The Règlements of 1739:
A Note on Micmac Law and Literacy

INTRODUCTION

During the 18th century British and Micmac leaders in Nova Scotia and New Brunswick concluded a series of treaties intended to reduce tensions between their two peoples. A recent compilation of these treaties includes no less than 32 in number drafted between 1720 and 1786. The French, in contrast, concluded only one written agreement with the Micmacs during their 150 years of colonial efforts in the same region. Remarkably, its primary (or, at least, overt) goal was not the amelioration of French-Micmac relations but the punishment of native-on-native crime. Enacted on 9 July 1739 at Port Toulouse on Cape Breton Island, the agreement codified criminal acts and their prescribed punishments and is referred to as the Règlements in contemporary French accounts. While the present whereabouts of the original Règlements are unknown, the missionary Pierre Maillard made a copy of the document and sent it to France where it has survived in the colonial archives.

His reproduction, labeled with the masthead Tableau de L’idiome et des Hiéroglyphs des Sauvages du Cap-Breton ou Isle Royale 1739 (“Chart of the dialect and hieroglyphs of the Indians of Cape Breton or Isle Royale 1739”) and referred to hereafter as the Tableau, is shown as Figure One. The origins of the Règlements can be partially reconstructed from a 1740 report written by François Le Coutre de Bourville, Louisbourg’s Lieutenant de Roi and acting governor. As they had each year since the early 1720s, natives and colonists gathered at Port Toulouse for the ceremonial exchange of European “presents” (muskets, flints, blankets) for Micmac political and martial fidelities. Leading participants at the 1739 meeting were Bourville, the “Indian chiefs of Cape Breton, Naltigonneich, and Chikpenakady” (three of the Micmacs’ seven regional districts), Gabriel Rousseau de Villejouins, commander of the Port

1 “We should walk in the tract Mr. Dummer made”, unpublished manuscript, 1992, Treaty and Fisheries Policy Branch, Indian and Northern Affairs Canada, and the Mawiw District Council, pp. 18-21. Research funding for Schmidt was provided by the National Science Foundation, the Wenner-Gren Foundation, the Jacobs Fund and the Government of Canada.
2 The document is located in F3, article 95, folio 35, Archives des Colonies, Archives Nationales, Paris. To our knowledge, the only previous mention of the Règlements in the literature appears in Olive Dickason’s “Louisbourg and the Indians: A study in imperial race relations 1713-1760”, History and Archaeology, vol. 6 (1976), p. 122.
Toulouse garrison, and the missionaries Maillard and Jean-Louis Le Loutre. At the first of several sessions Bourville criticized the Micmac headmen, “sur les représentations que Ms. Maillard et Le Loutre”, for their indifference toward the commitment of certain unspecified crimes: “je ne pus m’empêcher de reprocher aux Sauvages dans le premier conseil, leur nonchalance à punir le crime, a quoy Les chefs me repondirent qu’ils voyent bien [que] etoit temps detablir une regle entre’eux, et que si je voulois ils alloient faire un reglement en ma presence”. Bourville concurred and, at a later session, the Règlements was approved by the assembled delegations. Copies were subsequently distributed to Bourville, the missionaries and the three chiefs, the last ensuring the laws would be promulgated among and reviewed by other Micmac leaders before the next summer’s meeting and, presumably, all meetings thereafter (“et délibereront tous les printemps sur tout ce qui leurs bressera la Vue”). This clause in the Règlements (lines 24-26, Documents One and Two) calling for an annual review met at least two goals. For the Louisbourg command, the clause committed native leaders to future assemblies at which their compliance with the regulations could be monitored. For the Micmac, on the other hand, it guaranteed a forum for review and, if necessary, revision of the laws.

Following the conclusion of talks on 11 July, Le Loutre journeyed throughout mainland Nova Scotia to discuss the Règlements with Micmac headmen absent from the Port Toulouse meeting. It is not known whether the laws were introduced to New Brunswick Micmacs. Given the relatively equitable nature of the native-French alliance during this period, Le Loutre presumably did so to seek their ratification of the agreement rather than to impose its terms unilaterally.

Little is known of the effects — or lack thereof — of the Règlements on Micmac legal practices. One tentative line of evidence appears in Bourville’s account of a native woman convicted of killing several children. As a demonstration of the laws’ efficacy, Bourville was pleased to report to his superiors that the murderess had been publicly beaten for her crimes. One fact here is striking: the punishment for murder called for in the Règlements was death. Bourville’s positive tone despite this seeming discrepancy may indicate that French concerns about the chiefs’ “nonchalance to punish crime” could be assuaged short of full compliance with the laws. That the punishment was both public and corporal was probably enough to satisfy French tastes; that the woman kept her life suggests the Micmac were able


5 Bourville to Maurepas, 26 October 1740. Translations: “based on the reports of Monsieurs Maillard and Le Loutre”; “I had not stopped reproaching the Indians in the first session, concerning their nonchalance to punish crime, to which the chiefs responded to me that they thought it was time to establish a law between them, and that if I wished they would draft regulations in my presence”; “and every spring they will deliberate about anything which disturbs their agreement”.

6 Ibid.

7 Ibid.
to retain flexibility and forgiveness as fundamental tenets of native jurisprudence. Of course, we should not be surprised: as in other kin-based societies where people must continue to live together following disputes, Micmacs were surely more concerned with the preservation of social harmony than the abstract legal principle of universal application.

