to give the background and concrete facts which would have connected constitutional change to actual human events, stemming from landmark cases. The piece was extremely theoretical and relied quite heavily upon the opinions of many educators, none of which were involved in Marshall's trials.

The day after the Supreme Court issued its decision, *The Halifax Chronicle-Herald* published an article entitled, "Mi'kmaq rights upheld; High court decides natives exempt from fishing rules" (Underhill, 1999). The newspaper did not provide an image to go along with the article. The headline almost took the liberty of assuming the ruling had asserted the treaty's validity without further discussion, which is an example of framing, as it made the reader draw the conclusion that Natives can fish anything, at anytime, which was not the case.

The lead sentence of the article reads "Nova Scotia Mi'kmaq won a major battle over fishing rights Friday when the Supreme Court of Canada said they are exempt from existing federal fisheries regulations" (Underhill, 1999: p. A1). This was not entirely true — which in the next couple of months would prove to be the key issue — the Supreme Court merely ruled that Marshall had an individual right to fish to maintain a moderate livelihood. Instead, *The Halifax Chronicle-Herald* inferred that Marshall's case was paramount for all Natives without having identified proper fish stocks and quota information.

The article went on to explain the 5-2 decision, and then offered a quotation taken directly from Justice Binnie who spoke on behalf of the high court. “The treaty rights are limited to securing necessities (which I construe in the modern context, as equivalent to a moderate livelihood) and do not extend to the open-ended accumulation of wealth” (Underhill, 1999: p. A1).

The article explained that in reaction to the high court’s ruling, officials from DFO met to decide on a means of responding to what might be an immense change in procedures. DFO spokeswoman Joanne Brisebois was cited explaining that they need to “assess the implications” (Underhill, 1999: p. A1) of the decision.

Next, Don Cunningham, a lobster buyer and spokesman for the West Nova Fishermen’s Coalition expressed his dismay that the ruling might give Natives an unfair advantage in an already competitive market: “Now they not only have their right to the fishery as a Canadian, but they have another right which is over and above all Canadians.... We’re dealing with a finite resource here and there’s no way to add more entrants to the resource without harming it” (Underhill, 1999: p. A1). This was one of the first times a non-Native was quoted expressing an opinion on the Marshall decision. Again, he was as not just a local fisherman, he was an educated, prominent business person, representative of the local elite. His role in this drama unfolded in the context of a debate which really affected a much more needy demographic than his own. Interestingly, this publication did not seek viewpoints from academics. Using Cunningham as a source demonstrated the newspaper’s use of framing as well as its non-use of “links to sources.” The newspaper set up the reader for the “us versus them” debate that would ensue by only quoting Cunningham and not including a Native perspective. By not using academics, the

newspaper was not employing the “links to sources” component. They were attempting to source individuals who may be affected by the ruling, instead of remaining with an academic view on the issue.

When this article examined Marshall’s experience with the law, it further framed the issue with a negative view of Natives, by discussing his wrongful conviction, and his 1993 charges of fishing out of season with an illegal net, fishing without a license and the illegal sale of fish. Certainly, Marshall’s wrongful conviction of murder was a reality; however meshing in facts of his wrongful conviction with his charges of fishing illegally, could have been an overload of information for readers, again casting Marshall, as well as Natives, in a negative light. Since the story was about the Supreme Court decision, perhaps the omission of Marshall’s past wrongful conviction of murder could have been omitted, or a separate story on this could have been provided for readers’ altogether. The article then questioned whether the Supreme Court’s decision would spread beyond the realm of fish, and apply to the Mi’kmaq right to harvest wood on Crown land. N.S. Provincial Fisheries Minister Ernie Fage was then cited as saying he had been in contact with several government lawyers in attempts to sort out the true meaning of the ruling: “Obviously, people are concerned because they’re not sure what it [the ruling] means” (Underhill, 1999: p. A1). So, the article framed the Supreme Court’s decision as an all-encompassing ruling on all natural resources, when this was not the case.

Justice Binnie was once again used to express his fears that Marshall’s case may have a broad sweeping aftermath, but that: “Catch limits that could reasonably be expected to produce a moderate livelihood for individual Mi’kmaq families at present-day standards can be established by regulation and enforced without violating the treaty right”

(Underhill, 1999: p. A1). Although extremely early in the timeline, we can see from the high court that there was much misunderstanding surrounding its meaning.

The article continued by questioning whether the Marshall decision could affect other industries like logging and hunting, despite the fact that Marshall's lead counsel, Bruce Wildsmith, was prepared to use the decision in logging rights cases in both N.S. and in N.B. that were occurring during the same time period, and which were also causing concerns among non-Natives and governments in both provinces. According to Wildsmith: "Governments might take the point of view that the Mi'kmaq now have the rights to take forest resources and use them for commercial purposes. Which is exactly what the Nova Scotia case is about" (Underhill, 1999: p. A1).

Next Bernd Christmas, a Native lawyer and negotiator for the Assembly of Nova Scotia Mi'kmaq Chiefs, warned that it may be a good idea to sit down with the governments and fisheries representatives to reach a common ground. Christmas goes on to give the opinion that the Mi'kmaq and Maliseet people were entitled to the same allocations as any other member of the fishery. "For example, there are individual fishermen, I'll use the snow crab area, getting 200,000- to-300,000 pound quotas.... That's the same standard I think we'll be applying for each Mi'kmaq person. We do not want to be treated substandard" (Underhill, 1999: p. A1). Christmas suggested that if there were not enough licenses to be issued, that the Native peoples of the Atlantic region should be compensated. This may have been somewhat idealistic or even unrealistic, as compensation of that sort would clearly have been difficult to obtain. Christmas emphasised the need to sit down and discuss the issues with all sides.

The article switched to the non-Native fishermen's point of view, introducing Nova Scotia Finance Minister Neil LeBlanc. LeBlanc stated that the non-Native fishermen in his area were becoming very concerned about the ruling. "People want the fishery to be sustainable.... That's the biggest thing that this throws a monkey wrench into" (Underhill, 1999: p. A1). This point was then rebutted by NDP Leader Robert Chisholm who did not believe that Natives will cause any more hardships in the industry: "That's fear-mongering.... This is not a question of accumulating wealth but a sense of reasonableness" (Underhill, 1999: p. A1). Chisholm also expressed his opinion that political parties should not immediately jump to the conclusion that "anything natives do is illegal" (Underhill, 1999: p. A1). Here, this publication makes an interesting use of Chisholm's quotation in order for the reader to be led to the conclusion that the actions taken by the Natives may cause government officials to view Natives in a negative manner. Again, the use of framing was applied by showing varying sides, in that it "played up" the differing opinions between non-Natives and Natives on the decision.

The article was concluded by a comment from Don Downe, a Nova Scotia provincial Liberal critic for Native Affairs, who seemed to be very willing to open up talks regarding the Marshall decision. The article also informed the reader that: "this is not the first time a Mi'kmaq treaty has gone before Canada's highest court. Previous cases have found Natives have the right to fish and hunt for their own sustenance and for ceremonial purposes, but not for commerce" (Underhill, 1999: p. A1). The article then provided a quick backgrounder on the Sparrow case and how the Supreme Court asserted that Marshall had a right under the Treaty of 1752 to earn a moderate living from Mother Nature's natural resources.

The item provided viewpoints from scholars, politicians, local residents, and fishermen. Although most of the events at this point involved legal discussions and the attempts by many to understand the Supreme Court's ruling, we began to see the attitudes of the various sides of the controversy assuming their adversarial dimensions. The fact that this newspaper could turn a story around of this nature this quickly and provide information to a mass number of readers the following day certainly demonstrated its political economy. This newspaper followed the factory model of news components of timing and news discovery as they ensured the Marshall decision was covered with immediacy. Additionally, it is worthwhile to note that the writer intended his story specifically for an Atlantic Canadian audience.

The morning after the Supreme Court's decision, *The New Brunswick Telegraph-Journal* featured an article entitled, "Natives win right to fish and hunt" (Auld, 1999). This newspaper had a desire to follow timing and news discovery by publishing the article the day after the Supreme Court's ruling. The newspaper did not run a photo with the article. This headline was once again somewhat of a misstatement. The Natives never truly lost their rights to fish or hunt in the first place. The Marshall decision merely reinstated specific treaty rights and acquitted Marshall of fishing eel illegally.

The article led off: "Natives in Atlantic Canada were jubilant yesterday after winning a landmark legal battle that could have far-reaching implications for other treaty cases in the region and recast the way the fishery and possibly the forestry industry are handled" (Auld, 1999: p. A1). Contrary to the headline, this does not suggest a specific explanation of what the ruling means but implies that there will be much discussion to follow on the topic. This slippery slope assumption of how the Marshall decision would

impact other treaty rights cases in Atlantic Canada demonstrates how CP's Atlantic Bureau would frame the issue, implying that Natives would have unlimited access to other natural resources.

After explaining how the ruling affects Marshall individually, the article delved into the possible implications and aftermath of the decision. Bruce Wildsmith, one of Marshall's lawyers, commented that since the decision includes hunting, fishing, and 'gathering' then it may be used in other legal cases involving the Native right to lumber (Auld, 1999: p. A1). The article explained that Wildsmith was also working on a Native logging case being heard in Fredericton involving Joshua Bernard. Bernard, a Mi'kmaq from NB, was charged in the late 1990s for cutting logs on crown land, and he too argued that he held a treaty right to carry out such a task for livelihood purposes. Wildsmith, in the article, indicated that the Marshall decision could be served as a benchmark in Paul's logging trial.

At this point, N.B.'s Natural Resources Minister Jeanot Volpe expressed the major impact the ruling would have if it truly did apply to timber. "They mention fish and wildlife but...would they come back later and say wood is also part of it? I don't know.... We will need Federal support on it to find a solution because it is creating uncertainty in the province. It's hard for us to invest long term when we don't know the supply will be there" (Auld, 1999: p. A1). Whether or not the addition of Native rights to cut down crown forests would actually severely deplete the Crowns' supply perhaps could be viewed by some readers as an exaggeration, and this aspect could have been probed more closely by the wire service. This demonstrated the timeliness in which the CP produced the article as they may not have had the opportunity to delve into this question any further

given the confines of time. This also emphasised the author's use of framing by constructing the hidden message of "with the natives having these rights, look at the consequences created."

The article turned from the implications of the decision on the timber industry and cited Marshall himself. Marshall restated what the Natives believe the ruling means. Marshall described the hurdles he faced along the way to the Supreme Court: "It was clear in my mind that the more we fought it, the more powers we got. At times I almost gave up, but I've dealt with bigger problems before" (Auld, 1999: p. A1). Here, Marshall may have been alluding to his wrongful conviction. The article touched on his conviction briefly before mentioning Marshall's decision to appeal his eel-fishing case to the country's highest court. Here, the article briefly mentioned Marshall's previous convictions to frame the readers' view of Marshall, and perhaps Natives as a whole, as fighting the established Euro-Canadian system. By doing so, CP managed to highlight the conflict of Marshall against the state, which is a form of framing, as McCormick and Entman would argue. The inclusion, while brief, of Marshall's past convictions could lead the reader to view Natives in a negative light, in that they are continually at battle with the government and state. However, Baudrillard could argue that the overload of information inherent in the article caused the readers' view of it to lose meaning. The article, as it appeared, was intended to cover the Supreme Court's decision, not Marshall himself. While the wire service intended to tell the story for its readers, it did not necessarily provide those readers with the full scope needed to understand the story.

The article went back to the lumber issue, citing Cleveland Allaby, one of the lawyers for Thomas Peter Paul. Allaby expressed jubilation at the Marshall outcome and

the possible ramifications, but also stressed that there was still much work to be done. “I think we have to sit down and negotiate in good faith. Rather than litigating, let’s sit down and come to an agreement that allows for joint use, if that’s what this is going to be” (Auld, 1999: p. A1), stated Allaby.

The N.S. non-Native fishermen’s group then got its say, claiming that the Supreme Court’s decision would lead to a series of other trials to clarify the real meaning of the Supreme Court’s ruling. The non-Native side was further portrayed by Don Cunningham, a former fisherman who headed the West Nova Fishermen’s Coalition. He stated that the decision gave the Natives an unfair advantage.

The reader is then reminded that the ruling only allowed for Natives to obtain enough for their own livelihood, not accumulated wealth.

Finally, the article cited the opinions of the judges who made the ruling. The Justices claim it “was unrealistic to believe that recognising the treaty would lead to uncontrolled fishing and depletion of the stocks” (Auld, 1999: p. A1). The article ended with a quotation which summed up what would be the largest problem in Burnt Church for the next year. Justice Binnie was quoted as saying: “This fear or hope is based on a misunderstanding of the narrow gambit and extent of the treaty right” (Auld, 1999: p. A1).

This article was written to provide readers with a CP national perspective on the Marshall decision, bringing in individuals who were involved with the Marshall decision and how others in the region may be affected by the decision. The article made use of information on other treaty rights cases before the courts in Atlantic Canada, such as the case involving Paul. The factory model of news, which reflected how other media outlets

covered stories relating to the Marshall decision, was employed by CP in that it published an article quickly for its readers regarding the Marshall decision, which illustrated timing and news discovery. The “links to sources” component was utilised through sources who are for and against the Marshall decision; this also framed the article in an “us versus them” scenario. Most obviously, the political economy of this newspaper allowed use of the wire service to report the news for its NB audience.

In reaction to the Supreme Court Ruling, *The Mi'kmaq Maliseet Nations News* ran a front page article entitled, “Canada’s Highest Court upholds Treaty rights of Mi’kmaq, Maliseet and Passamaguoddy” (Googoo, 1999). The article was published in the next edition (October issue) of the newspaper following the Marshall decision, demonstrating timing and news discovery. This headline was similar to most of the other newspapers, which claimed that the treaty rights had finally been secured to the Native peoples of Burnt Church. Other Native bands east of Quebec took the same approach as did band members at Burnt Church. However, this news was not given as much prominence as the actual incidents which surrounded the Burnt Church story. The article was accompanied by a head-and-shoulders shot of Marshall at a press conference in Halifax on September 17. At this news conference, a mural of the 1760-61 treaties — in text form — appears behind Marshall, which illustrates the framing of the article in a supportive manner of the Marshall decision. This image was available to all media but this particular publication elected to show this image to drive home the connection between the Marshall decision and the historic treaties.

The article begins by describing the scene the day Marshall was charged for catching 463 pounds of eels. This was the first of all the publications to give any

background to the Marshall case other than what he is charged with. The article fully defined the charges laid against him in Pomquet Harbour. It then went on to explain his defence — that a treaty right to commercially fish was guaranteed under the treaties of 1760-61 that were signed by the Mi'kmaq, Maliseet and Passamaquoddy and the British Crown — and went on to explain how Marshall fought the trial all the way to the Supreme Court and was finally acquitted. This also demonstrated the framing employed by the newspaper as they opted to focus on the issue at hand, the Marshall decision, and not to delve into the personal life of Marshall. The very format of the publication (bi-monthly) dictated its flexibility or lack thereof in regards to its publication.

The article then went on to explain certain aspects of the ruling. It says that it stated “the Membertou band member has a right to fish and sell his catch under the treaty to securing ‘necessaries’ to earn a ‘moderate living’” (Googoo, 1999: p. 1). The article quoted Justice Binnie: “This appeal should be allowed because nothing less would uphold the honour and integrity of the Crown in its dealings with the Mi'kmaq people to secure their peace and friendship, as best the content of those treaty promises can now be ascertained” (Googoo, 1999: p. 1). The article continued by citing many key aspects of the ruling, including the fact that the treaty right was one which should be regulated. The article then went back to Marshall's story depicting his lengthy journey in the legal system, which stemmed from his wrongful murder conviction. The publication noted how his charges of murder were overturned, which resulted in a number of recommendations to the public legal system in the handling of minorities. It also mentioned the fact that he was compensated for the years he spent in prison, an approach which the non-Native newspapers did not take.

The article came back to the Marshall decision, claiming that it marked the second time the Supreme Court of Canada had upheld the validity of a treaty signed between the Mi'kmaq and the British Crown.

The article cited Bruce Wildsmith as outlining the many obstacles along Marshall's Supreme Court battle: "There must have been hundreds of times when he was ready to say, why are we bothering with this? We're up against the system. How's it going to turn out?" (Googoo, 1999: p. 1).

The article went back to the essence of the decision, explaining that the Nova Scotia chiefs had announced that they want to sit down and talk to the government and DFO about the exact meaning and ramifications of the ruling, as well as its implementation. Membertou Chief Terrance Paul, also the Co-Chair of the Assembly of Nova Scotia Mi'kmaq Chiefs, said that they were ready to negotiate with the various fishing groups. This article highlighted how Natives at Burnt Church had begun setting up traps as a result of the Marshall ruling in late September. The article provided specifics and indicated to its readers that since the Marshall decision came down, approximately 217 Native fishers from 10 bands across Atlantic Canada went to the waters with their boats and set approximately 11,685 lobster traps to fish commercially on the waters off NS and NB.

The article then mentioned the fact that the non-Native fishermen were calling for a 30-day moratorium until all the sides could agree on how the fisheries would operate after the Marshall ruling, stating the rising tension that was beginning to become evident across the region, most notably at Burnt Church.

The article closed on a positive note, stating that Native leaders from Atlantic Canada met in Fredericton on September 28 and 29, 1999, to discuss the implications of the decision and created an interim protocol on fisheries. It mentioned that the idea of a moratorium would be taken to the public, and that the chiefs proposed to form a standing committee to “develop a process for long-term arrangements in relation to the Marshall decision” (Googoo, 1999: p. 1).

The article put a great deal of effort into portraying the Native people who were peacefully following the word of the courts and trying to base their actions upon them. There were no non-Native sources to counter the argument, so the reader is left with a somewhat one-sided account of the events taking place. This is not only an example of framing, but also “pack journalism.” “Pack journalism” was employed in that the article used the same sources throughout. However, this publication has the right to choose which sources it desires for stories, and the use of alternative media provides society with other viewpoints of the same story/issues. In terms of its political economy, this publication produces news less frequently than that of the mainstream press, and therefore has more time to both collect quotes and form news stories.

Windspeaker was also quick to ensure coverage of the Marshall decision (October, 1999), which was an example of timing and news discovery. In an article entitled, “Fishing charges overturned” (Barnsley, 1999), which ran in the early October edition two weeks following the Marshall ruling, the publication dealt with the Supreme Court’s decision, accenting Justice Binnie’s majority decision for the court. The headline used here was self-explanatory and avoids making unnecessary assumptions about the overall ruling. There was no image included with this article.

The article began with a passage from Justice Binnie's decision on behalf of the Supreme Court. "The only issue at trial was whether he [Marshall] possessed a treaty right to catch and sell fish under the treaties of 1760-61 that exempted him from compliance with the regulations" (Barnsley, 1999: p. 1), stated Justice Binnie.

The article immediately included quotations from Wildsmith, who interestingly in this piece urged readers to remain cautious about the Supreme Court's decision.

Wildsmith is quoted as stating, "The Marshall decision is based on a series of treaties that were made here [in Canada].... I hate to be a wet blanket about that, but I think the reality is that these treaties are unique" (Barnsley, 1999: p. 1).

The article then introduced National Chief Phil Fontaine, who indicated that he viewed the Supreme Court's decision as a means to improve life, both socially and economically, for First Nations people in Canada. Fontaine states that, "the Supreme Court decision vindicates Donald Marshall and all other First Nations citizens by recognizing what we have said all along: our treaty rights recognize our right to harvest, in this case fishing, and to sell the catch to provide for ourselves and our families" (Barnsley, 1999: p. 1). Fontaine added, "the Supreme Court has also recognized our oral history which has always claimed the treaties had a wider context than the written word" (Barnsley, 1999: p. 1).

The article then turned its attention back to Wildsmith, who admitted a lot of implications were not clear and needed to be worked out: "The way the Mi'kmaq here are reading this, and I think rightly, is that [the treaty right to fish commercially] can serve as a basis to provide a moderate income for the whole nation.... So while you can do it for your own family, the band could have it organized in a way or the grand council could

have it organized in a way where the benefits went to everybody in the community. It's a communal right and it doesn't necessarily have to be restricted to use for just the individual fisherman" (Barnsley, 1999: p. 1).

The article then drew attention to how non-Native fishermen would in turn become worried over the Supreme Court's ruling in the Marshall case, based on low fish stocks. However, Wildsmith was woven back into the piece, assuring that if conservation guidelines are followed, then there would be no need for concern. He stated: "I think it's fair to say that the decision has caused quite a stir with the Fisheries and Oceans Department and with the provincial governments of Nova Scotia and P.E.I. and New Brunswick.... Those non-Native fishermen who have some interest in it now are raising that concern about conservation and I think the native leadership and the government people are all saying 'Well, we all understand conservation and we understand the need to respect conservation and we're going to go about this in a way that works it out'" (Barnsley, 1999: p. 1).

While this piece only quoted three individuals — Justice Binnie, Fontaine, and Wildsmith — they offered some interesting perspectives on the Marshall decision, ones that address both sides of the debate. A degree of one-sidedness plainly existed in the Native press as it chose to avoid non-Native sources. However, readers of this article were provided with enough background on the Supreme Court's decision, and insight to any future implications the actual decision may hold. This article followed the factory model of news by employing timing, news discovery, framing, "links to sources," and political economy. This article was published approximately one month following the Marshall decision which demonstrates timing and news discovery. The article was mainly

supportive of that decision and provided information and sources to present a supportive stance on the issue. This was consistent with its targeted audience. As the newspaper was not able to provide its readers with the information the day after the decision and as this is a bi-weekly publication, editors had to wait until the following publication date, thereby giving a more rounded account of the story.

Reading the Supreme Court's Clarification

For a month after the initial Supreme Court decision, non-Natives and Natives alike were unclear as to the true ramifications of the Marshall decision. The debate over the Marshall decision was being played out among politicians from across Canada. As well, it proved to be a contentious topic among Natives and non-Natives mainly in Atlantic Canada. During the months of September and October of 1999, Natives were setting traps in the water to exercise their right to fish, which only added to the anxiety of non-Native fisherman who felt threatened by such actions. With all this occurring, the Supreme Court took the unusual step of issuing a clarification. In turn, the media too was quick to jump on covering this decision.

The day after the Supreme Court issued its clarification (November 18, 1999), *The Globe and Mail* ran a front page article entitled: "Top court issues rebuke in fish furor" (Makin, 1999 (2)). The headline illustrated the mounting tension caused by the Supreme Court's original decision. The article included a head-and-shoulders photo of Justice Binnie on the page where the article was continued inside the newspaper, on page A3. Publication of this article on the following day demonstrated that the newspaper follows the timing and news discovery components of the factory model of news.

The article led: “The Supreme Court of Canada refused yesterday to reopen a Native fishing case that touched off a national furor in September, saying its judgment was misunderstood and blown out of proportion” (Makin, 1999: p. A1). The author of this article, Kirk Makin, had covered the original Supreme Court’s decision two months previously thereby permitting a sense of continuity to the treatment of this issue. Makin began by explaining that the actions taken in the past month by both Natives and non-Natives were a result of “misreading — or simply not reading — what was explicitly stated in the judgment” (Makin, 1999: p. A1). The article positioned its readers to understand that the strong reactions of both Natives and non-Natives were a result of the Marshall decision, and tended to side with the view that this decision was not an all-encompassing ruling on all natural resources.

The article then posited near the lead paragraph that the original decision from the Supreme Court was viewed by a number of critics as a “reckless wholesale opening of Canadian fisheries and forests to natives” (Makin, 1999: p. A1). However, the article then discussed the point that the Supreme Court only meant to decide that Marshall had a treaty right to fish eels out of season. It went on to quote the overall statement issued by the Supreme Court: “The majority judgment did not rule that the appellant had established a treaty right to gather anything and everything physically capable of being gathered” (Makin, 1999: p. A1).

The article then reported that the judges stated this “sardonically” (Makin, 1999: p. A1), which was somewhat surprising. This choice of wording could have swayed the reader to imagine the judges issued a rebuke while mocking those who couldn’t understand the ruling in the first place. The article then continued to quote the judges as

saying: “The court did not hold that the Mi’kmaq treaty right cannot be regulated or that the Mi’kmaq are guaranteed an open season in the fisheries. The Government’s power to regulate the treaty right is repeatedly affirmed in the Sept. 17, 1999, majority decision” (Makin, 1999: p. A1).

At this point the article gave some background to the initial ruling, but made a mistake in the vote tally, saying the Supreme Court ruled 6-3, when in fact the number was 5-2. This was an effect of timing, in that the newspaper was in a rush to meet publishing deadline and perhaps mistakenly used the vote from the original Supreme Court decision of 6-3.

The article continued with the background on Marshall’s trial, and expressed the Supreme Court’s belief that it would be “unfair to stall Mr. Marshall’s acquittal any longer simply because others have badly misconceived the September decision” (Makin, 1999: p. A1). At this point, the Supreme Court was being quite critical in response to the media’s interpretation of the initial ruling.

The article continued to air the opinions of the Supreme Court. It went on to say that the Supreme Court blamed the federal government for not further justifying the regulations while hearing the appeal. It also stated that the government failed to ask for enough time to sort out the regulations with Native communities, which arose as a result of the ruling.

The article then offered greater detail as to the meaning of the clarification. It stated that “yesterday, the court stressed its ruling did no more than give those Mi’kmaq affected by the treaty access to fish and wildlife solely for the purpose of trading for “necessaries,” such as food, clothing, housing and a few amenities” (Makin, 1999: p. A1).

It also added that the “court said it had specifically stated that government regulations may be justified on a basis of conservation, economic and regional fairness, or on a history of sharing a resource between Natives and non-Natives” (Makin, 1999: p. A1).

Makin added very little to the Supreme Court’s words, allowing the reader to get a fairly clear view of what the Supreme Court was clarifying. The article went on to explain the discrepancy between the ruling’s respective bearings on fish and timber. “No evidence was drawn to our attention — nor was any argument made in the course of this appeal — that trade in logging or minerals or the exploitation of offshore natural gas deposits was in the contemplation of either or both parties to the 1760 treaty...the issues were much narrower, and the ruling was much narrower” (Makin, 1999: p. A3). This use of the same source was an example of pack journalism, which is a reality (for good or bad) existing in mass media news reporting. This article also framed the issue in a negative light regarding the issue of the Marshall decision being seen by Natives as a ‘free for all’ on natural resources and non-Natives seeing the decision as a threat to their various industries dependent on natural resources. Perhaps information/quotations from other subjects or parties could have shed more light on the issue at hand.

The article explained that it was the West Nova Fishermen’s Coalition who initially led the push for a rehearing. The Supreme Court responded to this by saying that the coalition should have no problem understanding the ruling as the decision was made clear upon the Supreme Court’s original decision.

Again the article turned to the Supreme Court, which was seen to criticize the coalition for overreacting to the Marshall decision. “It is difficult to believe that further

repetition of this fundamental point after a rehearing would add anything of significance to what is already stated in the Sept. 17, 1999 judgment” (Makin, 1999: p. A3).

The article went on to mention that the Supreme Court rejected the Coalition’s argument that “a non-native fisherman should never be displaced by a treaty right” (Makin, 1999: p. A3). Again, the Supreme Court argues that it “is not a legal principle, this is a political argument” (Makin, 1999: p. A3). It also reminded the public that Natives’ treaty rights cannot be unilaterally extinguished due to the Constitution Act of 1982, and therefore, it would be useless to revisit such “fundamental and incontrovertible principles” (Makin, 1999: p. A3).

The article then explained how the Supreme Court rules that Marshall was merely being tried for a specific offence. “It was the Crown’s decision to proceed against the appellant by way of an ordinary prosecution...The appellant responded to the Crown’s evidence. He was found not guilty of the case put against him...the appellant, like any other accused who is found to be not guilty, is ordinarily entitled to an immediate acquittal — not a judgment that is suspended while the government considers the wider implications of an unsuccessful application” (Makin, 1999: p. A3). The article also mentioned that the prosecution of an individual was very different from a case in which the Supreme Court is trying to decipher the “general validity of a legal provision” (Makin, 1999: p. A3). The article framed the actions taken by the Natives in a negative light, by showing that they should not have made the assumptions they had, regarding all natural resources, following the Marshall decision. Non-Natives were portrayed as demonstrating a lack of understanding.

This article was careful not to add an editorial bias as it explained the Supreme Court's clarification. It did not seek out any sources to comment on the implications; as the article accurately described the actions of the Supreme Court in its original decision. Baudrillard would argue that as there was so much information present that it would be easier for readers to understand the issues without commentary from the author. This also demonstrated the use of pack journalism as this newspaper relied heavily on sources for the event presented to its readers. Again, this newspaper demonstrated its economic means to obtain information to create this article and provide readers with the news the very next day.

The day after the Supreme Court issued its clarification, *The National Post* ran an article on its front page, entitled, "Judges rule natives not immune to fishing laws: High court clarification" (Fife, 1999). This story was written by a reporter who was newly-assigned to the subject matter. This demonstrated news discovery and timing by the newspaper in publishing an article so quickly following the clarification. The headline used here indicated that Natives too must follow the laws when it comes to fishing. This article had no photo to go with it.

The article focused on the Supreme Court's clarification of its controversial judgement on Native fishing, and highlights that the ruling did not give Natives access to forestry, mineral and oil resources on Crown lands. This article was framed in a manner which continued to marginalize Native people with respect to access of natural resources, despite its inclusion of Native sources.

The article mentioned very little about the background of the treaties and contains no text from the Supreme Court's original decision. Instead, the article mainly provided

quotations from elected politicians who weighed in on the clarification, and gave little room for Natives to comment. This was a further example of biased framing in that the decision and clarification directly impact the Native populations, yet they were given little voice to express their opinion on the matter, resulting in the article presenting a primarily one-sided view on the issue. This was in contrast to elements which included Native viewpoints. While those latter perspectives (Lawrence Paul and Robert Levy) were included, the overall emphasis supported a non-Native tact.

The first quotation in the article was accorded to John Cummine, a fisheries critic with the Reform Party of Canada, who stated, "The interpretation of what the [Supreme] Court said originally has changed immensely.... It is a vindication for those of us who asked the government to seek these clarifications in the first place" (Fife, 1999: p. 1).

The Federal Minister of Indian and Northern Affairs, Robert Nault, was woven into the article. Nault indicated that the Supreme Court had rejected the right to a rehearing but on the other hand the Supreme Court had clarified many of the concerns that people expressed in Atlantic Canada and even across Canada for that matter. Nault was quoted as saying in the article, however, that he believed future court judgements could favour expanding Native rights to natural resources, which is why he was determined to negotiate new arrangements with Natives and the provinces. Nault stated, "Instead of the courts defining our relationship as a country with First Nations, we as politicians and as leaders should do it and stop letting the courts have to make the tough decisions that politicians should make" (Fife, 1999: p. 1).

The article went on to provide some quotations from Native leaders in Atlantic Canada, who, for the most part, felt betrayed by the Supreme Court's move for a

clarification. The article quoted Lawrence Paul, chairman of the Assembly of Nova Scotia Mi'kmaq Chiefs, who called the decision a victory for non-Native fishermen who destroyed Mi'kmaq lobster traps.

Paul stated, "I think they [the Supreme Court] backed off a little bit and they [the Supreme Court] gave in to mob and vigilante rule.... They set a bad precedent as far as I'm concerned, because if they make some other decision that makes a large group of people angry, they'll resort to the same tactics" (Fife, 1999: p. 1).

The article then reported comments from Robert Levi, Chief of Big Cove, NB's largest reserve, who warned readers that the Supreme Court's decision would erode his people's faith in the justice system. Members of his community at Big Cove had even begun logging on Crown land as a result of the Marshall decision. Levi responded to the clarification, "I'm not surprised. Every time that we get our rights, you get the Federal Government and the Provincial Government combining and trying to get our rights watered down to nothing, and that's exactly what they're doing again" (Fife, 1999: p. 1). The concept of framing was employed here, in that the quotations provided from a Native is one of complaint, emphasizing the racial divide on the issue, and the perception that the Natives want more.

The article then turned to Herb Dhaliwal, the federal Fisheries Minister, who ruled out using the courts again to define the rights of Natives to fish for lobster out of season, indicating that he preferred to follow the recommendation of the Supreme Court to negotiate a "modern agreement" on treaty rights with Natives. Dhaliwal stated, "We have a choice. We can negotiate or we can keep going back to the courts over and over

again to define all those things. My preference is to negotiate those rather than going back to courts” (Fife, 1999: p. 1).

This article gauged interesting reaction from a number of leaders — government and Native — but lacked background about the Supreme Court’s original ruling and background to the clarification issued by the Supreme Court. Readers of the newspaper were not afforded the opportunity to learn more about the overall issue at hand. Timing and news discovery were evident as the newspaper worked quickly to provide its readership with information and reaction to the Supreme Court’s clarification. This also demonstrated political economy in having the means to work in this short time frame. Pack journalism was evident in that the article provided quotations mainly from government officials and limited voices to Natives. This emphasised the way in which the article was framed to provide support to the Government and thus non-Natives, and opposing Natives’ views and concerns on the matter, underlying an unknowing presence.

The day after the Supreme Court’s clarification *The Halifax Chronicle-Herald* ran a front page article entitled: “Marshall ruling clarified; Trees, minerals, gas not covered-Supreme Court” (Underhill, 1999). This demonstrated timing and news discovery in the quick production of an article following the Supreme Court’s clarification. There was no image included with this article. Interestingly, reporter Brian Underhill had covered the story from the onset of the Marshall decision.

The article led: “The recent Marshall decision does not give Nova Scotia natives any special treaty rights to trees or offshore natural gas deposits, the Supreme Court of Canada said Wednesday” (Underhill, 1999: A1). The article then explained how the Supreme Court issued the clarification in response to the West Nova Fishermen’s

coalition's application for a rehearing. The article was framed in a manner that took sides on the issue against Natives, in emphasizing that the original Marshall decision did not include all natural resources. The author could have been clear about the parameters of the original decision in the first instance.

The article mentioned that the Supreme Court's 30-page clarification provides Ottawa with "sweeping powers to impose regulations on fishing and hunting efforts as long as it can justify those restrictions" (Underhill, 1999: A1). This approach underscored the reporter's desire to follow the principles of journalism. However, the article mentioned that Natives interpreted that the original Supreme Court ruling allowed them to access all natural resources. However, the article emphasized that, according to the Supreme Court, this was not the case. The Supreme Court stated: "Certain unjustified assumptions are made in this regard by the Native Council of Nova Scotia on this motion about the effect of the economic treaty right on forestry, minerals and natural gas deposits offshore.... This extended interpretation of 'gathering' is not dealt with in the Sept. 17, 1999, majority judgment and negotiations with respect to such resources as logging, minerals, or offshore natural gas deposits would go beyond the subject matter of this appeal" (Underhill, 1999: p. A1). This article was again framed in a manner in which Natives were seen to have taken liberties with the original Marshall ruling and not followed the letter of the law.

The article then brought in Bruce Wildsmith, lead counsel for Marshall, who said that despite the fact that the Supreme Courts ruled out timber and minerals, the fishing rights should have encompassed other species than just eel. Bruce Clarke, lawyer for the Native Council of Nova Scotia who represented off-reserve Natives, was also pleased with the ramifications of the clarification. "The court has said that any time you use this case

beyond eel fishing, you're stretching it, when it comes to things like logging.... I don't think it's a tough stretch. But when it comes to Sable gas or coal, the stretch gets tougher" (Underhill, 1999: A1). The article attempted to bring balance to their framing by providing these quotations from individuals supporting the Native position.

The article mentioned that the lack of clarity and allegedly improper reactions from the government had caused some to call for the resignation of key federal ministers, including Robert Nault, Minister of Indian and Northern Affairs, and Herb Dhaliwal, Minister of Fisheries. With this, the article then quoted Mark Muisse, a Member of Parliament for the Progressive Conservative Party, who chastised the doings of the federal government during Question Period in the House of Commons. Muisse stated: "Canadians have lost faith in these two ministers and that is the reason we ask for their immediate resignations" (Underhill, 1999: p. A1).

Next, the article allowed both ministers to defend themselves. According to the article, Nault claimed he never said that the Marshall ruling applied to anything other than eel fishing. Dhaliwal merely spoke of his right as a minister to regulate the fishing industry. Dhaliwal did say that he would have kept the continuing talks going in an attempt to negotiate agreements that would be fair to both sides. This demonstrates pack journalism and political economy as most of those comments would have normally been issued through press releases or indicated at news conferences in a variety of locales.

The article then expressed the Supreme Court's belief that it had done everything it could to answer all of the Coalitions' concerns with the initial ruling. The article further read: "The court also seemed to go out of its way to address public criticism of the Sept.

17 ruling, noting that the original ruling stipulated the treaty rights were subject to regulations” (Underhill, 1999: p. A1).

The article concluded with a quotation from the Premier of Nova Scotia, John Hamm, commenting that even with this recent clarification, there were still a lot of loose ends which needed to be tied up. Premier Hamm stated: “All groups on every side, as well as governments, are looking for that clarity to help move the situation ahead” (Underhill, 1999: p A1).

Overall, this article provided its readers with the differing positions on the Supreme Court’s clarification in that it sought information from key government officials and Native representatives involved with the Marshall decision and/or the fishing industry. In turning to the factory model of news, one continued to see the regular flow of patterns that existed in producing news for readers. This newspaper gave the story of the Supreme Court’s clarification immediate attention by publishing an article in the next day’s publication, on the front page. “Links to sources” was evident in that primarily officials representing key groups involved with the fisheries were quoted. The newspapers political economy is demonstrated through the fact that it could provide its mass number of readers with immediate news the following day. The article however, was framed to show how sides were taken among Natives, and non-Natives, and government in the original Marshall decision and the subsequent clarification which followed.

Timing and news discovery was also evident with *The New Brunswick Telegraph-Journal* as it ran an article entitled, “Native loggers, fishermen reined in” (White, 1999) the day after the Supreme Court clarification was released. This headline was suggestive

of the Supreme Court's putting limitations on its initial ruling, which framed Natives in a negative light by leading the reader to assume that Natives had exceeded the confines of the original Marshall decision. There was no image to accompany the article. The story was written by a staff reporter.

The article led: "The Supreme Court of Canada has put the brakes on the native rush to the woods and waters in search of logs and lobster to harvest for profit" (White, 1999: p. A1). This lead almost implied that White is making light of the Natives' interpretation of the Marshall decision. For example, surely the residents of Burnt Church did not just drop everything and run to the forest or bay as soon as they heard Marshall had been acquitted. This again exemplified how the article framed Natives, virtually accusing them of misusing the Marshall decision. The article went on to explain the Supreme Court's claims that the ruling should not automatically be stretched to include other species or other resources. The Supreme Court was then quoted: "[the Marshall decision] did not rule that the appellant had established a treaty right to 'gather' anything and everything physically capable of being gathered.... The issues were much narrower and the ruling was much narrower.... No evidence was drawn to our attention, nor was any argument made...that trade in logging or minerals, or the exploitation of off-shore natural gas deposits, was in the contemplation of either or both parties to the 1760 treaty" (White, 1999: p. A1).

The article then explained that when questions were raised on delicate topics such as falling lobster stocks, the Minister of Natural Resources, Robert Nault, had the final say on limitations for conservation's sake. The article continued, following along the lines of the Supreme Court's clarification, stating that it would be up to future trials to determine

the validity of treaty rights relating to resources other than the fish, wildlife, and fruits and berries.

The article mentioned that the Supreme Court believed that it is up to the federal government to regulate these industries. The Supreme Court also added, “Native people must show that treaty rights claimed reflect historic practice and the spirit in which such agreements were originally struck” (White, 1999: p. A1).

At this point the non-Native side expressed its concern that the decision put a lot of weight on the Federal Government to take the lead. The president of the West Nova Fishermen’s Coalition, Don Cunningham, is quoted: “DFO at the moment has been actually more of a problem than the Natives in that they haven’t been supporting the industry at all” (White, 1999: p. A1).

The article returned to explaining various aspects of the Supreme Court clarification. Again, the article mentioned that it would be up to the government, and not the courts, to impose regulations upon the fishing industry.

The article then mentioned that, following the initial ruling, Natives from Burnt Church began fishing again, which caused tensions between themselves and their non-Native neighbours. Next, the article narrowed its focus and concentrated on the lobster industry itself. John McEvoy, who taught Constitutional and Native Law at the University of New Brunswick, stated: “You are going to have to go back 200 to 500 years to demonstrate the Mi’kmaq and Maliseet people harvested lobster” (White, 1999: p. A1). The issue, according to the article, came down to what exactly the treaty rights meant. The article then offered the view that what were considered “necessaries” during the 18th

century have changed over the course of time. This article further emphasised the “us versus them” debate that was beginning with the clarification.

Showing the Native side, the article then cited Henry Bear, who represented the Union of New Brunswick Indians in the Marshall case. Bear spoke about the need for clarification as the courts brought up fish when what was being discussed in trial was actually eel. Bear then stated “If they would include eels because they would include fish, then obviously they would include lobster” (White, 1999: p. A1).

The article restated that Natives had taken the Marshall ruling and viewed that decision as a springboard to other natural resource disputes such as timber and minerals. The article explained the Supreme Court’s ruling that procedure, on these resources, would have to be recorded and documented as the result of other trials.

The article closed by informing the reader that although the Supreme Court rejected the non-Natives’ request for a rehearing, it would have considered a request from the Province of New Brunswick.

This article provided a sufficient amount of explanation from various sides on the issue. The article attempted to provide a voice to all sides of the issue by obtaining quotations from government, non-Natives, and Natives. The article demonstrated the differing opinions from all these groups. Timing and news discovery were evident as the article was published the day after the clarification was issued, which also demonstrated its political economy. ‘Links to sources’ was evident as the newspaper provided quotations from key representatives involved in the debate over the Marshall decision and Supreme Court’s clarification. Again, framing was evident in that sides were taken on the issue, the article’s quotations were used to emphasize the discontent between the Natives

and the government with respect to interpreting the Marshall decision. The newspaper was able to gather information for this article in a timely fashion, but also to sought supporting information and quotations from individuals involved in the Supreme Court's clarification.

One can see the patterns evolving from each article from non-Native outlets, and how the media work to communicate a story such as the Marshall decision and the Supreme Court's clarification. Native presses did not cover the clarification (for reasons unknown). Perhaps one could surmise that reporters and editors from the Native press were angered about the high court's clarification. That is, while media outlets moved quickly in order to cover the Supreme Court's decision and clarification, they turned to the same sources, for the most part, in order to provide information for readers. While many outlets touched on background of the treaties and viewpoints from the Supreme Court, they also worked to probe the results of the Supreme Court's decision and clarification as best they could. Neither *Windspeaker* nor *The Mi'kmaq Maliseet Nations News*, covered the Supreme Court's clarification as news or editorial content. It was no secret that many Natives were extremely disappointed with the Supreme Court's decision to issue a clarification, and rather than publishing an explicit interpretation, the papers criticized the move later in subtle ways etched within other stories, indicating the move by the court to issue a clarification was unnecessary. The reason as to why these publications did not immediately cover, nor give full-scale attention to the Supreme Court clarification, has never been explicitly stated in any publication.

Conclusion: Netting Media Theory while Reading the Marshall Decision

The review of the articles in this chapter provide an understanding as to how the media — both mainstream and alternative — reacted to the Marshall decision and the Supreme Court's clarification. The actions of the Supreme Court were of great interest to many, as the decisions from the Supreme Court marked an important moment in Canadian history. Therefore, it was natural for the media — in all forms — to swiftly cover the story. Through the review of newspaper articles, one begins to learn the workings of media. However, it is important to probe the similarities and differences based on the review of articles in connection to the factory model of news, and perhaps as well interpreting how a scholar such as Baudrillard would view the coverage.

First, it is important to identify the sorts of images used. Most publications used mainly head-and-shoulders shots of Marshall or of Justice Binnie, and these images related to the articles as these two individuals — mainly Marshall — were central to what was going on during this time period. The only real differences in images were evident in *The Mi'kmaq Maliseet Nations News* and *The National Post*. *The Mi'kmaq Maliseet Nations News* ran a large-sized image of Marshall at a news conference following the Supreme Court's decision and behind him was a large mural of the text of the 1760-61 treaty, while *The National Post* provided its readers with an image of an unidentified Native at an undisclosed reserve, waiving a "warrior" flag through a broken window. However, while there appear to be differences cited here with imagery, these publications were capturing the essence of the moment as news developed as best they saw fit. *The Mi'kmaq Maliseet Nations News* perhaps wanted not only to provide readers with an

image of Marshall, but also to emphasize that the treaty mural was reflective of Native culture and inherent rights which were recognized by the Supreme Court. On the other hand, *The National Post* was perhaps demonstrating how tension over the Marshall decision was arising.

While noting the points in the factory model of news, a number of similarities and differences arise. Timing and news discovery were most in evidence. The Supreme Court's decision and its clarification were both current events, and ones of great interest for many living in Atlantic Canada and across Canada. The media's coverage of the Supreme Court's decision and clarification were all treated as top, hard news stories. All publications ensured the Supreme Court's decision made front page news. All publications in this thesis covered the Marshall decision in a timely fashion — that is, with immediacy. The only difference discovered with timing and news discovery was with *The Mi'Kmaq Maliseet Nations News* and *Windspeaker*, as they did not provide full and extensive coverage of the Supreme Court's clarification, as the mainstream outlets had done.

While looking at the text of the articles, it became apparent that different media outlets turned to regular sources to provide information and reaction for its readers. The pattern of news sources, otherwise known as pack journalism, become most evident as familiar actors in the dispute were woven in and out of stories. However, it is important to note the similarities and differences in the flow of news sources. This supports the theory of how newspapers knowingly or unknowingly support elites.

The Globe and Mail seemed to work to ensure readers had a sufficient background to both the Supreme Court's decision and the clarification in using quotations

from Justice Binnie, and highlights of the Supreme Court's text on its decision and clarification. The newspaper also utilized the viewpoints from other scholars who were knowledgeable in the study of the treaties, as well as politicians and others from interested parties. In looking at the articles produced by this publication, one would gain a sufficient understanding of what was taking place surrounding the Marshall decision and the Supreme Court's historic clarification. *The National Post*, however, did not provide sufficient background to the Supreme Court's decision and clarification. Instead, it seemed more interested in covering the story by mainly providing viewpoints from scholars and politicians overall; however, while the scope of its coverage proved to be somewhat narrow, its readers could gain some insight to the controversy that evolved from the Marshall decision and the Supreme Court's clarification.

The Halifax Chronicle-Herald and *The New Brunswick Telegraph-Journal* were two publications that covered the story from more of an Atlantic Canadian angle; that is, the sources used by these publications not only included quotations from Justice Binnie and parts of the text from the Marshall decision and the Supreme Court's clarification, but also brought in scholars, government officials and Natives and non-Natives who provided input to the issue at hand, many of whom discussed the implications of the Supreme Court's decisions during the latter part of 1999. The mainstream media tended to frame their articles showing more conflict, where two sides — Natives and non-Natives — were arguing over the Marshall decision. The provincial newspapers' coverage of the Supreme Court's decision and its subsequent clarification relied, to some extent, on the use of CP wire services which helped portray the story to its readers. The mere implication is that belonging to CP shows a comparative financial advantage. It is important to also note that

through the use of CP wire stories, the newspaper did not need to rely on its own writers to report the story, nor did it need to worry about expenses in sending writers to Ottawa to cover the Supreme Court's decision and clarification. So, the use of wire copy serves in the end as a cost savings measure for these publications.

The same pattern was followed as well by the alternative press — *Windspeaker* and *The Mi'kmaq Maliseet Nations News*. They provided quotations mainly from those who sided with the Marshall decision. *The Mi'kmaq Maliseet Nations News* did provide its readers with a detailed look at the Supreme Court's landmark decision, but *Windspeaker* provided more reaction from those it used for sources. It is difficult to comment on the impact the sources had on the clarification in the Native publications' as they did not cover this specific move made by the Supreme Court. The alternative media tended to frame their articles showing a definite point of view as one that supported the Natives. They tended to accord limited space for a non-Native voice on the issue.

Overall, while some may view links to pack journalism as a negative approach, it should be noted that publications — mainstream or alternative — have a limited amount of time to cover the news. The mainstream publications used in this work — regardless if of a national or provincial bent — are all dailies and reporters of such publications' work under tight deadlines in order to file their stories before deadline-time. Native publications used in this work too also have deadlines of different degrees, but they also rely on regular news sources to achieve their goal in providing news. Clearly, the alternative publications used thus far in this work have a different mandate, in that they serve a more pro Native audience while providing analysis/commentary on the mainstream press. While all publications followed the model of pack journalism to a certain degree, it is fair to argue

that readers of each publication gained only a marginal view of the issue encompassing the Marshall decision; however at the same time, these news outlets appeared to work to the best of their ability in not only meeting their deadlines, but also in providing some scope of the overall situation to its readers. This approach follows what Kovach and Rosenstiel refer to as the basic principles of journalism. While the mainstream and alternative media had different format deadlines, the story was of prime importance for their readers.

Another area of similarities and differences worth exploring is how news stories of the Supreme Court's decision and clarification were framed for readers. The alternative media - *Windspeaker* and *The Mi'kmaq Maliseet Nations News* — covered the landmark Marshall decision mostly as a victory for Natives. All publications, including the alternative media, did air caution over the Supreme Court's original decision. For the most part, more concern came from the mainstream as opposed to the alternative media. The differences that existed between the mainstream and alternative media stemmed from how the articles were framed.

Access to news sources is an area that can easily stem from economic influences. The larger dailies used in this work did use more sources as opposed to the alternative outlets, which is a significant difference worth noting. The national and provincial newspapers however, had larger operating budgets which allowed reporters to gather more sources and information required for the reader to grasp the overall context of the Marshall decision and the Supreme Court's clarification. The mainstream media (primarily the provincial press) also relied on CP, in addition to their own staff people. This was indicative of the notion these papers did not have enough reporters to cover

every angle. *Windspeaker* and *The Mi'kmaq Maliseet Nations News* are part of the alternative press, and have a certain operating budget. However, it would not be anywhere near the size of the mainstream outlets. While admittedly the Native press had more time to cover the story, the fact that they had to rely on mainly unpaid contributions from freelance reporters limited their scope. Some reporters for the Native press are paid as staff writers, however this is few and far between. Perhaps due to their size of an operating budget, this may have been a reason why they did not cover the Supreme Court's clarification. One can only assume that this is the key reason and a point worth making in order to pontificate fairness in this work. Still, despite economic influences, news readers did have plenty of access to the stories that developed from the Supreme Court's decision and clarification.

Thinking from a broader perspective along the lines of Baudrillard, there was a high volume of news articles that covered the Supreme Court's decision. The news articles generated meant nothing could be kept hidden from view; that is, accounts of Marshall's past conviction for murder were reiterated over and over, and many opinions — for good or for bad — relating to the Supreme Court's decisions were made available for eager readers to digest. In all, it may be safe to say that the implosion of media in this case, means that perhaps the events would simply lose meaning. Perhaps this was true. However, as time would move on, Burnt Church would yet be the next stop for media to follow the result of the Supreme Court's decision in the end, and here too, in this small fishing community in northern NB, nothing would remain hidden. In fact, if anything, it meant the further implosion of media stories, where citizens were, on an ongoing basis, fed articles and images of the furor that evolved. To repeat, nothing in the summer and fall

at Burnt Church would remain hidden. As each day passed, the news media closely followed the events that occurred there, and the conflict that ensued would only make the reader desire or wish for more. Almost like a dream, violent conflicts among Natives, non-Natives, and the government would simply implode before the eyes of the reader. The treaties at this point would lose meaning as conflict thwarted its way into the news as the central-figural topic of the news.

The critical approach applied to the news coverage of the Supreme Court's decision and its clarification demonstrates how all media outlets followed the principles of journalism in that they sought to tell the truth, endeavoured to provide verification, remained independent from the subject matter, and strove to keep the news comprehensive and proportional for readers.

Showdown at Burnt Church

In the months following the Supreme Court's clarification of the Marshall ruling, tensions continued to rise, with physical and mental conflict between Natives and non-Natives becoming all the more commonplace at Burnt Church, and in a number of other Native communities throughout Atlantic Canada. Natives, non-Natives, and government became increasingly assertive about what they believed to be the correct interpretation of the decision. The Natives believed that their treaty rights had been acknowledged so they took to Miramichi Bay and began setting up lobster traps out-of-season. This infuriated the non-Native fishermen, as they felt it gave the Natives an unfair advantage. The actions of Natives from this small fishing community placed the government in the middle of the

entire debate. As tensions rose, violence became common. Non-Native fisherman were also in fear of losing their livelihood because of the Supreme Court's decision.

As the months passed, government, non-Native and Native camps became more and more divided on how the fishery should be regulated. Native actors favoured a self-regulated fishery; non-Natives favoured a type of self-governing regulation which met their specific needs, and the government placed greater emphasis on the DFO's ability to oversee matters. Initially, it seemed that negotiations among all parties, which began shortly after the Supreme Court's decision in September, 1999, could provide a solution to the dilemma, but as the months passed, talks began to disintegrate and halted in August, 2000.

The media coverage throughout the year 2000 varied greatly from outlet to outlet. Many of the events took place miles offshore from Burnt Church, beyond the scope of the media. News reporters relied solely on accounts of stories told by varied interest groups, which played up conflict over solution. This would have ramifications for how coverage unfolded at Burnt Church less than a year later.

Many times, journalists themselves were involved in altercations with protesters. After all, being a reporter interviewing a Native or non-Native fisherman must have been demanding, as both sides wanted to have their versions of events etched in ink. As well as having to deal with two sides to every story. Still however, the media — alternative and mainstream — worked to provide both sides of the story relating to the Marshall decision, and as Kovach and Rosensteil would perhaps indicate, the practitioners involved in covering the news exercised their personal conscience while covering timely and informative news.

CHAPTER FOUR

READING THE NATIONAL PRESS

The year 2000 marked the heightened debate over the Supreme Court's interpretation of the treaties of 1760-61. The national newspapers — *The Globe and Mail* and *The National Post* — provided daily accounts of events in Burnt Church. In this chapter, a number of articles will be analyzed relating them the factory model of news and Baudrillard's meaning of media.

Reading The Globe and Mail

On May 8, 2000, *The Globe and Mail* published an article entitled, "Natives defy regulations by setting lobster traps: Burnt Church trying to force Ottawa's hand and get out-of-season fishing rights by the fall" (Morris, 2000(1)). This story appeared on page five, thereby according it top news status. The image that ran alongside the article was of members of the Burnt Church fishing reserve on a boat with traps on the Miramichi. By publishing an article the day after the conflict occurred at Burnt Church the paper demonstrated its commitment to timing and news discovery for the benefit of its readers. It should be noted that Morris was a CP reporter. Obviously, since this was a breaking story, the newspaper had no choice but to obtain a story from CP in order to provide information for its readers the very next day.

The headline suggested that the Natives were attempting to force the government to change its policy on fishing. However, at this early stage, the Natives were merely

fishing as they believed the Marshall decision had guaranteed their treaty rights. The article led: “Native fishermen in northern New Brunswick are defying federal regulations and openly setting traps that break Ottawa’s rules for the lobster fishery” (Morris, 2000(1): p. A5). This framed the article by suggesting that the Natives were breaking the law. This created an ‘us versus them’ contextualized scenario.

The article went on to mention that traps had been seized the Saturday prior to the publication of the article, but fisheries officers refrained from confronting a boatload of Native women heading out to fish on the Miramichi. It also mentioned that, at this point, the Natives had begun marking their traps not with the government-issued-tags but with their own Burnt Church First Nation tags. One of the female fishers was then quoted as saying: “The women in the community are going to continue fishing.... We feel it’s our inherent right and we’re not going to let anyone stop us” (Morris, 2000(1): p. A5).

The article then mentioned that, although the ten traps the women set were not immediately seized, the Natives believed it was only a matter of time before they would be taken. The non-Native fishermen agreed that this should be the course of action for DFO. Andre - Marc Lanteigne, a DFO spokesperson, explained the likely course of events: “Unauthorized fishing will not be accepted.... At the appropriate time, we will be removing those traps. The last thing we want is a confrontation, but it’s important that the Fisheries Act is upheld” (Morris, 2000(1): p. A5).

The article returned to the more confrontational trap confiscation which took place the preceding Saturday. The issue according to the article was that the Natives had begun using their own tags as opposed to the government-issued ones. The reader was now informed that on Saturday, two members of the Christian Peacemakers were arrested

while attempting to protect the Natives' traps. Rev. Bob Holmes of Toronto — one of those arrested — discussed his support for the Native side: "What kind of peace officer takes traps from fishermen who are pursuing their lawful treaty right? That is no way to keep the peace" (Morris, 2000(1): p. A5).

Next, the article turned to James Ward, a Burnt Church First Nation member and the man in charge of the reserve's management plan. Ward expressed a desire to force a resolution for Natives to fish out of season before the fall throughout Eastern Canada. This early in the events, such explicit stances were few and far between, but as the time passed, more and more Native supporters began to oppose the government's imposed regulations.

The article closed by discussing the fact that there had already been violence the previous fall in the wake of the Marshall decision. The last lines were dedicated to background information, informing the reader that the Natives had viewed the decision as a guarantee of unlimited fishing access under their treaty rights until the Supreme Court issued a clarification.

This article written by a reporter at Burnt Church via the CP gave a sufficient scope of events, and sparked the beginning of what would become a violently heated debate. The potential for violence was evident in the quotations from both the Natives and the fisheries officers. Interestingly, there were no quotations from non-Native fishermen in this article, or sufficient background to the treaties. In any event, the article outlined what had been taking place in this community and alluded to what would further develop in the months to come at Burnt Church. The fact that this newspaper utilised a wire service article shows how timing is a factor and they required information with immediacy in order to provide its readers with news the next day. This article was framed

to show Natives in trouble with the law; however, the article did allow the Native voice to be heard to a substantial degree. However, this use of sourcing did, indicate that the newspaper was working to be as balanced as possible within the given time constraint of news delivery. Once again, the very notion that this paper had the option of using CP indicates a financial resource, thereby demonstrating the political economic realities. Kovach and Rosenstiel have posited that in some instances balanced reporting is tantamount to distortion.

Three months later, *The Globe and Mail* ran an article dated August 15, 2000, on page three entitled: “Mi’kmaq plan to defy federal agents: Fishermen will head back to the water replacing seized lobster traps; main highway remains blocked after arrests” (Thanh Ha and Sallott, 2000: p. A3). This article was selected because of the priority assigned to it by the paper, which reflected the conflict-oriented coverage provided by the newspaper. Thanh Ha reported from Burnt Church while Jeff Sallott worked to provide necessary information from Ottawa. Both were *Globe and Mail* reporters assigned to the story. An image accompanying the article shows a Native protestor standing at one of the roadblocks on Highway 11 on the Burnt Church reserve. This headline and the image together clearly revealed the situation at Burnt Church. Stress had elevated, and more residents were involved in tactics such as roadblocks. Timing and news discovery were evident as a journalist from this newspaper were on the scene to report the events that are taking place. The use of two journalists situated in two locations demonstrated the newspaper’s political economy. Framing is already evident through the headline as it showed Natives in conflict with the government. The image further framed the article by showing the conflict at hand with Natives.

The article led, “Defiant Mi’kmaqs at the Burnt Church reserve were preparing last night to head back to the waters of the Miramichi Bay today to replace some of the 748 lobster cages seized by fisheries agents who say the natives are flouting federal regulations” (Thanh Ha and Sallott, 2000: p. A3). Already, the article accented the mood and feeling at Burnt Church and the actions Natives were willing to take in order to have their rights upheld. The article further framed the article as a problem with and about Natives as it failed to mention the actions non-Natives were willing to take in order to protect what they saw as their industry. The actions and views of non-Natives were not reported in this story.

The article explained that to avoid any confrontation with federal agents, the Natives were joined by conservation rangers from the Mi’kmaq community of Listuguj in eastern Quebec. These rangers travelled to Burnt Church as a “show of solidarity” (Thanh Ha and Sallott, 2000: p A3) to lend a helping hand during the crisis.

The article then discussed how the Natives blocked the main highway in the area in retaliation for the arrest of four of its band members three days earlier. An unknown altercation occurred during a time when 60 Fisheries officers hauled 748 unlicensed lobster traps out of the water. The officers seized the traps as well as some of the Native fishermen’s boats. This continued to frame the article to demonstrate that the Natives’ actions fell outside of the normal boundaries for behaviour and reaction.

The use of framing continued as according to the article, Burnt Church had come to life with Natives scrambling to replace the confiscated traps. The article hints at the threat of violence, mentioning a wharf in town which is shared by both sides in the

dispute. The newspaper reported that the men who fished there were the same Natives who were involved in a large confrontation the previous fall.

The article then turned its attention to some of the fishermen involved in the incident. Joe Grant, one of the arrested Mi'kmaq fishermen, said that his boat had been rammed by a larger fisheries boat. Grant was on a boat belonging to Brian Bartibogue, a band councillor. The article mentioned that Bartibogue is "among a handful of younger, more outspoken figures who have emerged during this dispute" (Thanh Ha and Sallott, 2000: p. A3).

The article explained how band members set a bonfire on Highway 11 as well as parking cars to block the way in retaliation for the raid. A second roadblock was also set up along the southern edge of the reserve.

James Ward, a Native fisherman, stated: "This is going to get worse.... This will not be tolerated by our people" (Thanh Ha and Sallott, 2000: p. A3). As angry band members confronted a Fisheries officer later on, Native fisherman Leo Bartibogue said: "This is our inherent right. We are going to win this war" (Thanh Ha and Sallott, 2000: p. A3).

The article mentioned that certain band members claimed that when they had attempted to go out on the bay to stop the raid, they had been forced back at gunpoint. Given a chance to respond, Robert Allain, area manager of DFO said that officers had used pepper spray against two of the Natives as a measure of self-defence, but "guns were never drawn" (Thanh Ha and Sallott, 2000: p. A3). The first three quotations given to the Native fishermen are clichéd, as comments every protestor makes. The problem

with that type of characterization lies in the perpetuation of stereotypes, however unknowingly written, by the reporter in question.

The article then moves on to state that DFO officers maintained patrols after the raid, hauling in more traps as soon as Natives set them. According to the article, officers said that they thought they had confiscated or destroyed most of the traps.

Now the article returned to the cause of the whole ordeal. The Supreme Court's ruling is now mentioned for background. It explained how the Natives intended to use the ruling to create their own fishing regulations. The article mentioned that the band members would like to put as many as 5, 000 lobster traps in the water when they were licensed for only 40.

The article closed with an accusation by Matthew Coon Come, National Chief of the Assembly of First Nations, who indicated that Ottawa had been unfair to the residents of Burnt Church. Coon Come stated that: "this is a small population, being continually harassed as if they are going to deplete the whole ocean" (Thanh Ha and Sallott, 2000: p. A3).

Chief Joseph Knockwood is a Fort Folly Reserve (Dorchester, New Brunswick) member. Knockwood's reserve had a special fisheries agreement with Ottawa. He was brought in to the article to explain that erecting highway barricades was simply a way to tell the federal government that it needs to pay more attention.

Once again, there was very little word from the non-Native fishermen in this article written by one reporter at Burnt Church and the other in Ottawa. Although at times the Natives being quoted are given the chance to express themselves, the words they choose can often be misconstrued. It is interesting to note that none of the Native

quotations in this article were more than a couple of sentences long. While one may also argue that though Natives were cast in a negative light (as being in trouble with the law), Natives were afforded ample space to express themselves in the article. The image with the article again was one that shows Natives in conflict with authority, but at the same time was reflective as to what occurred at this given point in the dispute. It is also worth noting that the newspaper focused more on conflict in telling the complete story.

However, on this note, the newspaper did work to provide its readers with information, and after all, conflict was the reason they were there to cover the article. In the telling of this story, conflict is yet another example of framing used to demonstrate the variances that existed over the Marshall decision and Supreme Court clarification. Overall, the newspaper saw the event as news discovery and delivered the article in a timely fashion to its readers. There was no mention of a possible dispute-solving resolution to the conflict. Economic influences are evident in that this newspaper provided the article to its readers in a timely fashion, and through the sources and imagery obtained for use in this article provided current and up-to-date information on the events occurring at Burnt Church. This was further emphasised by using two journalists to cover the story for *The Globe and Mail*, in two locations.

This newspaper continued to follow the stories occurring at Burnt Church in a timely manner. On September 23, 2000, it published an article entitled: "Shooting alleged in fish dispute" (Alphonso, Cox, Nobes, and Mackinnon, 2000: p. A10) that appeared on A10 of the paper. The image that ran alongside the article was of an RCMP police officer walking on a wharf near the shores of this community. The fact that this newspaper had journalists covering the story from Burnt Church, Ottawa and Vancouver demonstrated its

economic capacity and weight in the media. The image somewhat coincides with the headline by showing authorities in the community attempting to seek answers to the shooting. The headline and image frame the article by demonstrating that trouble exists in the community as well as the mounting frustration on all sides of the dispute. This article was another prime example of how the newspaper covered the stories associated with the conflict at Burnt Church.

The article led, “As the Mi’kmaq people of Burnt Church gathered to pray for peace yesterday, the crew of a commercial fishing boat said their boat was rammed and fired upon by a group of Native fishermen” (Alphonso et. al., 2000: p. A10). A number of reports during the summer and fall were made in connection to gunshots. Most sides — Natives and non-Natives — claimed to have been attacked in some way or another, well beyond the eyes of those on shore. This newspaper continued to frame the article as one of conflict between Natives and non-Natives despite the fact that all three parties were seeking a resolution. This important item was not widely reported in the mainstream media.

The article went on to mention that the RCMP were investigating the event. The alleged shooting, according to the article, “would be the first direct clash between native and commercial fishermen since the Mi’kmaq began defying federal fishing regulations and set hundreds of lobster traps in Miramichi Bay in early August” (Alphonso et. al., 2000: p. A10). The point the article was trying to make is that up until this point, most of the violence had occurred between DFO and those Natives who had allegedly been fishing illegally. The article continued to show Natives as acting outside of the law.

The article explained that the event is a sign that non-Native fishermen were becoming more upset with DFO's lack of control. Earlier that day, DFO had claimed it had removed 113 traps; the *Gulf Mermaid* — a non-commercial fishing boat based in Neguac, NB — had been taken by the DFO to the Miramichi. One of the members of the crew, whose name was not given, claimed that the boat was rammed twice by a DFO vessel. He was quoted as saying: "Then they shot off flares and one landed in the boat.... Once we got out of range of the flares they came at the boat with a rifle and fired a shot that went right through the wheelhouse and broke off the fellow's toilet" (Alphonso et. al., 2000: p. A10).

The article continued to mention that on the previous Thursday, Herb Dhaliwal, Federal Minister of Fisheries and Oceans, had ordered the Native fishery closed and said that enforcement of the law would follow. It also mentioned that DFO believe the Natives have as many as 2,000 traps in the water, which is detrimental to the lobster stock. The article stated that the Natives claimed only to have 500 traps, and continued to maintain that the Marshall decision supports their right to fish. An unnamed non-Native foreshadowed the potential for violence in the following, somewhat sensational, quote: "There better be something done or there's going to be a civil war.... They made the first move. We can't stand back and let them have a free-for-all" (Alphonso et. al., 2000: p. A10). The reader can question here why the newspaper would provide an unnamed source in this article, but this strong wording painted Natives in a negative light. It is widely believed that conflict sells newspapers. Kovach and Rosenstiel have posited that conflict reflects a tendency by news editors to value entertainment over more substantive angles.

The article then turned to the Native perspective, discussing a group of about 50 protestors who blocked an intersection outside the DFO office in Vancouver. At this point, Natives from across Canada began to support those in Burnt Church by turning up at government offices or making the pilgrimage to Miramichi. At the DFO office in Vancouver, they demanded that Dhaliwal resign and that DFO return all of the traps, boats, and other equipment seized in the past months. Note that the Native voice was aired near the end of the article, which initially led with a statement about Natives.

According to the article, 49 Native communities had agreed to raise money for the legal fees, and wrote letters of support. Dhaliwal refused to meet with the Natives while the illegal fishing continued. The Natives were reluctant to talk to government, media, and non-Natives until such a time as they did not have to fear raids on their traps.

The article went on to discuss the Kahnawake Mohawk band council's view that any attack on Burnt Church is an attack on all Natives. The Mohawk band from Quebec marched in protest along Highway 138 in a show of support of the Burnt Church residents. The article ended with a quotation from Burnt Church Chief Wilbur Dedam, who condemned any violence: "We ask our non-native neighbours to remain calm with us and to exercise good will, trust, and good faith and allow the RCMP to conduct a thorough investigation into this matter" (Alphonso et. al., 2000: p. A10). According to the article, Dedam claimed the boat in question was counting traps at the time of the incident.

Despite attempting to cover a possible shooting, the article got somewhat bogged down in the wildly different claims coming from both sides. It is interesting to note, however, that those accused of crimes are the ones who are asking for a more thorough investigation before matters deteriorate. The situation of an alleged shooting was an event

of news discovery and one that the newspaper ensured to cover with immediacy. The newspaper's use of journalists at bureau desks across Canada, and with an accompanying image of Burnt Church, demonstrated that their operating budget had the means to allow this. The use of sourcing from eye witness accounts also framed this article in a manner of conflict.

Reading The National Post

The National Post also ensured that their readers would be informed of the events at Burnt Church. On August 23, 2000, this publication ran an article on page A4 titled: "Fisheries officer injured by rock in lobster dispute: Cheekbone crushed; two under arrest as violence erupts at Burnt church" (Gillis and Hunter, 2000). There was no image to accompany the article. The article was written by *National Post* staff writers situated in Toronto and Ottawa. Even though it did not have a writer at Burnt Church this newspaper's ability to gather information by long distance demonstrates its political economy. In the main, *The National Post* did not rely on CP stories, but had used some in order to deliver news for its readers. Interestingly, the headline, which is extremely lengthy, paints Burnt Church as a locale where mayhem is rampant. Clearly the headline does what it was designed to do: attract the attention of the reader. Questions arise as to whether it was necessary to include the specific nature of the officer's injury within the subhead. Another interesting issue is the decision by the editors to run with stories which that were covered by reporters who were not present at the epicentre.

The article led: "A flying rock from the deck of a Native boat marked the end yesterday of a fragile détente in New Brunswick's lobster dispute-crushing the cheekbone,

breaking the nose and cracking the jaw of a rookie fisheries officer” (Gillis and Hunter, 2000: p. A4). While the article was reporting the facts of the event, the article also clearly sets out to show the conflict as explosive, sensationalizing the events. The article continued by adding detail regarding the officer’s condition, mentioning that he would require reconstructive surgery. Andre-Marc Lanteigne, spokesman for DFO was quoted: “He is definitely going to need surgery. The rocks they were throwing out there were big. It’s very unfortunate, because he’s one of our youngest guys and this is a very sad start to his career” (Gillis and Hunter, 2000: p. A4). This article continued to frame the event in a way that forced the reader to be empathetic towards the government, and non-Native side of the dispute, siding away from the Natives.

The article explained that two men were arrested following the altercation. The article then suggested that the event was a sure sign that the Burnt Church Nation had little hope of controlling its fishermen — whatever agreement they sign. This statement stuck out as a small sample of editorial bias being revealed through non-editorial copy. By inserting the editorialised comment, it showed that the journalists, who are non-Native, were clearly not neutral in this dispute, thus siding with the non-Native fisherman.

The article then stated that many band members had ignored their leaders’ promises to remove traps. Earlier that week, Burnt Church representatives had agreed to lower the trap count to 600 as well as removing all the traps from areas which weren’t in the band’s traditional fishing grounds. According to the article, two days after the promise, the number of traps had doubled to 1,200, some outside of the traditional waters.

According to the article, witnesses had spotted Native fishermen collecting “grape-sized rocks” (Gillis and Hunter, 2000: p. A4) before they left the shore. The article also mentioned that a TV cameraman later recorded fisherman throwing the stones at DFO officers. However, the name or organization of the TV cameraman was not mentioned. The reader could then question the newspaper’s intent of not identifying the broadcast outlet and the cameraman involved at this time.

Returning to the altercation, a spokeswoman for Burnt Church, Karen Somerville, was cited as confirming the rock thrower had denied his leaders’ requests to remain peaceful. Somerville was quoted as saying: “That individual has been instructed not to get involved in violence and will be dealt with appropriately...but it’s hard for us to control the actions of every person” (Gillis and Hunter, 2000: p. A4). This last comment — whether intentionally included or not — hinted at weakness on the Burnt Church community’s part.

The article moved to the negotiations, suggesting that these may have a positive effect. Somerville was cited as saying the Natives were still willing to negotiate even after DFO seized 572 traps and continued to experience trouble with Native fishermen. According to the article, 620 traps still remained in the water by the department’s estimation. The article suggested, however, that the government was willing to continue talks, but that a break might be in order. Now, Herb Dhaliwal, Minister of Fisheries and Oceans, and Jean Chrétien, Prime Minister are described as “[applauding] the officers’ actions, saying they were necessary even if they soured negotiations” (Gillis and Hunter, 2000: p. A4). Dhaliwal was then quoted as saying: “My job is to protect the resource, and if we have people fishing that is unauthorized or illegal, I’m not doing my job.... A

regulated and orderly fishery is a priority” (Gillis and Hunter, 2000: p. A4). Chrétien supported Dhaliwal, saying “I think the law enforcers are following what is their duty to do and I hope everybody will respect the law. It’s the way a country functions. The Department of Fisheries has an obligation to make sure that the resource is well-managed so there will be fish for generations to come” (Gillis and Hunter, 2000: p. A4). Many argue that the government missed the point somewhat in assuming that Natives may be endangering the quotas. Although the over-fishing of various species — such as cod — had resulted in the near extinction of the species, Native fishermen in Burnt Church were much less numerous than the commercialized industry. This did not, however, change the government’s views that fishing out of season was still an illegal practice.

The article closed with a short summary of how the Natives have adopted the Marshall ruling as their right to fish. This article began with a tragic event and moves on to explain the conflict that led Burnt Church in this direction. Unfortunately, despite eye witnesses and claims of a TV cameraman’s catching the incident, the reader is still in the dark as to the actuality of real events which took place on the Miramichi. Even the witness accounts failed to give an accurate description of events. One of the journalists reported from Toronto and the other from Ottawa. It is obvious through reading the article that the newspaper made a fair attempt at providing its readers with the facts from a national perspective as well as a local perspective in stationing reports in two different locales. By relying on eye-witness accounts as the basis of information for this article, Baudrillard would argue that the reader loses sight of the truth as regards to the events. He might ask if truth is indeed possible? The article also follows the factory model of news by publishing this article in a timely manner following the incident being reported.

The article further demonstrates the newspaper's political economy by having a large number of sources, and using two journalists not located at Burnt Church (Toronto and Ottawa). The article uses confrontation as its basis to frame news story, and through editorial comments, the reader sees that the true sympathies this newspaper has on the side of the non-Natives. It is important to denote that editorial comment is part of the news story.

The same publication continued to follow the events in this small fishing community and acted in a timely manner when news was discovered. On August 29, 2000, this paper ran an article entitled: "Nault cuts short visit to Burnt Church: Natives jeer minister" (Gillis, 2000(1)). There is no image included with the article that appears on page A5. The reporter for this article provides accounts of this article from Toronto, which shows the newspaper's financial means to obtain the necessary sources and information from a distance. This article was selected for analysis because it reiterates the conflict-oriented elements in the story.

The article led: "Members of the Burnt Church First Nations embarrassed a potentially valuable ally in the East Coast lobster dispute yesterday, sending the Federal Indian Affairs Minister off their reserve with catcalls ringing in his ears" (Gillis, 2000(1): p. 5). This lead sentence seemed to be questioning the actions of the Natives, which frames the article in a negative context towards Natives. It was comparable to being portrayed like a scene out of a western where the protagonist is driven out of town by an angry mob. The article continued to explain that Nault left the community after he discovered the band had arranged a "town hall-style meeting" where he would have to face the community's questions. According to the article, Nault had only agreed to meet

with the Chief and his Council. Nault said that the Natives had missed an opportunity for dialogue. Nault was quoted as saying: “those discussions cannot take place in the current atmosphere of confrontation and mistrust” (Gillis, 2000(1): p. 5).

The article continued by mentioning that Nault had come with hopes of breaking the impasse between the three sides, and giving a quick background of some of the events leading up to the present. Nault also pointed out the fact that 29 of 30 bands that were affected by the Marshall ruling had already reached fishing agreements with Ottawa, thereby providing them with extra licenses and about 100 boats with which to fish. Nault was quoted as saying: “The fact is that aboriginal people do not enjoy the same standard of living as other Canadians.... The Government of Canada recognizes the status quo is not sustainable” (Gillis, 2000(1): p. 5).

The article moved to the Native side, explaining that Wilbur Dedam, Chief of the Burnt Church Band admitted that there may have been some “miscommunication” over the nature of Nault’s visit. Dedam also confirmed that his people will not remove traps while negotiations are in session.

The article went on to state that Nault met briefly with the Chief and a few band councillors, before he left with a crowd outside waiting. According to the article, Nault spent less than an hour on the reserve, and received a great deal of jeering on his way out of the community. The article closed as Ovide Mercredi, former Grand Chief of the Assembly of First Nations, shared his support for Burnt Church. Mercredi stated: “I’ve never seen a white man flee from Indians before.... He fled the community. He fled the people. These people have the right to hear what the government is going to say to them” (Gillis, 2000(1): p. 5).

This article showed an interesting series of events. The writer was not even present at Burnt Church, instead relying heavily on interviews and statements from others — both Native and governmental sources — but this is an approach most media outlets take when covering events such as this one. One may conclude this newspaper felt there was no need to use CP stories because points of information could be obtained by long distance calling or other means. The Natives essentially turned a minister of the Crown out of town, which the article does effectively report. However, their actions were in response to the Minister's refusal to speak with the public, which according to some is a failure to conduct a basic governmental duty. The article provided good insight to what was taking place in the context of Nault shortening his visit. The newspaper reported Nault's short-lived visit to Burnt Church in a timely manner, the day after. The sources and facts obtained for the article frame the event as one of conflict. To reiterate, the use of a reporter located away from the scene demonstrates the political economy of the newspaper in that they are able to decide in economic terms how to cover a story. By not having someone present at Burnt Church, this newspaper may have excluded other angles.

The National Post continued in its coverage as more violence on the water continued among Natives and non-Natives. On August 30, 2000, the national newspaper ran an article located on page A4 entitled: "Boats sunk in Burnt Church fracas: Injuries on both sides" (Gillis, 2000(2)). The image included with the article is of an unidentified Native man swimming to a fellow fishermen's boat. The Fisheries vessel in the background had sunk his dory. In using this image the newspaper was simply providing a snapshot that painted the true meaning of conflict for its national readers. The article,

which is written by a journalist stationed in Toronto, uses a headline and a CP-generated image that illustrates the conflict taking place in this community. This newspaper ensured that it covered the event in a timely fashion as the article appeared on one of the top news pages the following day.

The article led: “Fisheries officials will investigate allegations their officers marauded through the lobster grounds off Burnt Church, N.B., yesterday, sinking two Native boats and sending fisherman diving into the frigid water of Miramichi Bay” (Gillis, 2000(2): p. A4). According to the article, a fisheries patrol boat ran over a Native vessel, forcing the four men on board to jump into the water. Two other boats were sunk as a result of collisions with DFO vessels.

The events took place as fisheries officers clad in riot gear faced an angry group of Native fishermen. According to the article, the Natives threw rocks at the DFO vessel, whose officers returned with batons and pepper spray. According to the Natives, two of their members suffered minor injuries, one from a blow from a riot baton. A fisheries officer was also injured by a thrown rock. The article turned to a Burnt Church spokeswoman who is not named: “It was terrible...we sent a couple of small boats out to watch over the traps and they were rammed almost immediately. [Fisheries Officers] initiated the boat-ramming” (Gillis, 2000(2): p. A4).

The Minister Herb Dhaliwal stated his department, the Department of Fisheries and Oceans, would conduct an investigation into the incident. Dhaliwal claimed that safety is his priority, but he nonetheless stands by the actions of his officers who were merely doing their jobs. Dhaliwal was quoted: “Our officers try to avoid any confrontation.... We will certainly review to ensure we’ve taken the appropriate

precautions in this case. But the fisheries officers are doing their jobs. Fulfilling their duty to remove illegal lobster traps.... There are people trying to interfere with them and we don't accept that" (Gillis, 2000(2): p. A4).

The article went on to explain how DFO will examine the events leading up to the most dramatic collision, which Burnt Church members captured on video. Robert Allain, area manager for the DFO, was then quoted as saying that thrown rocks or mechanical problems could have been responsible (Gillis, 2000(2): p. A4).

The article provided a small amount of background on the events, mentioning the Marshall ruling and its confusion. It also reviewed the government's continuing belief that it had ultimate power in regulating the fishery. The article closed with Dhaliwal again saying that negotiations will not continue until the Natives had removed their traps. Dhaliwal was then quoted as saying, "I think that, fundamentally, they want to continue to fish illegally, the only thing I can conclude is that they're not interested in an agreement" (Gillis, 2000(2): p. A4).

It is interesting that the article only mentioned the outcome of the altercations. The details of what really happened on Miramichi Bay at this point were unclear. Readers were left to judge which side was telling the truth. The Native side is under-represented in quotations. Perhaps this lack of information stems from the writer not covering the event from Burnt Church? This newspaper had the financial means to obtain an image and use a journalist reporting the events from Toronto, who mostly turned to governmental and non-Native sources in order to explain the events. However, the article mainly focused on conflict as it showed both sides participating in violent actions over the interpretation of the 1760-61 treaties.

Conclusion: Reviewing the National Press

In looking at the news articles explored in this chapter, we could see the factory model of news in effect, and how Baudrillard may have viewed the coverage. Both newspapers ensured that when news happened, they acted with immediacy to provide articles for its readers.

Both newspapers framed the articles as ones mainly involving conflict, and worked to illustrate how the Natives, non-Natives, and government were at odds over the interpretation of the 1760-61 treaties. Interestingly, both these newspapers provided little background to the Supreme Court's landmark ruling, involving Marshall, and the clarification which followed soon after. Perhaps outlining necessary facts from the Supreme Court's decision would have aided the reader, with sufficient background, to grasp why the conflict existed in the first place. For the most part, the coverage, while it is factually based, does cast Natives in a negative light as it shows them in defiance of the law. This is done through the images used and, at times, sensational headlines that continually underscore the conflict between the three parties. This is compounded by providing little space for Native quotations while giving DFO sources overriding prominence.

Both newspapers did work to ensure that various sides were afforded an opportunity to present their position in the dispute. However, while these newspapers turned to government, non-Native, and Native sources, and governmental authorities, conflict inevitably derived from the facts being reported.

Of course, both *The Globe and Mail* and *The National Post* have large scale operating budgets and were able to obtain images, information, and sources irrespective of where their journalists were situated. *The National Post*, because it chose to use reporters who were not stationed at Burnt Church, covered the story “on the cheap.” However, the odd CP photo and referencing CP sources did cost them monies as defined in their agreement with the wire service. Still too however, by this paper not sending reporters to the actual scene, means they were saving money as well.

Reviewing these articles in the context of the principles of journalism leads us to conclude that journalists worked to provide readers with the truth in a non-partisan fashion. This is evident by virtue of the fact that *The Globe and Mail* had reporters stationed at Burnt Church while its national competitor did not. The stories chosen from both national newspapers illustrated the differing approaches by editorial teams within the decision-making apparatus of each newspaper. Both newspapers placed emphasis on event coverage over actually analysing the root causes of the conflict, which perhaps is an example of hard news having its limitations.

For a theorist such as Baudrillard, the controversial events at Burnt Church were not ones that remained hidden. Baudrillard might argue that through the use of imagery and textual explanation of the events the reader was provided a one-dimensional telling of the story. Baudrillard may also argue that the conflict, which was at times violent, made for shocking and sensational news that would lure readers to these newspapers, for their daily intake of news at Burnt Church. Overall, Baudrillard’s approach implied that due to the overabundance of news relating to the Burnt Church fishing dispute, the true meaning of the issue lost its meaning.

CHAPTER FIVE

READING THE PROVINCIAL NEWS

The provincial newspapers would also closely follow the conflict that unfolded at Burnt Church. The events that took place in this community were of deep interest to readers in Atlantic Canada as the conflict happening at Burnt Church mirrored the debate stemming from the Marshall decision. These events impacted on other reserves and also non-Native communities. Through a review of these articles one can identify how the factory model of news is being employed and how a theorist, such as Baudrillard, would classify the overall meaning of these articles.

Reading The New Brunswick Telegraph-Journal

On May 9, 2000, *The New Brunswick Telegraph-Journal* published an article entitled, “Native fishermen continue to bait fisheries officials” (Macfarlane, 2000). An image of Lloyd Augustine and James Ward, the co-architects of the Burnt Church fisheries policy, posing with some traps and some Burnt Church lobster tags accompanied the article. The article was penned by a journalist who was situated in this small fishing community. The article was selected for this work because it provides yet another example of how the media covered the primary focal point of conflict. This newspaper showed that it was covering the events taking place at Burnt Church with immediacy. The headline suggested that the Natives are provoking DFO officials. The article led: “The baiting of lobster traps and federal fisheries officials continued around the water of Burnt Church First Nation yesterday” (Macfarlane, 2000: p. A6). This

demonstrated the journalists' use of framing to contextualize the actions of Natives as being unacceptable and causing the dispute, and utilises the concept of conflict to further frame the article.

The article went on to explain that members of the Mi'kmaq First Nations were vowing to defy the federal regulations by setting lobster traps without the federal license tags. The article explained how Burnt Church members were affixing their own purple tags. James Ward, the co-architect of the Native fishery policy for Burnt Church First Nation was quoted: "This is a treaty right....We're not fighting for the economic pie; it's the measure of protecting our treaty rights" (Macfarlane, 2000: p. A6). The article continued by saying that for the third consecutive day, Mi'kmaq residents planned to continue dropping traps into Miramichi Bay without government-issued tags.

The article then mentioned the Marshall decision and the violent altercation in which non-Native fishermen destroyed Native traps in the fall. According to the article, the Native fishermen in Burnt Church First Nation refused to sign an agreement with DFO, as well as "refusing to abide by the maximum of 17 commercial lobster licenses set by the Federal Government" (Macfarlane, 2000: p. A6).

The article mentioned the previous Saturday, when DFO seized 10 lobster traps belonging to Brian Bartibogue, First Nations' Councillor. Bartibogue, who expected at the time to be charged, had no government-issued tags on his traps.

The article continued by citing DFO spokespersons who said they were monitoring the situation very closely. The DFO's André-Marc Lanteigne states: "It's not a major issue with what we've observed" (Macfarlane, 2000: p. A6); he then mentioned

that the traps being set are symbolic since the traps were unlikely to catch any lobster at that time of year.

At this point, the article suggested that the Natives were still seeking attention from the government. The article closed with Ward discussing plans for more numerous trap settings in the future. “We are already talking about it...I don’t want to get into too much depth but we are tossing the idea of a community fish” (Macfarlane, 2000: p. A6).

The article, covered by a writer at Burnt Church, seems to have sided with the government and DFO by showing examples of the Burnt Church First Nation’s residents’ activities. This was one more illustration of pack journalism which exists in the daily construction process of news delivery. While some may view this as negative, these activities here are being reported in a factual manner, and the newspaper did work to ensure its readers received enough sources in order to paint the full scope of the conflict that was ensuing. Additionally, the newspaper had the financial means to situate a journalist in this community to report on the events taking place. Timing and news discovery were obvious in that the news of the events were delivered to readers the following day.

This newspaper would continue to work in sharing its discovery of news in a timely fashion. On August 31, 2000, *The New Brunswick Telegraph-Journal* ran an article entitled: “Natives demand charges be laid against DFO officers” (Gowan and Morris, 2000). The image used with this article was of Karen Somerville, spokesperson for the Mi’kmaq of Burnt Church, who met reporters to deliver a message from the Chief and Band Council demanding charges be laid against Fisheries Officers. The article was chosen for its overarching emphasis on the conflict element at Burnt Church and its “top

news” classification. This article was written by journalists reporting from Burnt Church, and demonstrates how the newspaper had the ability to finance journalists who were reporting from a locale where a news event occurred. Gowan was a reporter for *The New Brunswick Telegraph Journal* while Morris was a CP reporter assigned to the story. The article was framed showing the conflict and legal manoeuvring among Natives to deal with the situation at Burnt Church. This framing also sets the reader up to question the viability and the accuracy of the Natives who demanded charges be laid.

The article led, “The leaders at Burnt Church First Nation want attempted murder charges laid in the wake of fisheries officers’ raid on lobster traps earlier this week” (Gowan and Morris, 2000: p. 3). It is interesting to note that the reporter did not include the nature of the incident in the lead paragraph. Perhaps Baudrillard would argue that the selection and salience of information distorted the facts for the reader. The article then attempted to explain the events that prompted the Natives’ demands. Wilbur Dedam claimed that the actions of DFO officers who reportedly rammed two Native vessels “went far beyond normal procedure and into the realm of criminal intent” (Gowan and Morris, 2000: p. 3). Dedam was quoted as saying: “This is no longer an enforcement issue: their actions show a wanton disregard for human life and also have highlighted for the world to see that this is an action aimed specifically on First Nations citizens” (Gowan and Morris, 2000: p. 3).

The article went on to mention that the RCMP was not available for comments relating to the incident. Band spokeswoman Karen Somerville says that the RCMP assured her that the complaint was being investigated. According to the article, one of the RCMP’s patrol boats was present throughout the confrontation. The article continued by

stating that two Native men were arrested during the altercation and that several Natives received cuts and bruises as well as pepper spray-related injuries. According to Danny Ward, who had been sprayed with pepper spray, “what happened out there is borderline attempted murder.... When the boats are going that fast and with people floating around in the water, they could easily have run over someone with their outboard motors” (Gowan and Morris, 2000: p. 3).

DFO had a chance to defend its position, and claimed one of its officers was hit in the jaw with a rock but then curiously refused to provide information on his condition. Fisheries spokesman Andre-Marc Lanteigne told the newspaper that DFO would co-operate with any police investigation. Lanteigne is quoted as saying: “If they find one of the operators operated in a dangerous way, we’ll be more than happy to co-operate...this is not acceptable if it was intentional” (Gowan and Morris, 2000: p. 3).

The article stated that Bob Allain, Fisheries and Oceans Eastern New Brunswick area manager, admitted that amateur video of the confrontation “does not put the department in a very good light” (Gowan and Morris, 2000: p. 3). Allain said: “It’s amateur video and it paints one picture; however, we want to know if there is another picture here” (Gowan and Morris, 2000: p. 3). The article then expressed Allain’s thoughts that the DFO Zodiac may have suffered a mechanical failure or the operator may have temporarily lost control due to thrown rocks. The accounts reflected from Allain framed Natives as the scapegoat for the events by attempting to shift the blame onto them.

The article mentioned how Chief Dedam and the rest of Burnt Church would be watching the RCMP closely to see how they handle the situation. Dedam states:

Should the RCMP not proceed with laying charges, we will be left with the definite proof that there are two levels of laws in Canada, one for First Nations, one for Canadians. The DFO officers stated that rocks were being thrown; this is a different level of response to one where an offensive weapon, the boat, is used to attack people. The rocks were a reaction to a direct attack, a very legitimate yet much smaller means of self-defence to an unprovoked attack. Yet our First Nation members are charged for throwing rocks. We expect the DFO officers to be charged with attempted murder at the very least (Gowan and Morris, 2000: p. 3).

It is rare for anyone to get a quotation this long in any news article; however, it demonstrated the newspaper's attempt at telling both sides of the story about the conflict at Burnt Church. The article closed, mentioning that both sides agreed there were about 100 traps still in Miramichi Bay.

Overall, the article, which reported on conflict, did provide readers with ample information from a number of sources pertaining to the overall issue at hand. Of course, the news discovered in this community was written in a timely fashion, making for lead news on the following day for readers. The use of sourcing in the article demonstrates the conflict that has been ongoing in this community, which is a unique way of framing the article in an "us versus them" scenario. The sources obtained in this article and other information gathered was done so through the work of a journalist situated in this community, hence showing the newspaper's financial means to carry out this task. The story was also supplemented by CP reports.

On September 4, 2000, the newspaper ran a front page article entitled: "We're bound for bloodshed: Dispute: Non-native fishermen say they're prepared to step into action" (Klager, 2000). The headline of this article frames the anger which was mounting from non-Native fishermen at Burnt Church. This framed Natives as the opposing and

instigating party in this dispute. There is no image to go along with this article, which was written by a writer reporting from this Native fishing community. The article, which shows the non-Native position on this issue, was immediately reported in the next day's edition for its readers.

At this point in the heated dispute, the non-Native fishermen had had enough with the government and DFO's actions and planned to take things into their own hands if the situation did not improve. The article led: "An air of uncertainty hangs over Miramichi Bay today, following a weekend of failed mediation attempts, confrontation on the water and signs that frustration in the non-Native fishing community is boiling over" (Klager, 2000: p. 1).

The article continued by mentioning that Native leaders were still in discussions with DFO trying to find a mediator for negotiations. The talks came just hours after a flotilla of non-Natives moved into the bay. There was a confrontation between the 30 boats full of angry fishermen from Baie-Sainte-Anne and the Natives. By inserting the information regarding this altercation the newspaper further framed the article as one of conflict.

Then the article went on to mention a rally planned for that day (September 4, 2000) organized by the leaders of the Big Cove First Nation. According to the article, police said they would be watching the event to prevent further altercations. Inspector Kevin Vickers noted that: "Things were very heated and emotions were running high.... This is a very emotional situation for both communities and we're appealing for peace, calm and tolerance" (Klager, 2000: p. 1).

According to the article, the Natives rejected an offer by Herb Dhaliwal to go back to mediation. Dhaliwal took this as “unacceptable and bargaining in bad faith” (Klager, 2000: p. 1). He had proposed Saint John lawyer Neil McKelvey step in as the mediator and promised that no Native lobster traps would be seized in the mean time. The article explained that Burnt Church had made its own list of mediator choices including former NDP leader Ed Broadbent and former Ontario Premier Bob Rae. This framed the article by showing Natives as not willing to compromise or be flexible in coming to a resolution to the issue. In fact, their willingness to prepare a list of mediators did not necessarily signify a willingness to compromise. Rather, it demonstrated a capacity to prepare for any eventuality.

The article now explained some of the non-Natives’ views on the situation. Kenneth Clark, a Miramichi Councillor and commercial fisherman, believed the government was “backing off too easily from enforcing regulations” (Klager, 2000: p. 1). The article continued by stating that: “Mr. Clark said Ottawa’s new stance proved too much for non-Natives who feel the fishery is being left unprotected — their voices ignored — in the entire consultation process” (Klager, 2000: p. 1). Clark was then quoted as saying: “I can guarantee you that if it’s going to continue, the only thing it can possibly do is escalate and turn into something that is very disturbing. From the feeling of frustration that exists in the commercial fishing community, I can guarantee you that’s a certainty” (Klager, 2000: p. 1). Clark goes on to mention that if Dhaliwal and DFO continue to soften their stance, the non-Natives will be forced to take matters into their own hands. Clark was quoted as saying: “All the considerations and negotiations are between the DFO and the Native bands, if they’re going to set some rules and regulations

by the individual Native communities that are not going to take into consideration the impact that it's going to have in the communities that surround them, then we're bound for an awful lot of turmoil, trouble and probably even bloodshed" (Klager, 2000: p. 1). Non-Native fisherman were portrayed as villains in respect to the law, as were Natives. Such a statement also calls to mind the very prevalent conflict orientation of the stories analysed in this work.

Karen Somerville was given a chance to support the Native perspective. She claimed that it was attitudes such as Clark's which fuel concerns that even with mediation, the Mi'kmaq's safety and fishing rights are being jeopardized. Somerville said: "this is what really bothers me about the whole thing: every time DFO starts to work with us, the non-Native fishermen get uptight and talk about, 'if the government can't keep you in line, we can, we will and we're not scared'" (Klager, 2000: p. 1).

The article went on to mention the government's predicament. Heather Bala, a spokeswoman for DFO in Ottawa, explained that the government was still committed to securing a peaceful resolution. Bala noted: "We received their (Native fisherman) proposal [Saturday] afternoon, and the way we feel is that it's a positive indication we can both look at options for moving forward.... The minister is willing to look at any options that would lead to positive discussions. We are open to discussing any options that may help to resolve this situation" (Klager, 2000: p. 1).

The article now mentioned that DFO would continue its regular patrol of Miramichi Bay but would not be pulling any more traps. The article closed by mentioning a peace rally in Burnt Church in which members from the Big Cove plan to attend in support. According to the article Mi'kmaq "warriors" had warned that peace

will not prevail if their traps are further jeopardized. Clark, a commercial non-Native fisherman, was then quoted as saying: “If the Minister of Fisheries does not maintain a solid stance on this and uphold the laws that exist in this country now, we’ll descend into a system of anarchy and I’m afraid what happens then is the person with the biggest stick or the most bodies to waste is the person who is going to eventually have control” (Klager, 2000: p. 1).

It is interesting to note that based on the quotations alone, the non-Native fishermen seem more prone to violence than the Natives, but also showed their frustration to how they view the overall situation at hand. The Natives viewed the violence as something they would have to deal with when it comes, whereas the non-Native fishermen threatened violence if nothing is done. Timing and news discovery was most evident in this article as they covered the events with immediacy. Through the use of sourcing from representatives on all sides of the dispute, the reporter showed conflict as the central theme, as the article set out to do in the first place. Also, by using a journalist situated in the community, the newspaper demonstrated its financial flexibility in providing news to its readers.

Reading The Halifax Chronicle-Herald

The events that had taken place at Burnt Church during the summer and fall of that year were of interest for readers of *The Halifax Chronicle-Herald* and they too, like *The New Brunswick Telegraph Journal* would focus deeply on the conflict that was occurring in northern NB.

On September 6, 2000, *The Halifax Chronicle-Herald* ran an article entitled: “Maritime fishermen seek end to native lobster fishing in N.B” (Canadian Press, 2000). An image of Mike Belliveau, executive secretary of the Maritime Fishermen’s Union, and Union president Ron Cormier at a news conference ran alongside the article. The article was provided through CP news wire service, thereby lessening the cost in covering the story. The headline of the article was self-explanatory, in that it illustrates how non-Native fishermen from Atlantic Canada want an end to the dispute over lobsters that had been boiling over for quite some time. However, framing is evident here as it leads the reader to the conclusion that only the non-Natives wanted an end to the dispute over the interpretation of the 1760-1 treaties. Along with the aspect of inflection of news discovery (relating to the Maritime Fishermen’s union wanting an end to the dispute) the newspaper also brought immediacy in its reportage.

The article led: “An organization representing Maritime fishermen is calling on Ottawa to enforce the rules and stop Native lobster fishing in new Brunswick’s Miramichi Bay” (Canadian Press, 2000: p. C7).

The article went on to explain that officials with the Maritime Fishermen’s Union said the situation regarding the Native fishery had elevated to a grand farce, which was “fuelled by the news media’s concentration on conflict” (Canadian Press, 2000: p. C7). Union spokesperson Mike Belliveau expressed his wish that the issue be reduced to its basic elements: “The native fishermen of Burnt Church are breaking federal rules meant for everyone and their unauthorized fishing has to end” (Canadian Press, 2000: p. C7). Belliveau then stated: “No one should ask ordinary hard-working inshore fishermen to pay the price for decades of national ineptitude towards one of our founding peoples...the

fishing itself in the bay simply has to stop. There has to be a moratorium and there cannot be boats on the water fishing while the larger issues are being sorted out” (Canadian Press, 2000: p. C7).

The article explained that Native fishermen from Burnt Church began setting lobster traps in mid-August during the off-season. According to the article, non-Native fishermen had kept a close eye on the actions of DFO while it attempted to defuse the volatile situation. Belliveau was cited again saying that what should be a law enforcement concern has been transformed into an international controversy. Belliveau blamed the media for demonstrating sympathy for Native fisherman by overreacting to the events: “I believe there are some reporters who are not ill-intentioned but who seem to support one side more than the other and are not representing all the complexities of this situation” (Canadian Press, 2000: p. C7). According to the article, the non-Native voice had been absent from the controversy. Arguably, the Native voice had in fact been disregarded in the news coverage surrounding these events at Burnt Church. This was a further example of framing in that the article sympathised with the position of non-Natives. The sources in the story were members of societal authority groups including the DFO, police, and governmental entities.

The article continued giving some background into the Marshall decision, and then mentioned that up until then, the non-Native fishermen had stayed out of the dispute, watching as DFO attempted to control the situation. Belliveau noted: “Our position was that this was a regulatory matter for the Fisheries Department, we expected basic enforcement as we expect everywhere in the lobster fishery” (Canadian Press, 2000: p.

C7). The article continued to portray Belliveau's sentiments that fishermen were unhappy with the media and also the government's handling of the issue.

The article closed with Belliveau stating that the union will not support, organize, or encourage any retaliatory actions by non-Native fishermen against Natives. Belliveau was quoted as saying: "We will use all the peaceable means at our disposal to ensure basic enforcement of our members and their communities' livelihoods" (Canadian Press, 2000: p. C7). The article mentioned that a flotilla of about 25 non-Native vessels moved onto Miramichi Bay the previous Sunday in protest.

The article, which sourced Belliveau, communicates to readers an understanding as to his organization's position on the matter, and some could lay claim here that pack journalism is at play in this piece — that is using one source — and readers do not get the full scope of the issue. On the other hand, this article articulated Belliveau's position as noting that non-Native fishers too have the right to be accorded space in the news pages of the paper. As each day passed, there were many stories that reported on the events at Burnt Church and diverse viewpoints were given room in this newspaper, along with other media outlets. Timing and news discovery were most evident as the newspaper was quick to act on the actions outlined by the Maritime Fishermen's Union. Through the use of mainly non-Native sources in this article, readers were not able to obtain all sides to the issue, but instead received a one-dimensional view. The newspaper demonstrated its political economy by having up-to-date-news for its readers the next day.

As the month of September moved on, trouble within this community would only continue, and this particular newspaper would ensure that the stories of conflict were covered in a timely fashion. On September 24, 2000, *The Halifax Chronicle Herald* ran a

CP article entitled, “DFO seizes 800 traps: Burnt Church band offers no resistance” (Morris, 2000(2)). No additional resources were utilized in the story. The article led; “Federal Fisheries officers removed more than 800 Native lobster traps from the Miramichi Bay on Saturday, possibly hastening the end of the bitter stand-off over aboriginal fishing rights” (Morris, 2000(2): p. 1). The article again was written by a CP writer stationed at Burnt Church, and the image that ran alongside the article was of Native “warriors,” who headed out from the wharf as federal fisheries officers removed Native lobster traps from the waters of Miramichi Bay at Burnt Church. The use of a CP article and access to an image of this sort shows that the newspaper had the financial ability to obtain news. The paper was clearly unwilling to spend money to send a staff reporter and instead relied on a CP reporter. The image directly connected with the article being reported and while it does show Natives involved in some type of illegal activity, one must keep in mind that the facts of the situation are being reflected in a photo. The headline echoed the rising tension and the actions of authorities whom seized traps and gave a measure of the mood among Natives in this community who remained adamant over their rights to catch lobster during the off-season. Framing was employed here to show the conflict at hand, while also showing Natives as acting outside the law.

The article went on to explain that members of the Burnt Church community seemed discouraged by the latest raid, which they claim left only 100 traps in the water. The raids proved to be a setback for Natives who insisted that the Marshall decision allowed them to catch lobster when they saw fit. The 1760-61 treaties were, from the viewpoint of Natives, still as relevant at this point in time as they were over three centuries ago.

According to the article, however, DFO claimed the number of leftover traps is closer to 1,000. The article noted that DFO met no confrontation during their eight-hour raid in the middle of the night. Karen Somerville, spokeswoman for the Mi'kmaq is quoted: "We've asked our community members and everyone involved to stay off the water and not respond to the violations that are happening" (Morris, 2000(2): p. 1). Somerville then expressed her feeling that it would be difficult for the members of the band to replace the seized and destroyed traps.

The article turned to Leo Bartibogue, who was in charge of the reserve's fishery. "If they could only be patient and wait a few more days, our fishing would be pretty much over anyway, but it's not about fishing — it's about greed and corporate power and the First Nations people just have no place there" (Morris, 2000(2): p 1).

The article went on to describe a second shooting incident on the bay. According to the article, a group of non-Natives fired shots near the reserve early on Saturday. Although no one was hurt, the three men from Neguac were arrested. The shooting — according to the article — came after an event Friday in which a Native shot at a commercial fishing boat out of Neguac. RCMP inspector Kevin Vickers called the two shootings isolated incidents, saying: "These are the actions of independent individuals acting on their own" (Morris, 2000(2): p. 1). The article explained that there had been no charges laid in the first altercation, but in the second confrontation, police seized the non-Native boat along with two loaded rifles, a shotgun, alcohol and marijuana. According to the article, the three Neguac men were drunk when arrested. The similarity in coverage vis-à-vis incidents involving Native fisherman lies in the notion that the indigenous fishers were also portrayed as acting in conflict with the law.

The article stated that the remainder of illegal traps were near the shore of the Miramichi, making them slightly more difficult to seize. The article then read: “It appears Fisheries Officers are in no hurry to remove the inshore traps. The roughly 800 traps taken Saturday were all in deeper water, one to three kilometers out from the Burnt Church coastline” (Morris, 2000(2): p. 1). DFO officer Alphonse Gosselin expressed his concern that safety kept Fisheries officers away from the shore. “Because of the tensions that are on the water now, we decided for safety reasons not to go that close to the reserve” (Morris, 2000(2): p. 1).

The article continued by explaining how Gosselin spoke to reporters in front of a flatbed truck loaded with a few hundred traps. According to the article, the traps were later displayed in Neguac to prove that the government was not just sitting around. The article explained how non-Native fishermen have threatened to take things into their own hands if the government does not do something about the Natives’ illegal fishing. Reg Comeau of the Maritime Fishermen’s Union expressed his wishes for all of the traps to have been removed that weekend. Comeau then explained how Miramichi Bay cannot support two commercial lobster seasons. Fisheries Department scientist, Mike Chadwick, supported this opinion stating that lobster stocks in the bay are already fished to the limit. Chadwick was quoted: “No one is really speaking for the lobster here. The lobster don’t belong to anyone; they belong to everyone. Even before Burnt Church, we were concerned that exploitation rates were too high” (Morris, 2000(2): p. 1).

The article closed with the government’s estimation that the Burnt Church fishermen have caught roughly 140,000 kilograms of lobster in the past six weeks. It also explained that the commercial, government-sanctioned fishery in the spring takes about

1,000 tons of lobster, as reported in the newspaper. Note the variance in the article of the differing measurements employed.

The article again focused on conflict going on in this community; however, the journalist for this article effectively obtained the facts from a number of key sources who provided facts and viewpoints relating to the DFO raid and how members of the Burnt Church community felt about it. The discovery of news, while obvious, demonstrated that the newspaper worked in a timely fashion to ensure readers were informed of the ongoing conflict at Burnt Church. Framing was evident as this article created an “us versus them” scenario where Natives and non-Natives were in disagreement over the interpretation of the 1760-61 treaties, as well as showing Natives acting outside of the law. The use of a CP journalist and image were somewhat costly ventures. Still however, since Burnt Church was a sufficient distance away from the Halifax based newspaper’s newsroom, it is clear why they would rely on CP’s story and image in order to provide readers with up-to-date news.

As conflict became common place at Burnt Church, the Nova Scotia provincial newspapers continued, like other media outlets, in giving its readers an inside scoop on the events unfolding. This was an example of how the newspaper discovered news and delivered it in a timely manner to its readers.

On September, 26, 2000, the newspaper ran an article entitled: “Fisheries officers make bold daylight raid: 97 lobster traps seized at Burnt Church” (Thorne, 2000). The image that went along with the article showed RCMP and Federal Fisheries officers at a wharf near Burnt Church. The article was also written by a member of CP, which again showed this newspaper as using a news wire service rather than its own reporter. The

headline along with the image, emphasized the strong actions being undertaken by the authorities, which framed the article for the reader as showing Natives involved in conflict and in defiance of the system.

The article led, “Fisheries enforcement officers used new tactics in their attempts to end Native lobster fishing in Miramichi Bay on Monday, conducting two surgical strikes in broad daylight under the noses of Mi’kmaq “warriors” (Thorne, 2000: p. C14). It is interesting to note the use of the word ‘warriors’. While the Mi’kmaq have identified themselves in this context, the use of the term leads the reader to view Natives in a negative way, and to strike fear into the reader about the role and actions being taken by Natives.

The article continued by saying Natives took to the water to try and chase off the DFO vessels but failed to reach them before they had removed the traps. Noah Augustine, an advisor to the Burnt Church band, was quoted: “They were pulling traps right in front of us, probably within 100 yards. Each of them got at least one or two traps. That was amazing. What a powerful scene. They came in, made their hit real hard and, as soon as the boys (warriors) came out, they left” (Thorne, 2000: p. C14).

DFO said that the “warriors” did not interfere with the operation. The article went on to say that the confrontation came several hours after shots were fired by an unknown source for the third time in four days. According to the article, DFO claimed that some of its officers were fired upon from nearby. RCMP Sergeant Roger Somers stated that no one was injured and that no damage was done (Thorne, 2000: p. C14). There is uncertainty as to where and from whom the shots came. Inspector Kevin Vickers of the RCMP then stated that the force could not confirm that shots had been fired but Robert

Allain, regional director of the Fisheries Department, stated that his officers said there was no doubt. Allain stated: “As the operation was winding down, the (Fisheries) officers reported two gunshots were fired from a land position at Burnt Church.... They were approximately three-quarters of a mile from shore at the time” (Thorne, 2000: p. C14).

The article continued by mentioning that DFO officers promptly returned to the government wharf in nearby Neguac at dawn, having seized about 100 traps: “some with lobsters still in them” (Thorne, 2000: p. C14). According to the article, the lobsters were returned to the bay.

Wilbur Dedam was cited, claiming that any more raids would be met with resistance until his band’s self-declared season ends on Oct. 7. Dedam was quoted as saying, “If they’re going to take our traps, we’re going to defend those traps. All our fishermen are doing is just trying to make a moderate livelihood and I’m not going to stop them” (Thorne, 2000: p. C14).

The article closed with Allain avowing that the operations will continue. Allain was quoted as saying, “There are still some traps in the water and we made a commitment to remove that gear as safely as we can” (Thorne, 2000: p. C14).

While this article, like many others reported from media outlets, provided the readers with more information on the conflict between Natives and the authorities, and it appeared to provide enough of the facts for its readers to understand what had taken place in relation to the Marshall decision. That is, it effectively set out to show how the authorities were cracking down and it also provided comment from both authorities and Natives, which again gave readers a sufficient perspective on the conflict that had been ongoing in northern N.B. The newspaper delivered to its readers the news as it occurred

and did so via a journalist from the CP. This demonstrated the provincial newspaper's unwillingness to send its own news reporters to cover events at Burnt Church. However, it is important to note that Burnt Church is not of close proximity to Halifax, and therefore the use of CP is certainly sufficient in this case. A number of sources were utilised in telling the story. However, in the end, the article mainly focused on Natives acting outside of the law. These stories were selected because their content exhibited a tenor of conflict which existed throughout 2000. Both publications worked to provide their readers with conflict as opposed to information which had been at the heart of the issues at play. Though the publication dates of these stories differed it is the comparative content of "major news" which qualified them for this analysis.

Conclusion: Probing the Provincial Press

In reviewing the articles in this chapter from *The New Brunswick Telegraph-Journal* and *The Halifax Chronicle-Herald*, one became familiarized with how the factory model of news was employed in making the news for readers. As a result of the factory model of news one can also connect these findings and relate them to Baudrillard's theories on the meaning of media.

Both newspapers did work in a timely fashion upon discovering the news, which was usually on a daily basis from this northern NB community. The sources used by both newspapers tended to include more individuals at the local level, such as provincial politicians, local Natives, the authorities, and local non-Natives. The sources used by both these newspapers were quite similar, as they too, like the national newspapers, sought out

official representatives from all sides, in order to provide a multi-dimensional view of the conflict.

Framing was quite evident in that the articles and imagery tended to show Natives in conflict with the government and non-Natives. Perhaps this might have swayed readers' viewpoints in ways which would have suggested that Natives were mostly in defiance of the law. While the newspapers worked to cover the news as it happened, background to the Marshall decision and the Supreme Court's clarification as the basis of this dispute was not often given mention.

Baudrillard was one theorist who might contest that the events at Burnt Church, involving various individuals, were not events kept hidden from the public. Instead, these events imploded on the news pages for readers to digest. Baudrillard may have argued that the images and text that communicating the conflict at Burnt Church ignited a sense of interest for readers of these newspapers. However, the overwhelming number of stories and information pertaining to conflict that derived from them is yet another example of how in the end the reader lost the true meaning of the events. In this case conflict acts as a diversion from the more central question of what was being done to reach a resolution to the dispute.

CHAPTER SIX

READING THE NATIVE PRESS

Like the national and provincial press, the Native press also worked to ensure that it provided its readers with an account of the ongoing conflict that had been unfolding at Burnt Church as a result of the Marshall decision and the Supreme Court's clarification. While these newspapers may appear different — in size, publication frequency, and scope as compared to the mainstream media — the factory model of news and Baudriallard's interpretation of the meaning of media can be applied in defining how readers of these newspapers gained an insight into the events taking place at Burnt Church. The target audience for Native publications is primarily Native peoples, although others also absorb the information contained.

Reading Windspeaker

In October, 2000, *Windspeaker* ran an article on page 10 entitled: "Canadian Media hits snooze" (Barnsley, 2000(1)). It appeared that the bi-weekly newspaper was working in a timely manner to report the performance of the Canadian media in relation to the Marshall decision and the Supreme Court's clarification. Of course this publication certainly has a different mandate than the mainstream media, in that it provides news for a more pro-Native audience. The headline was clearly suggestive of *Windspeaker's* view of how the mainstream media was covering the conflict happening at Burnt Church, framing the article for its readers as one that is negative towards the mainstream media, produced

primarily by non-Natives for a primarily non-Native readership. The image that went with the article was of protestors blocking the intersection at Seymour and Hastings Street in Vancouver. The protestors who took to the streets in this city were angered over the actions of authorities at Burnt Church, as they felt that the Marshall decision granted Natives the right to fish off-season as well as during the fishing season in order to earn a moderate livelihood. The writer of the article was not situated at Burnt Church, but instead wrote for a national Native audience from Edmonton, Alberta.

The article led, “Human rights activists are saying that, once again, the national press missed an opportunity to take a close look at a problem that is national in scope and of fundamental importance to the way Canadians see themselves” (Barnsley, 2000(1): p. 10). Although they are alluded to, the human rights activists were never identified.

The article went on to introduce Rick Dedam, who video-recorded a DFO vessel ramming a Mi’kmaq fishing boat. According to the article, the videotape showed the Mi’kmaq fishermen being forced to jump into the Miramichi to avoid being run over. The article mentioned that Burnt Church Chief Wilbur Dedam “later demanded that the DFO officers on the boat be charged with attempted murder. So far, no action has been taken in that regard” (Barnsley, 2000(1): p. 10).

The article continued by explaining that the images on the videotape were so graphic that it had been stated by some Natives as being comparable to the Rodney King video. The article explained briefly the Rodney King video — an African American who was beaten by police in Los Angeles with the incident having been caught on tape — and how it received full-scale media coverage around the world. By invoking this comparison to a highly publicized and controversial event, the article framed the incidents at Burnt

Church as ones in which Natives were suffering the discrimination and persecution by the authorities and non-Natives in the community. The article claimed that, “in similar situations in the past, anti-racism workers have pointed to a national case of denial when it comes to facing up to virulent racism in Canada” (Barnsley, 2000(1): p. 10). No one was being quoted saying this; it was merely the opinion of Barnsley and therefore a biased point of view.

The article then explained how Dedam’s video was an effective tool in telling the Native side in the conflict. Dedam was quoted: “Yeah, that [video] was mine...some people tell me that that piece of footage woke up a nation. I’m kind of proud of that” (Barnsley, 2000(1): p. 10).

Next the article explained how Dedam was woken up that morning with calls indicating trouble on the water. Dedam recorded the incident and then supposedly turned the camera over to CBC-TV. According to the article, when Dedam later saw the video on the air he noticed that the editors had “inverted the order of the incidents on the tape and made it look like the Mi’kmaq fishers had started the confrontation by throwing rocks at the DFO boat” (Barnsley, 2000(1): p. 10). The article continued by saying that Dedam had to call CBC to demand that the video be aired in its true sequence and that it finally occurred on the next broadcast. Therefore, the article demonstrates the media’s tendency to deference to authority.

The article went on to mention that on Sept. 7, while The Indian Brook First Nation’s request for a Federal Court injunction against DFO enforcement measures taken against Native fishers was being heard, a white woman approached Native demonstrators while leaving the courthouse. She reportedly said, “I’ve never done this before, but what I

saw on TV the other night mortified me. I cried. I just felt I had to stop and say something. That wasn't right" (Barnsley, 2000(1): p. 10).

The article then introduced Noel Bernard, a band Councillor for the Wagmatcook First Nation (Nova Scotia) and also a former RCMP officer. Bernard said that the woman's action was appreciated, but he found it unusual and surprising. According to the article, his experience has made him believe that racial tensions caused by stereotypes of Native people have a dehumanizing effect that prevents non-Native people from reaching out as that woman did. He was then quoted in conjunction with this: "They forget we've got feelings, too" (Barnsley, 2000(1): p. 10). This was an example of the article being further framed in a racially divided "us versus them" dispute.

The article then mentioned an article in a newspaper called *The Valley News* in Alberta, written by Joan Plaxton, which apparently summed up the thoughts of Canadians who saw the tape and who may not have considered Native rights before.

Joan Plaxton, writing in *The Valley News*, conceded that extraordinary measures have to be taken in explosive situations. Extraordinary measures does not mean unreasonable force, the ramming of a boat by a larger vessel is tantamount to premeditated murder. The incident did not appear to be an error in judgement according to eyewitness accounts and video evidence. By resorting to this kind of violence, the DFO got a black eye in the community. We have rightly earned the reputation of being peacekeepers. Will we be looked at in the same light now? (Barnsley, 2000(1): p. 10)

The article closed with Chief Matthew Coon Come, who said he thought of the issue when he addressed the Policy Conference of Atlantic Chiefs at the Halifax Sheraton on Sept 6:

This is not solely about fish. This is about life, and the land and resources that support our existence and well-being. This is about Canada's persistent policy of dispossession of our lands

and resources. This is about a repressive government that has finally showed its true face to the world in the past few weeks... This is Canada's hidden character.... Mr. Dhaliwal, you are responsible for attempts to harm or perhaps even murder our people. Thank God that no one was killed. Your officials tried. That is clear for everyone to see. Nothing could be more obvious — running over our boats, attacking people in the water, sinking boats. What a wanton and sickening disregard for life your troops have shown (Barnsley, 2000(1): p. 10).

This was quite a dramatic and long quotation; however, it demonstrated the mood among Natives in relation to the ongoing conflict at Burnt Church.

In closing, the article mentioned that DFO officials began an investigation immediately after the incident, and also indicated that mechanical problems could have been responsible for the accident.

The newspaper worked to provide its readers with an account of what occurred at Burnt Church, while identifying the actions of Natives, non-Natives, and the government in a timely manner. The span between editions permits for more reflection and analysis than that which was available to the non-Native media. In probing the “links to sources” used in this article, one discovers that this publication mainly used quotations and information from Natives, and affords little to no time for non-Natives and the government. In doing so, this framed the Native position in the context that their society was being persecuted by the non-Natives and while also being undermined by the mainstream media. The newspaper demonstrated its political economy as it was able to obtain quotations and information from individuals at Burnt Church despite the journalist being situated in Alberta.

In the same issue, the newspaper worked to ensure a national Native audience received news relating to events at Burnt Church, in a timely fashion. In October,

Windspeaker published an article on page 1, entitled: “From sea to shining sea: Vancouver Natives march in support of the Mi’kmaq at Burnt Church, New Brunswick” (Hunter, 2000). The lead article was accompanied by an image of a protester spitting on an inverted Canadian flag, which is perhaps telling of the feeling among Natives across Canada over the events at Burnt Church. This was certainly not a completely negative image, but one which measures the feeling among Natives from across Canada, and how they want their treaty rights upheld. The writer for the article reported from Edmonton, demonstrating the newspapers’ financial ability or inability to obtain information from Burnt Church by a journalist in Alberta.

The article led, “It was high noon on a busy Friday when a couple of hundred Aboriginal people took to the streets and marched from the Vancouver Aboriginal Centre to the building where the Department of Fisheries and Oceans (DFO) has their Pacific regional headquarters” (Hunter, 2000: p. 1). According to the article, the march was designed to show support for the Burnt Church Natives for exercising their treaty rights.

The article then explained that the intersection of Seymour and Hastings was blocked completely for more than half an hour with protestors singing songs, beating drums and waving banners. The article listed the demands made by the Natives, Dhaliwal’s authorizing the use of excessive violence against Mi’kmaq fishermen being one of their greatest concerns. The protestors also insisted that DFO recognize the constitutional rights of First Nations peoples in Burnt Church to hunt and fish. They also made a call to the Supreme Court to begin the implementation of the Marshall decision.

The reader was introduced to Larry Wong, a Native veteran of the Canadian Armed Forces. According to the article, Wong carried an inverted Canadian Flag in the

rally. Wong stated: “I am ashamed of this country that I served 22 years in the Canadian Armed forces, standing on line for Canada only to come back without a uniform....I have a right to be ashamed of this flag that I fought for” (Hunter, 2000: p. 1).

The flag was burned during the rally. One of the people who lit the flag, Patricia Kelly, from Cheam, B.C. was quoted as saying: “I want Canada to stop burning Burnt Church and for [Prime Minister] Chrétien to know we remember the White Paper....The flag burning is my way of showing support and solidarity for the people of Burnt Church” (Hunter, 2000: p. 1). The article went on to explain that the white paper was a policy paper presented in 1969 by then-Indian Affairs minister Chrétien, which called for the assimilation of Native people. Here was an example of framing as it demonstrated the Native frustration over their treatment by the government and non-Natives.

The article showed that there was support for the people of Burnt Church, among members of the Native and non-Native communities from across Canada. The article was critical of the Canadian government and DFO, as well as non-Natives who support the government’s stance; however, it did effectively set out to address how Natives from across Canada feel about the Burnt Church fishing dispute. While some of the quotations in this piece appeared controversial, they were again a reflection of the newspaper working to gauge reaction to the conflict erupting at Burnt Church and how the whole state of affairs in the community was extremely unsettling for Natives across Canada. The newspaper worked to provide news discovery in a timely manner, as its goal was to inform its readers of the events that followed the Marshall decision and the Supreme Court’s clarification. Its very format permitted more depth in its selection and coverage. The sourcing used tended to side mainly with the Native position on the debate, which

further highlighted the differences between Natives, non-Natives, and government. The newspaper had access to sources and information at local levels with a journalist based in Edmonton.

In the same issue, *Windspeaker* published another article on its front page entitled, “Anger Mounts” (Barnsley, 2000(2)). The article, which did not include an image, led with: “Mi’kmaq lobster fishers are finding themselves in hot water for doing the same thing that the Supreme Court of Canada acquitted Donald Marshall Jr. of doing a year ago” (Barnsley, 2000(2): p. 1). The writer wrote the article from the newspaper’s bureau in Edmonton, and the newspaper worked to ensure that the discovery of news was sent monthly to its readers. The lead sentence provided its readers with how Natives viewed the events at Burnt Church, framing the article in that manner.

The article went on to explain that after Mi’kmaq fishers began their season in August, the tensions began to rise until DFO set its own deadline to remove traps. The DFO officers then began removing traps. The article mentioned that the Mi’kmaqs moved their traps closer to shore.

According to the article, Native leaders had already descended on Burnt Church to show support. The article read: “The fight is seen as a pivotal battle in the war to protect gains made by Aboriginal people through a succession of court cases that stretches back more than 10 years” (Barnsley, 2000(2): p. 1). According to the article, Natives complained that federal and provincial politicians refused to respond to the changes which came from cases such as the Marshall decision. This demonstrated how the newspaper framed the article to show the government as unchanging and Natives being forced to suffer the consequences.

The article mentioned that non-Native fishermen constantly threaten to impair the Natives' ability to fish. According to the article, three non-Natives were arrested after a September 22 incident in which shots were fired just off the Burnt Church wharf. The article mentioned that liquor and drugs were seized and the three men were reportedly intoxicated.

The article moved on to explain the roots of the problem: the Marshall decision. The documentation, it says, "is too complex for those without advanced degrees in constitutional law to solve in a reasonable fashion" (Barnsley, 2000(2): p. 1). The article also told how twenty lawyers with experience in Native law signed their names to a recent press release which stated DFO's position on the lobster fishery was wrong. According to the press release, nothing has been done to meet the criteria of the Marshall ruling. The lawyers stated that treaty rights can only be limited by pressing or substantial public needs. The article explained that the Supreme Court's clarification is widely seen as the Supreme Court's bowing to political pressure. The lawyers claimed the clarification came as a response to violence. Lawyer Bruce Wildsmith, who worked on the Marshall case, was introduced as claiming he tried to convince the court to issue an injunction prohibiting DFO's enforcement measures against Indian Brook lobster fishers. According to the article, Wildsmith pointed out that under the Marshall clarification, Marshall was actually guilty. This means that the clarification contradicts the initial ruling. Wildsmith was quoted as telling Justice Denis Pelletier in a Halifax court: "This is something the Supreme Court of Canada came up with on its own.... The Supreme Court is wrong on this one" (Barnsley, 2000(2): p. 1). Pelletier, given a chance to respond, said:

“It’s one thing for them to say they made a mistake, it’s another for me to say they made a mistake” (Barnsley, 2000(2): p. 1).

The article showed more disagreement with the ruling, citing Mill Montour, Indian and Northern Affairs Regional Director General for the Atlantic region as saying that the backlog created by the Marshall decision will be immense and the office had not yet begun reacting.

Windspeaker cited a *Financial Post* article that appeared on the news stands on Sept. 26, 2000. The opinion article, written by Lawrence Solomon, executive director of Urban Renaissance Institute — a division of Energy Probe Research Foundation — stated: “I read the court decision, what struck me about the support that the non-natives are getting is that it’s all based on the notion that the government has the right to regulate. The Marshall decision was, I thought, fairly clear that that right is subject to various conditions and those conditions just aren’t being met” (Barnsley, 2000(2): p. 1). Utilising Solomon’s opinion article further framed the supportive nature of the article to the Native position. The opinion article is a traditional mainstay of the Native press as opposed to the non-Native press. That is, the difference between Native publications and mainstream newspapers is the actual separation between hard news and comment/opinion/analysis.

The article went on to mention that Solomon was convinced that “politics of patronage” were behind the Government’s actions. Solomon was quoted in the article: “The government clearly is concerned about losing Atlantic Canada and wants to regain seats that it lost. The employment insurance claw-backs have been in the news, have been front page news in Toronto, and that’s because Chrétien wants to go back to the previous regime that didn’t claw back as much. Regaining seats is very important in the Liberals’

plans and I think it would be very difficult politically for them to do anything to offend the white vote” (Barnsley, 2000(2): p. 1).

The article attempted to confirm Solomon’s beliefs, explaining that when the Liberal government announced it would change the Employment Insurance system by eliminating changes introduced in 1997 that reduced benefits for repeat users — it would impact on seasonal workers such as fishers. The article then questioned Dhaliwal’s claims that he was ordering the enforcement measures for conservation reasons, and stated that Solomon did not agree. Solomon was quoted as saying: “Really, DFO hasn’t been that interested in conservation. It really runs the department for political purposes.... I think there’s definitely a threat to the stocks, the threat is primarily coming from the non-Native fishermen who are putting pressure on DFO — and usually being very successful — pressure to keep up the rate of harvesting” (Barnsley, 2000(2): p. 1).

The article returned to Solomon’s opinion piece in the *Financial Post*, which claimed that the DFO was doing a poor job when it came to conserving lobster stocks. The article read: “He [Dhaliwal] maintains that using the right to fish as a way to generate political capital is dangerous and has already been shown to be ineffectual in protecting cod and salmon stocks” (Barnsley, 2000(2): p. 1). Solomon was once again quoted as writing:

The best regulatory regime would be to give people secure rights to their fisheries and then you wouldn’t need this kind of regulation. You wouldn’t have governments making trade-offs between how much and how far can we push the fishery to create jobs before we take too big a risk. The people in charge of the fishery would be making those kinds of decision and they would tend to be very conservative, they wouldn’t want to take risks because it would be their livelihood. The more local, the better, and even at the individual level. The ideal situation would be for DFO to step out of the picture, to give non-natives

as well as Natives all the rights — hand them over. Then there wouldn't be any need to regulate them because they'd do a much better job than DFO (Barnsley, 2000(2): p. 1).

The article articulated Solomon's view that when the government announced it would undo the 1997 cuts to Employment Insurance benefits to fishers, the article claimed the Liberals were merely trying to buy votes in Atlantic Canada, something which, according to the article, Solomon agreed with. Solomon was quoted as writing: "It's one factor. The communities that fish, they get their livelihood from fishing, as well as Employment Insurance. The votes are concentrated. So there are quite a few ridings that would go one way or another depending on how the fishing communities viewed the Chrétien policies. The tail often wags the dog in politics. Just a few seats, because those seats are swing seats, the government may want to keep them happy" (Barnsley, 2000(2): p. 1).

Continuing, the article mentioned that Solomon believed that Dhaliwal was caught in a "political trap" and acted accordingly tried to save his party some bad press. Solomon closed the article with this quotation:

I think what Dhaliwal was facing was a lot of bloodshed. I think he recognized the fishermen's union was capable of a lot of violence. He felt he had to take control. He didn't want to bring in the troops to control the white fishermen but he could appear as a strongman to them by suppressing the Natives and basically pacifying the white fishermen. That's the effect of what he's done. He's wanted to show that he's in charge in order that the non-Native fishermen didn't take the law into their own hands any more than they did. It's sort of a backwards way of preventing bloodshed (Barnsley, 2000(2): p. 1).

The article provided a vehicle for Solomon's views. In any event, the publication did work to ensure that its readers were provided with views relating to the overall

Marshall decision, and solutions to ending the conflict at Burnt Church, as well as underscoring the tactics used by the federal level of government in relation to Natives and the fisheries. While the article is one-sided in favour of the Native view, again, it is important to note that it sets out to address key issues that are of interest to a national Native audience, many of whom yearned for more news relating to the Marshall decision and the events at Burnt Church. While some may question how the Native press were linking sources and facts tailored to how other Natives view the Marshall decision and the conflict at Burnt Church, this publication did have a right to provide a forum for its readers, as well as those from other populations, to turn to in order to gain a different perspective on the whole matter. Additionally, the newspaper worked to ensure that its readers received the discovered news in a timely fashion. Moreover, the newspaper demonstrated its political economy by sourcing a variety of individuals located at Burnt Church from Alberta.

Reading The Mi'kmaq Maliseet Nations News

The Mi'kmaq Maliseet Nations News also took a similar approach as *Windspeaker* in the coverage of the Burnt Church fishing dispute. It too acted in accordance with the factory model of news in providing the news to its readers.

In September, 2000, *The Mi'kmaq Maliseet Nations News* ran an article entitled: "Burnt Church Fishing Stand: Deeper than the eye can see" (Paul, 2000). No image accompanied the article written by a contributor to the newspaper who was not located at Burnt Church. The article is most obviously a historical commentary and not a news story. The headline here is reflective of how Natives viewed the events at Burnt Church,

and the differences which existed between Natives, non-Natives, and the government. This framed the article as one which supported the Native position. The newspaper discovered news and worked to produce an article on a bi-monthly basis. Interestingly, while one may assume that this newspaper operates with a small budget — due to its bi-monthly publication status — it still set out to obtain an article from an outside contributor.

The article led: “The story all began centuries ago, long before the arrival of the Europeans to this continent, when the Burnt Church Mi’kmaq enjoyed their unrestricted and traditional way of hunting, fishing, trapping, and gathering. The era of economical freedom and abundance was at a time of balance harmony and sharing of resources intertribally with fellow aboriginal groups and societies” (Paul, 2000: p. 1). We can see here that the newspaper was making use of the historical component of the treaties in order to frame its article.

The article mentioned that the Natives had no need for codes or regulations on their hunting and gathering life, that it was essentially easy and simple. They also mentioned that every type of food species existed in abundance. Once again, they mentioned that there were no bureaucratic regulations limiting their food-gathering.

The article mentioned that this was where and how the Native world and Native perceptions differ widely and drastically from the euro-translated standards that Natives are forced to live under today which are jammed full of “do’s and don’ts and ifs and buts whys and wherefores” (Paul, 2000: p. 1). The unique nature of the paper allows for deeper consideration of stories.

The article refers to the Europeans' "over-regulated notion of licensed living" (Paul, 2000: p. 1) that clashed with the Native way of life. The article became detailed regarding the Burnt Church situation. According to the article, the events following the Marshall decision offered a "vivid reminder of our fundamental societal differences. The situation was a result of the native fishermen on Miramichi Bay finally standing up for their own rights" (Paul, 2000: p. 1). According to the article, Native people were sick of being considered lesser citizens of Canadian society. The article emphasised the persecution and oppression Natives feel as a framing for this issue.

Then the article went back to the Oka stand off, which according to the article was not very different in the sense that the Natives there were fighting for recognition. The article suggested that the point was missed by the "establishment" due to the over-indulgence on violence and show of force "directed against natives in an attempt to quiet them back into their place" (Paul, 2000: p. 1). The article was framed to show conflict and the variances that have existed between Natives, non-Natives, and government for a number of years.

The article suggested that non-Natives and Natives alike were driven further apart by the images they see on the nightly news. The article closed: "When, or if ever, our societies start reaching for the olive branches there should be a constant awareness that the roots to our differences are not merely token or superficial and bureaucratic in nature any more, but are deep-seeded and fundamentally entrenched in misunderstood and misinterpreted cultural traditions and perceptions" (Paul, 2000: p. 1).

This article touched on the need for more harmony between Native, non-Natives, and the government. The article also provided a historical background to the 1760-61

treaties and their true meaning for Natives in Atlantic Canada. The article was effective in that it provided readers with a one-dimensional view on the issue, specifically the Native view. The newspaper worked to provide its readers with a timely article, which was an interpretation of the then current events at Burnt Church. While there were no individuals sourced in this opinion article, the author turned to historical sources to outline the frustration and differing opinions surrounding the treaties, and to look to ways to lessen the tensions between Natives, non-Natives, and government. While, the historical information tends to favour the Native view point, thus framing the article, the issue of conflict was also woven into the article as it shows a comparison between the events at Oka and those occurring now at Burnt Church. This highlights the mostly traditional way in which the Native press told its own view of the story.

In October 2000, in the same issue of *The Mi'kmaq Maliseet Nations News* ran an article entitled: "White Arrogance at Burnt Church (Ennis, 2000). The article had no accompanying image, and was written by a writer who is not located at Burnt Church. It is important to note that this story is not classified as hard news but rather is a commentary. The headline may appear somewhat vindictive; however, it should be noted that Natives were enraged by the actions of non-Natives and the government during the Burnt Church fishing dispute. The newspaper set out to provide its readers with a Native perspective on the whole issue, which is an example of framing. This newspaper had some financial means, as it obtained an article from Ennis, who is a common contributor.

The article led: "The situation at Burnt Church is a classic example of Eurocanadian, Christian whites with their white is right and might is right superior than thou arrogance" (Ennis, 2000: p. 5). Clearly, there was a great deal of opinion being

expressed by Ennis, but again Natives were disheartened by the actions that took place following the Marshall decision.

The article explained that “white arrogance created the adversarial relationship between Indians and white Eurocanadians” (Ennis, 2000: p. 5). “White arrogance” created the Indian Act and the reservation system, which, according to the author, was designed to annihilate Indian people. This was an example of framing as it shows the frustration of Natives towards non-Natives and government. The article drew on the traditional single point of view which is unique in Native culture.

The article claimed that this “white arrogance” is the root of all the battles and wars in Canada. Now, the article asked how Natives could convey to the white man their “loving attachment to our [Natives’] Sacred Earth Mother” (Ennis, 2000: p. 5). While the newspaper did not provide a source for these comments, the author’s view points are reiterated through a historical context.

The article read: “How are we to convey to our Eurocanadian brothers and sisters the feelings about the loss of our Sacred Earth Mother and the way in which those Eurocanadians stole our very heart and soul after receiving you as equals and providing food, lodging and any and all resources that we could when they most needed it” (Ennis, 2000: p 5).

The article then mentioned that over the past 500 years, the Sacred Earth Mother has been “desecrated, mutilated, destroyed, poisoned, polluted, given neither protection nor respect and to watch as she is slowly killed off by our Eurocanadian brothers and sisters” (Ennis, 2000: p 5).

Now, Ennis mentioned the different perspectives adopted by both sides. “You act towards, know and refer to her as a planet, an inanimate object. We act towards, know and refer to her as our mother, one to be respected, honoured, loved and protected” (Ennis, 2000: p. 5). The article claimed that over the past 500 years, the Native people of Canada have tried to share their feelings regarding the Sacred Earth Mother. The article accuses the white man of not listening or hearing nor appreciating the Natives’ feelings. “Your connection to the Great Mother is through the brain, the intellect. While our connection is through the heart, the intuitive. That is the difference, the obstacle, this inability to get beyond the intellect in order to have a feeling (intuitive) relationship with the Great Mother” (Ennis, 2000: p. 5) It is interesting to note the number of accusations the writer made. Clearly, he believed that the Native way is better than the “Eurocanadian” way of life. Again, this is the viewpoint from a Native perspective and one can understand that the tempered feelings were as a result of what took place at Burnt Church that summer and fall. As well, the newspaper does have a right to provide its readers with a perspective tailored for its own audience.

This editorialized/framed article continued to list the wrong-doings of the “Eurocanadians,” stating that they stole the Native peoples’ spirituality, culture, language, identity, and future. The white man was also reportedly responsible for keeping Natives on reserves, as well as using the “Eurocanadian” judicial system.

The article outlined the flaws of the justice system. “A system that is structured on a two-tier basis: one for the rich whites and one for the poor whites and nothing for our people mainly because we are poorer than the poor whites. It is not an objective nor unbiased system with respect to our people because it is a foreign system that has been

imposed on our people at the wrong end of a gun barrel. After all might is right” (Ennis, 2000: p. 5).

The article continued with accusations, stating that the white justice system was brought to Canada by the “Eurocanadians” along with their military and paramilitary troops with the intent of destroying the Native people. This, according to the article, is what was going on at Burnt Church after the Marshall decision. “White greed and white arrogance. A white bully attempting to intimidate not just the Mi’kmaq of Esngenopetitj, but all Indian people so as to continue to keep all our people in line” (Ennis, 2000: p. 5).

While this article painted a picture of the mood some Natives felt over the fishing dispute that caused many “waves” at Burnt Church, again it is one that provided its readers with viewpoints that existed among Natives during the heightened time period. This bi-monthly publication continued expressing viewpoints that were geared towards Natives. The author of this article did not use individual sources, but instead relied on personal viewpoints. The components of intellectual discovery and timing are evident as this newspaper worked to ensure its readers obtained opinions relating to the dispute at Burnt Church and the treaties of 1760-61. At the same time, the article is framed to show the variances of interpretation which existed between Natives, non-Natives, and the government. While this newspaper had a small operating budget, it did find the financial means necessary to obtain an opinion article from a contributing journalist not located at Burnt Church.

In the same issue in September, 2000, *The Mi’kmaq Maliseet Nations News* featured an article entitled: “The Truth Will Set You Free: A Good Lie Will Keep You Out of Jail” (Maloney, 2000: p. 7). Again, this newspaper worked to ensure its readers

received information relating to the events at Burnt Church was received in a timely fashion. The headline used with this piece is reflective of Native feelings toward the government in the context of the Burnt Church fishing dispute, which is an example of framing. The article did not include an image and it was authored by a writer from British Columbia, which shows that the newspaper had the means to obtain an article from a journalist located on the other side of the country.

The article led: “There are 11,000 licensed fisherman in the Atlantic provinces. This represents about 3,000,000 lobster traps, that’s right; three million lobster traps in the water. That’s what the legal count should be. However, some fishermen have been known to set more than their legal amount permits. These illegal traps can sometimes be 100 to 200 more than what is legal. Yet, we certainly don’t see Fisheries officers and RCMP in full riot gear dealing out the same kind of enforcement to theses non-Native illegal activities. Who said that justice is colour blind?” (Maloney, 2000: p. 7)

The article continued, mentioning that Burnt Church Natives are exercising their treaty rights. It mentions that this community has developed its own fisheries regulation system that the Canadian government refuses to recognize. They have issued their own lobster tags, which according to the article is what started all of the commotion. The article claims that Burnt Church Natives issued close to 2000 tags but apparently only about 50 had been put in the water when DFO intervened. The article suggested that the Native fishery is merely a drop in the bucket when it comes to the total number of traps allowed in the water. With this article claiming that the government was ignoring conservation efforts by Natives at Burnt Church, it framed the opinion article by positing that Natives are undermined and ignored by the government.

The article mentioned the Marshall decision, explaining that the final ruling was met with hostility by the non-Native fishermen. According to the article, the non-Natives were “pulling up Mi’kmaq traps, cutting lines, sinking traps and equipment, some under the watchful eyes of DFO and RCMP who did absolutely nothing to protect the property of the Mi’kmaq fishermen” (Maloney, 2000: p. 7). This section of the opinion article gives a point of view for a specific audience.

The article touched on the Supreme Court clarification. The article claimed that the clarification came as a result of political pressure on the judges. The article explained that this clarification was not the cure to the problem. “This political interference has done nothing to stop the hostilities on the waters. The only difference now, is we have riot equipped and heavily armed DFO and RCMP officers, who most likely have relatives and friends in the fishing industry, carrying out the hostilities towards the Mi’kmaq to the cheers of the white commercial fishermen” (Maloney, 2000: p. 7).

Next the article opined that the clarification gave the government the right to regulate the fishery, under certain particular circumstances. The article claimed that the issue of conservation was not in debate, as the number of Native traps is minuscule in comparison to non-Native traps. The article claimed that the decision did not give the government the ability to regulate how, where, and when Natives can fish (Maloney, 2000: p. 7).

The article outlined a four-part test set forth in the Supreme Court decision. “First, the right can only be exercised in pursuit of a policy objective like conservation. Second, it must be the least intrusive way of meeting that objective. Third, it must follow good-faith consultations that are procedurally fair to Mi’kmaq. Fourth, and that substantively

respect the Mi'kmaq legitimate treaty right to a limited commercial fishery" (Maloney, 2000: p. 7).

Maloney accused the Federal Government and DFO of ignoring the four-part test. The article claimed that the treaty was a peace treaty, and the government and DFO were using 'battle ship tactics' against the Mi'kmaq (Maloney, 2000: p. 7). The article mentioned that First Nations people all across the country are watching as the government misinterprets the meaning of the ruling. The article suggested that since the treaties were international treaties, domestic courts should not be involved in deciding whether these treaties are valid or not (Maloney, 2000: p. 7). If Maloney were a non-Native reporter he would likely have interviewed an official from DFO and held them accountable. However, this commentary piece demonstrates the role of the alternative press, in that it provides viewpoints not commonly heard within the mainstream.

The article continued by outlining the advantages white men have over the Natives. "They [Natives] are still 85% unemployed, living in government housing, and there is no retirement plan from welfare, and there continues to be a justice system that has people with full stomachs, and big pay cheques, casting down their judgements on the hungry and the poor" (Maloney, 2000: p. 7)

The article closed by quoting a Mi'kmaq elder of the Miramichi band, who in 1677, spoke to a group of Frenchmen, with Chrestien LeClercq, one of the most zealous missionaries for Natives in Canada, interpreting:

Thou reproachest us, very inappropriately, that our country is a little hell in contrast with France, which thou comparest to a terrestrial paradise, inasmuch as it yields thee, so thou sayest, every kind of provisions in abundance. Thou sayest of us also that we are the most miserable and unhappy of all men, living without religion, without manners, without honour, without

social order, and in a word, without any rules, like the beast in our woods and our forest, lacking bread, wine, and a thousand other comforts which thou hast in superfluity in Europe.... Well, my brother, if thou dost not yet know the real feelings which our Indians have towards thy country and towards thy nation, it is proper that I inform thee at once. I beg thee now to believe that, all miserable as we seem in thine eyes, we consider ourselves nevertheless much happier than thou in this, that we are very content with the little we have; and believe also once for all, I pray, that thou deceivest thyself greatly if thou thinkest to persuade us that thy country is better than ours (Maloney, 2000: p. 7).

The article, like other Native articles used in this thesis, certainly reflects the overall point of view among Natives towards the events at Burnt Church and the position taken by the government and non-Natives; that is, those who did not recognize the rights of Natives, in their view. The publication's use of background is helpful and again provided readers with the feelings among Natives in relation to the events at Burnt Church. This newspaper worked to ensure that its readers were provided with opinions relating to the Burnt Church fishing dispute. While the article did not provide direct "links to sources," it did utilize information of a primarily historical nature. The article was framed in the context that Natives do not have the same advantages and benefits as non-Natives in the Canadian society. This was further articulated by the author who expressed much frustration over inequalities exercised by the government at the expense of Natives.

Conclusion: Exploring the Native Press

In reviewing the articles from *Windspeaker* and *The Mi'kmaq Maliseet Nations News*, the factory model of news became evident as it was often employed. As well, Baudrillard too would have weighed in with his theories on the meaning of media.

Both newspapers worked to highlight concerns manifest in their community in accordance with their format. While *Windspeaker* was produced bi-weekly and *The Mi'kmaq Maliseet Nation's News* was produced bi-monthly, these newspapers sought methods to interpret the dispute at Burnt Church following the Marshall decision and the Supreme Court's clarification.

In probing the "links to sources," *Windspeaker* tended to obtain quotations from mainly Native sources on the Marshall decision, the Supreme Court's clarification, and the chaos that had erupted at Burnt Church. These sources were also used to provide quotations on the position of Native rights in the Canadian society. *The Mi'kmaq Maliseet Nations News* did not use individual sources, but instead tended to use personal view points from its authors, primarily supported by historical and contemporary references.

Both newspapers framed their articles in a manner that showed support for the Native position. The articles did so by providing sources that supported Native view points, both contemporary and historical. It is interesting that the alternative press tended to focus more on statistical data that support their efforts for conservation as they relate to natural resources.

In comparison to mainstream media, it is obvious that the alternative media used in this thesis had smaller budgets with smaller circulations. However, these newspapers did find the means to obtain information and opinion from across Canada, and, as with *The Mi'kmaq Maliseet Nations News*, writers from across Canada.

With both newspapers focussing their reporting on efforts that related to the Marshall decision, the Supreme Court's clarification, and the resulting dispute at Burnt

Church, a media theorist like Baudrillard would contend that readers of these publications would be provided with an overwhelming amount of interpretation of news events and also because its large volume of readers may lose meaning of why the events at Burnt Church occurred. While in the alternative media the events are no longer hidden, the news was delivered to its readers in a one-dimensional fashion as the information obtained derived from a limited number of sources.

CHAPTER SEVEN

CLAWING THROUGH THE NEWS COVERAGE AT BURNT CHURCH

Through a careful review of articles in Chapters 4, 5 and 6, one is able to see the various approaches taken by the media. In the review of articles in this chapter, it became evident to the similarities and differences in news coverage among the mainstream and alternative press outlets became evident. The theories outlined by scholars like Baudrillard and others who focus on the factory model of news, such as with news discovery, timing, framing, “links to sources,” and economic influences are also in evidence. In using such benchmarks, one begins to understand, close-up, how and why similarities and differences existed in the coverage that stemmed from the conflict at Burnt Church.

In looking first at the imagery used with newspaper stories, similarities and differences become quite apparent. It is important to note that all publications in this work aimed to identify readers with a reflection of the events they covered. The two national newspapers used in this work — *The Globe and Mail* and *The National Post* — used images directly associated with the story they were covering for that day. For example, *The National Post* provided images of some of the events that unfolded on the water near the small Native fishing community. The national press, as well as the provincial press, also used images of Native “warriors” from Burnt Church out on the water, and again such imagery connected with stories being reported during the summer and fall of 2000 — included raids on traps and with trouble that took place on the waters of this community. The articles reviewed in this section from *The Mi’kmaq Maliseet Nations News* did not

provide accompanying images. *Windspeaker*, for the most part, provided images from across the country that illustrated both support for residents and Burnt Church and the frustration that Natives felt over the conflict that ensued in northern NB. For example, one article in *Windspeaker* showed Natives in Vancouver taking to the street to express their support for treaties and Native rights. In citing the mood of anger among Natives, this publication provided its readers with an image of a protester spitting on an inverted Canadian flag. However, the newspaper, like the mainstream outlets at the national and provincial levels, provided current images to coincide with their coverage of the events at Burnt Church and to capture the essence of various moments for readers.

While keeping in mind the points from the factory model of news, a number of similarities and differences become most evident. All publications used in this thesis — like other media outlets — followed the conflict at Burnt Church in a timely fashion. The point of news discovery had been identified through the trouble that erupted in this small fishing community. The mainstream and alternative publications ensured that its readers would be kept attuned to the heated conflict, and all newspapers used in this work — mainstream and alternative — took a hard news approach (in accordance with Native tradition editorializing was the norm) in covering the news that unfolded; that is, media outlets ensured that they probed the facts and viewpoints from those who were directly connected, in one or another, to the news generated from the dispute. The Native media provided more commentary in its own hard news fashion, while the mainstream followed the traditional hard news approach in its cover. As well, with timing and news discovery being discussed, once the conflict had faded at Burnt Church, news discovery was no

longer evident, and perhaps this is the reason why coverage subsided overall by November 2000.

All publications in this work utilized a number of sources in order to construct their stories. *The Globe and Mail* and *The National Post* were two publications that worked as best as they could to ensure their readers would understand the events in this community from a national perspective. The provincial newspapers — *The New Brunswick Telegraph-Journal* and *The Halifax Chronicle-Herald* — approaching news coverage in a similar manner as the national press, also focused on using a variety of sources from governmental authorities as well as Natives and non-Natives and providing a regional scope to the news produced. The Native publications, in particular *Windspeaker*, used sources mainly from those with a Native background or interest in Native rights, like James Ward and Bruce Wildsmith. When citing the moves made by the authorities and the government during the conflict, they made efforts to address them through such sources. *The Mi'kmaq Maliseet Nations News*, on the other hand, commented on the event from a more editorial approach. Personal perspectives from its writers were more of the focus in the text, and therefore it relied much less on comments from government officials, authorities and the viewpoints from others. However, while similarities and differences are demarcated by who used what particular sources, each publication in this work had a mandate to provide current news to its readers. It is important to note that the alternative press overall provided other points of view different from the mainstream press, which of course is a worthy and essential component of a civil/democratic society.

In looking at how news articles were framed, one also gained an insight to similarities and differences that developed in coverage. The mainstream national and

provincial newspapers covered the events at Burnt Church as a story of conflict, providing readers with articles that related to the traps in the waters, boat ramming incidents, raids and the intensity of the how Natives and non-Natives felt about the trouble that unfolded here in this community. However, it is important to posit that conflict was the reason why these publications, like most media outlets, were at Burnt Church. While the coverage of conflict was prominent, it may have left readers with a negative impression of Natives based on the dispute at Burnt Church, but then again, the national and provincial newspapers were only doing their job in reporting the news — something that its readers desire, despite the subject matter.

The Native press took a different approach in how they framed their stories, but the underlying theme of their coverage was a reaction to the conflict going on at Burnt Church and their articles provided more facts and viewpoints with a Native perspective at play. For example, evidence of this was seen in one of the stories produced by *Windspeaker*, a publication which called into question the coverage being generated via the mainstream media present at Burnt Church. *The Mi'kmaq Maliseet Nations News* framed its opinion stories in a more editorial manner, in that its writers were critical of how government politicians, the authorities, and non-Natives viewed the 1760-61 treaties, and why the Marshall decision by the Supreme Court was paramount for the livelihood of Natives in Atlantic Canada and across Canada. Some articles from these publications even criticized non-Natives and Canadian society as a whole for being arrogant or ignorant when it came to understanding Native issues. It also should be noted that the alternative media in this work, focused some of their stories on how Natives viewed the importance of conservation when it came to lobster and fish stocks. While the topic of framing means

that publications may take sides when covering an event of this nature, it should be noted again that the stories produced by the mainstream and alternative press appeared to have worked to the best of their ability in covering the news and it is a clear reality that editors and writers found certain angles that resonated with its readers — an element that no matter what, will always exist in making the news. While the spiritual intent of the mainstream and Native press may have been similar, their respective mandates are much different as are their respective audiences.

In further reviewing the coverage, economic influences also played a part in how the news was developed and there are more similarities and differences. The mainstream press — national and provincial — have much larger budgets than the alternative media. *The Globe and Mail* and *The New Brunswick Telegraph-Journal* were the only two publications that typically had writers reporting from Burnt Church. In the *Globe and Mail's* case, this paper also used files provided from other staff members working at other news bureaus across Canada to provide its readers with a national perspective on the conflict at Burnt Church. Though having more monetary resources at their disposal *The National Post* elected to have reporters based in Toronto make long distance calls while also employing other sources. This actually saved them money. The relevant question is what effect did this approach have of its coverage?. Also, the mainstream regional newspapers, mainly *The New Brunswick Telegraph-Journal* and *The Halifax Chronicle-Herald* ran stories from reporters from CP, since they are members of the news co-operative. *The New Brunswick Telegraph-Journal* however did have its own reporters at the scene during 2000 at Burnt Church. The Native press, which generally operates on a smaller budget in comparison to the mainstream media, did not have reporters present at

Burnt Church. They also do not publish as frequently as the mainstream dailies, and therefore included analysis of events at Burnt Church. For example, *Windspeaker* reported the news from its bureau desk in Edmonton, and *The Mi'kmaq Maliseet Nations News* produced the news of events at Burnt Church on a bi-monthly basis near the town of Truro, NS where it houses its staff and operations.

Some may suggest that because the mainstream newspapers — based on large sales of their newspaper (this also applies to smaller publications) and through major advertising dollars generated via its conglomerates — had an advantage in shaping the stories from Burnt Church based on economic influences and thus forming the attitudes and opinions of its readers. However, one can assume that Native publications would have followed their own approach in coverage if they too had the budgets the size of publications such as *The Globe and Mail* and *The Halifax Chronicle-Herald*. News readers in Canadian and western society can access a variety of media — mainstream and alternative — via the internet and public libraries to obtain the full scope of coverage — which is a benefit of a having a system of free press in a democratic society.

In turning to Baudrillard's theories relating to the meaning of media, one can argue that in the end, there were more similarities in the coverage. As well in similarities in how the citizen may have reacted to the coverage overrode the differences. With the news stories generated from the Burnt Church fishing dispute, nothing can be kept hidden and the conflict of boats being rammed, raids, and blockades were made top news for the citizen to digest, similar to the Supreme Court of Canada's decision and its clarification. In fact, while readers may have gained only a one-dimensional view of the news being produced — in its text form and with imagery — Baudrillard may have contended that

through all the codes, signs, and signals and with the mass implosion of news stories, that the events that occurred at Burnt Church may have lost much of their meaning. The large number of articles and images produced could have been overwhelming for the reader, and thus this could have been a method for the news to erode in the minds of the general citizen — confused and unsure as to what was taking place in this small fishing community during the summer and fall of 2000.

CHAPTER EIGHT

DIGESTING THE BOILING HOT NEWS

Different Pots with Different Sized Lobsters

This thesis has examined the similarities and differences that existed in the coverage that evolved ever since the Supreme Court made its landmark ruling in September of 1999. Most importantly, it has looked at how the mainstream media and the alternative media covered the Supreme Court's decision, its clarification, and the events that took place at Burnt Church. One could only review how the mainstream covered the events that derived from the Marshall decision up until late 2000, but it is interesting to grasp how the alternative media in this case also reported the stories that were ongoing. The mainstream media ensured that citizens would be given daily information pertaining to what was taking place in this small fishing community, and at the same time the Native press too worked to provide its version of the events for its readers. Regardless of what event took place, media outlets typically formulated certain frames via their sources to report the news. The larger publications have bigger budgets and bigger audiences, and therefore they are able to deploy writers and staff, to where news happens. While many may criticize mainstream media because they are larger and some are owned by large conglomerates that have advertising revenues, they did work to provide readers with the facts pertaining to the various events and debates that unfolded following the Marshall decision. At the same time, the Native press also carried out its duties in order to communicate information and analysis to its readers.

While some could say bias existed to some degree in all the coverage, regardless of originating from mainstream or alternative media — one could safely conclude that readers received an abundance of information from a large number of outlets covering the events at Burnt Church. While the Native press did not publish as frequently, the mainstream outlets worked on a daily basis to tell the story and provide the facts in a fair and accurate manner. While regular news sources were used throughout the mainstream press articles, these sources were also evident in the articles published by the alternative press. Regardless, readers in our democratic free press society have access to a large number of news outlets to learn more about the world around them.

Burnt Church: Will We Ever Know the Full Story?

It may be argued that biases existed in the mainstream coverage relating to the events that occurred after the Supreme Court made its landmark decision, and that this approach became apparent through the articles that were produced during the subsequent conflict in Burnt Church. In saying this, one can look at the factory model of news — timing, news discovery, framing, links to news sources, and economic influences — and contend that readers never obtain a complete picture of a news event. However, the intent of using the factory model of news in this thesis is to show how boundaries do exist in the production of news and that no matter which news outlet citizens turn to for news, the real and full scope of a story will never be known. All that reporters and their outlets attempt to follow journalistic principles of fairness, accuracy and balance as articulated by Kovach and Rosenstiel. They do not operate to tell the news in a racist manner, but instead are reporting events that materialize, expectedly or unexpectedly.

While the alternative press took a more personal approach in interpreting the events that unfolded following the Marshall decision, they have a special mission to express their viewpoints and biases. Readers can turn to the alternative media to obtain a different side of the story. Still, no matter where citizens turn, different accounts of a story will exist — no matter what. The benefit in having various media outlets in a free press society is that it means more choice for citizens. In the case of Burnt Church, no matter where readers turned there was always an overwhelming number of news articles to pick and choose from. In the end, the events at Burnt Church may have lost their meaning, despite how publications framed their stories.

In looking at the key themes identified by various scholars who have contributed to the factory model of news in Chapter 2 of this thesis, one gained an insight as to how and why the media covered the Supreme Court decision, clarification, and the events at Burnt Church. For all publications in all instances, news of the Supreme Court decision was in accordance with timing and news discovery, as was the coverage of the events at Burnt Church. However, coverage of the Supreme Court clarification was timely in the mainstream media only as the alternative media chose not to probe the clarification at the time of the event.

There were certainly a number of articles to write about from the Supreme Court decision, clarification, and the events at Burnt Church. The media attempted to capture, to the best of its ability, the tensions that derived following the Supreme Court's decision in the fall of 1999. While conflict was a central theme in coverage of the events at Burnt Church, the mainstream media shared this information with its readers. The alternative media set-out to meet the same goal and they tended to explain the conflicts but did so

while utilising Native sources and those who supported the Native position, in particular regarding treaty rights. While the alternative media was more personal than the mainstream media, they too performed their journalistic roles to deliver the information to their readers.

All publications tended to follow a typical approach when it came to whom they used for sources. However, the sources used were intended to effectively tell what occurred with the Supreme Court's decision, clarification, and the events at Burnt Church. While some may conclude that articles from the mainstream showed a bias against Native fishermen at Burnt Church, this thesis has shown that a variety of sources were selected in order to provide the reader with an accurate account of the events. Certainly, conflict was the thrust of the coverage by all publications throughout the year 2000, but the media were there reporting events that happened and were not the creators of the events. There is another school of thought that would posit simply by being there the media escalated violence and prolonged the conflict, thereby becoming both creators and actors in the event.

With regard to the political economy component, the mainstream media had the distinct advantage of telling the story on a regular basis for news readers, while the alternative media were unable to cover all events in the same fashion. The same holds true regarding who was sourced for articles, as the mainstream media had larger budgets to conduct more interviews with a wider variety of subjects involved with the events that took place at Burnt Church. *The Globe and Mail* and other non-Native newspapers had the choice of sending journalists to Burnt Church in order to cover the events and also could afford any function required in providing readers with additional information.

However, both provincial newspapers used in this work surprisingly relied on CP content in order to deliver the news for their readers. *The New Brunswick Telegraph-Journal* typically had writers reporting from this locale, all the while also relying on CP materials. *The Halifax Chronicle-Herald* chose to almost exclusively to use CP content since the events at Burnt Church were a sufficient distance away. Still, the Native media worked to the best of their ability, keeping within the confines of their smaller budget, to access these sources and to tell the story for their readers.

Baudrillard may have contended that readers would lose their grasp of the facts that derived from the various events which took place following the Supreme Courts' decision in the fall of 1999 to late 2000. The reason for this, as Baudrillard has argued in general terms, derives from the fact that Marshall's treaty rights trials, the Supreme Court's decision and clarification, as well as the anger that mounted at Burnt Church as a direct result, was moved to the forefront, and the public, through the implosion of coverage, were provided with an overwhelming amount of information (1983(2): p 131). The factory model of news — which has limitations and boundaries in scope — implies the public is presented with a one-dimensional view of events. Even though these events were not hidden, Baudrillard might argue that the factory model is the very cause for the manner in which events were covered leaving the reader confused as to the meaning of the events. Baudrillard could also argue that the Burnt Church fishing coverage, which was at times heated and violent, was a known mechanism that gave readers a sense of excitement and interest, in that the reader yearned for more. This, despite the fact that an overload of information from media coverage ensured that the reader in the end lost the true meaning of the treaty right decision by the Supreme Court and the rising frustration

in northern NB. Baudrillard as well, would signify, through his theories relating to media and society, that media is not necessarily a vindictive communications machine, but instead is comprised of outlets that serve to deliver information to citizens who consistently desire more information.

The Lobster Pot Simmers

By November, 2000, all media outlets realized that the Burnt Church fishing dispute (in terms of conflict at least) had finally ended. Interestingly enough, both the mainstream and the alternative press outlets equally gave little room to any developments that occurred in the negotiations between Native band members from Burnt Church and the federal government. Entman and even McCormick would have concluded the reason for the discontinuation stems from the fact that the conflict-oriented elements subsided. From late 2000 to the summer of 2002, both sides of the dispute worked to ensure a resolution would be reached and which met the means of conservation in protecting lobster and fish stocks in this region and throughout Atlantic Canada. A deal was reached between both sides in August of 2002; however, it was no longer news for the mainstream or alternative outlets. Once the conflict had ended in late 2000, the events at Burnt Church had lost their shelf life and had become an event of the past — something academics and the public alike can look back and call a tense period in Canadian history and one that showed the differences that still existed among Natives and non-Natives and even the government.

Conclusion and Future Considerations for Research

This thesis has shown, based on a sample of news articles, how the print media — national, regional and alternative — covered the events at Burnt Church, and the Supreme Court's decision and clarification a year earlier.

There can be much more written about how the media covered the events at Burnt Church. For example, perhaps, this topic may warrant a study on letters to the editor and opinion pieces from various print media outlets in order to gauge public opinion on the matter. As well, research in the area of imagery used among print media would certainly produce interesting findings in understanding how Natives are portrayed in the news. Additionally, research on how the broadcast media and even media on the World Wide Web (WWW) would produce interesting results on how the media — in all its forms — covered the events at Burnt Church.

Certainly, at some point, another situation mirroring the Marshall decision and the events at Burnt Church will arise. When such an event unfolds, it will again lure the media into report the news for its readers. Such an assumption can be safely made in the large number of notable treaty rights and Native rights cases that have made the news, such as with Sparrow, Oka, and most recently Marshall and the events at Burnt Church. At present, there are literally thousands of court cases involving treaty rights cases and Native rights cases respectively.

Once a notable and controversial case arises and which produces conflict, rest assured the media will be there to cover it and readers will be turning to the news outlets to learn more. With this in mind, one can only assume that no matter what, news readers will never get the full side of the story — just snapshots.

Newspapers, like the very communities they seek to cover, reveal their own biases. May the lessons learned from Burnt Church serve to prevent such biases from colouring our understanding of future landmark events.

WORKS CITED

"About CP: The Canadian Press — At the Heart of the Canadian Media." CP Online. 27

Jan. 2006. <<http://www.cp.org/english/hp.htm>>.

Alphonso, Caroline, Kevin Cox, Deborah Nobes, and Mark Mackinnon. "Shooting

Alleged in Fish Dispute." *The Globe and Mail*. 23 Sep. 2000: A10.

Auld, Alison. "Natives Win Right to Fish and Hunt." *The New Brunswick Telegraph-*

Journal. 18 Sept. 1999: A1.

Barnsley, Paul. "Anger Mounts." *Windspeaker*. 18.6(Oct. 2000): 1.

———. "Canadian Media Hits Snooze." *Windspeaker*. 18.6 (Oct. 2000): 10.

———. "Fishing Charges Overturned." *Windspeaker*. 17.6 (Oct. 1999): 1.

Baudrillard, Jean. "The Ecstasy of Communication." *The Anti-Aesthetic: Essays on*

Postmodern Culture. Trans. John Johnston. Ed. Hal Foster. Seattle: Bay Press, 1983. 126-134.

———. *For a Critique of the Political Economy of the Sign*. St. Louis: Telos Press, 1981.

———. "The Implosion of Meaning in the Media." *Simulacra and Simulation*. Trans.

Sheila Faria Glaser. Ann Arbor: University of Michigan Press, 1994.

———. *Seduction*. New York: Semiotext: 1983.

———. *The Spirit of Terrorism*. London: Verso, 2002.

Boutin-Wilkins, Maialène. *Ownership of Canadian Newspapers*. Observatory on Media

and Public Policy. McGill University. 2005. <<http://www.ompp.mcgill.ca>>.

Canada. Royal Commission on Aboriginal People. *The Final Report of the Royal*

Commission on Aboriginal People. Vol. 3. "Gathering Strength." Ottawa:

Government of Canada, 1996.

- Canadian Press. "Maritime Fishermen Seek End to Native Lobster Fishing in N.B." *The Halifax Chronicle-Herald*. 6 Sep. 2000: C7.
- Coates, Ken. *The Marshall Decision and Native Rights*. McGill-Queen's University Press, 2000.
- Chwialkowska, Lisa. "Experts Divided on Whether High Court Would Grant Stay." *The National Post*. 18 Sep. 1999: A4.
- Ennis, Dan. "White Arrogance at Burnt Church." *The Mi'kmaq Maliseet Nations News*. 11.9 (Sep. 2000): 7.
- Entman, Robert. "Framing US Coverage of International News." *Journal of Communication*: 41.4 (1991): 6-27.
- Ericson, Richard, Patricia Baranek, and Janet Chan. *Negotiating Control: A Study of News Sources*. Toronto: University of Toronto Press, 1989.
- Fife, Robert. "Judge Rules Natives Not Immune to Fishing Laws: High Court Clarification." *The National Post*. 18 Nov. 1999: A1.
- Gillis, Charles. "Boats Sunk in Burnt Church Fracas: Injuries on Both Sides." *The National Post*. 30 Aug. 2000: A4.
- . "Nault Cuts Short Visit to Burnt Church: Natives Jeer Minister." *The National Post*. 29 Aug. 2000: A5.
- Gillis, Charles and Justine Hunter. "Fisheries Officer Injured by Rock in Lobster Dispute: Cheekbone Crushed: Two Under Arrest as Violence Erupts at Burnt Church." *The National Post*. 23 Aug. 2000: A4.
- Googoo, Maureen. "Canada's Highest Court Upholds Treaty Rights of Mi'kmaq, Maliseet and Passamaquoddy." *The Mi'kmaq Maliseet Nations News*. 10.10 (Oct. 1999): 1.

- Gowan Dewin, and Chris Morris. "Natives Demand Charges Be Laid against DFO Officers." *The New Brunswick Telegraph-Journal*. 31 Aug. 2000: A3.
- Ha, Tu Thanh, and Jeff Sallott. "Mi'kmaqs Plan to Defy Federal Agents: Fishermen Will Head Back to the Water Replacing Seized Lobster Traps; Main Highway Remains Blocked After Arrests." *The Globe and Mail*. 15 Aug. 2000: A3.
- Hunter, Troy. "From Sea to Shining Sea: Vancouver Natives March in Support of the Mi'kmaq at Burnt Church, New Brunswick. *Windspeaker*. 18.6 (Oct. 2000): 1.
- Kellner, Douglas. "Baudrillard: A New McLuhan?" *Illuminations: The Critical Theory Project*. UCLA Online. 2004. <<http://www.gseis.ucla.edu/faculty/kellner/Illumina%20Folder/kell26.htm>>.
- Klager, Bob. "We're Bound for Bloodshed: Dispute: Non-Native Fishermen Say They're Prepared to Step Into Action." *The New Brunswick Telegraph-Journal*. 4 Sep. 2000: A1.
- Kovach, Bill and Tom Rosenstiel. *The Elements of Journalism: What Newspeople Should Know and the Public Should Expect*. New York: Three Rivers Press, 2001.
- Macfarlane, Bruce. "Native Fishermen Continue to Bait Fisheries Officials." *The New Brunswick Telegraph-Journal*. 9 May 2000: A6.
- Makin, Kirk. "Donald Marshall Wins Again: Man Set Free in Landmark Case Spearheads Victory in Supreme Court. *The Globe and Mail*. 18 Sep.1999: A1.
- . "Top Court Issues Rebuke in Fish Furor." *The Globe and Mail*. 18 Nov. 1999: A1.
- Maloney, Jim. "The Truth Will Set You Free — A Good Lie Will Keep You Out of Jail. *The Mi'kmaq Maliseet Nations News*. 11.9 (Sep. 2000): 7.

McCormick, Chris. *Constructing Danger: The Misrepresentation of Crime in the News*.

Halifax: Fernwood Publishing, 1995.

Morris, Chris. "DFO Seizes 800 Traps: Burnt Church Band Offers No Resistance." *The*

Halifax Chronicle-Herald. 24 Sep. 2000: A1.

———. "Natives Defy Regulations by Setting Lobster Traps: Burnt Church Trying to

Force Ottawa's Hand and Get Out-of-Season Fishing Rights by the Fall." *The*

Globe and Mail. 8 May 2000: A5.

"One War, Two Stories." World Satellite Newscast. BBC. Channel 11, Malaga, Spain. 7

Aug. 2004.

Paul, Pat. "Burnt Church Fishing Stand: Deeper than the Eye Can See." *The Mi'kmaq*

Maliseet Nations News. 11.9 (Sep. 2000): 1.

Sources: Media Names and Numbers, 2000 Edition. Toronto: Sources, 2000.

Thorne, Stephen. "Fisheries Officers Make Bold Daylight Raid: 97 Lobster Traps Seized

at Burnt Church." *The Halifax Chronicle-Herald*. 26 Sep. 2000: C14.

Underhill, Brian. "Marshall Ruling Clarified; Trees, Minerals, Gas Not Covered." *The*

Halifax Chronicle-Herald. 18 Nov. 1999: A1.

———. "Mi'kmaq Rights Upheld; High Court Decides Natives Exempt from Fishing

Rules. *The Halifax Chronicle-Herald*. 18 Sep. 1999: A1.

White, Alan. "Native Loggers, Fishermen Reined In." *The New Brunswick Telegraph-*

Journal. 18 Nov. 1999: A1.

Whitney, Charles, Randall Sumpter, and Denis McQuail. "News Media Production:

Individuals, Organizations, and Institutions." *The Sage Handbook of Media*

Studies. Eds. John Downing, Denis McQuail, Phillip Schlesinger, and Ellen

Wartella. Thousand Oaks, CA: Sage Publications, 2004.

Wicken, William. *Mi'kmaq Treaties on Trial: History, Land and Donald Marshall Junior*.

Toronto: University of Toronto Press, 2002.