The Tableau, Maillard’s hand-written copy of the Règlements, contains a number of intriguing design features. The main text appears in triplicate in two languages and three distinct scripts — French, Micmac inscribed alphabetically, and the Micmac hieroglyphs — arranged in a columnar format reminiscent (albeit at a 90-degree angle) of the Rosetta Stone. The French, written in the orthographic and stylistic conventions of the day, can be read easily. The alphabetic Micmac is also legible although with some difficulty due to Maillard’s inconsistent assignment of letters to phonemes and the poor quality of the copy made available to us. The hieroglyphic Micmac, finally, was deciphered through comparative methods developed in an earlier phase of research. Based on Maillard’s testimony, these methods assume that (1) hieroglyph (or ‘glyph’) order follows word order, reading from left to right, and (2) horizontal dashes separating glyphs correspond to spaces between words. Translations of the French and the alphabetic and hieroglyphic Micmac versions of the Tableau are given in Documents Two and Three.

Historians of literacy have long classified the hieroglyphs as mnemonic prompts for oral recitation, as the signs were used almost exclusively for reading oft-repeated and, thus it is assumed, memorized Catholic prayers. Linguists, as a result, have seen little reason to undertake structural analysis of the graphic system. Two facts challenge these prevailing views. First, the Règlements’ unique, secular content suggests that new information could be written and read in the hieroglyphs. In describing his teaching methods, Maillard states that he had Micmacs repeat their hieroglyphic prayers “de gauche à droit, et de droit à gauche” to ensure signs were being learned as discrete units. Literate Micmacs may have been able, then, to apply their sign-recognition skills to unfamiliar messages. Secondly, even a perfunctory visual analysis of a hieroglyphic text reveals regular patterns of glyph-meaning association. Linguistic research in progress indicates that glyphs encode bound morphemes (affixes and stems) and free morphemes (whole words) of spoken Micmac with sufficient consistency to enable the encoding and decoding of unique utterances. Confirmation of this hypothesis would establish the Micmac hieroglyphs as the first writing system developed and used in North

11 Maillard to Madame Drucourt, in Les Soirées Canadiennes, III, p. 356. Translation: “from left to right, and from right to left”.
America (pre-dating the better-known Cherokee and Cree syllabaries by nearly 150 years) and make a significant contribution to our knowledge of Amerindian intellectual achievement.

Because the history of the French-Micmac alliance is generally known only in broad strokes, the Règlements/Tableau — both as legal code and linguistic data — is an important source for further analysis and interpretation. Of particular interest are issues of motivation. Years after its enactment, Maillard referred to the agreement as “règlements que je demandai alors qui fussent faits, par rapport au dérangement de conduite que je voyois dans presque tous les jeunes gens de la nation” (italics added).12 His request is likely to have been prompted as much by military concerns as moral ones: to the degree that “disorderly behaviours” (presumably incidents of rape, murder and incest as targeted by the Règlements) among natives could disrupt tribal cohesion, they threatened the French-Micmac stand against British expansion, and thus the French themselves. For their part, the chiefs’ affirmative response to Maillard’s request indicates the sway of his moral authority as well as their own anxieties over unchecked aberrant behaviours. A complete analysis of the Règlements, its genesis, and its implications, then, must take into account both the political and ethical grounds which led to its enactment.

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12 Ibid., p. 322. Translation: “regulations which I had requested be made in response to the disorderly behaviours I had seen among nearly all the young people of the nation”.

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Figure One
Tableau de L'idiome et des Hiéroglyphs des Sauvages du Cap-Breton
ou Isle Royalle 1739
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Document One

Tableau de L’idiome et des Hiéroglyphes des Sauvages du Cap-Breton ou Isle Royale 1739

Les chefs Sauvages du Cap-Breton, de Naltigonneich et de Chikpenakady touchant celuy qui seroit convaincu de ce qu’il y à icy de deffendu. Le Sieur de Bourville y estoit aussi present, et d’autre officiers du Cap-Breton, dans le temps de la distribution des presents. Dans ce temps le même les chefs Sauvages ont jugé à propos d’ordonner que ce que le Sieur de Bourville leurs avoit proposé eût son effet.

Par Exemple
Celuy qui frapera ses père et mère, ou les prendra aux cheveux, ira à la mort.
Celuy qui consentira de tuer son frère, desorte qu’il le tuë, ira aussi à la mort.
Celuy qui fera du mal avec une femme malgré elle, ou bien tous les deux d’un commun consentement, sera pendant neuf jours à genoux à la porte de l’Eglise et tous ceux qui entrerons lui donneront pendant autant de jours un coup de verge. On en fera autant à la femelle qui fera atteinte et convaincue de pareil crime.
Pourant celuy qui se fera porteur des lettres des Anglois, et qui les servira en autres choses, ne partagera point, et ses frères partageront entr’eux ce qui luy revient du presents, parce qu’il à trahi le Roy notre Père. Ceux qui étant parents font du mal ensemble, on les menera au chef françois, les chefs Sauvages consentent qu’on les traitte comme il l’ordonnera.
Le Sieur de Bourville tiendra entre ses mains ce qui est icy écrit, les Patriarches l’auronts aussiy, et les chefs Sauvages et délibereront tous les printemps sur tout ce qui leurs blessera la Vuë, car ils n’ont en Vuë que de faire à la volonté du Roy leurs Père, ils aideronts en cela leurs frères tant du costé de lame, que du costé du corps, et les engageronts à estre autant soumis et obeissants au Roy qu’ils le sonts eux mesmes. Que cela demeure à jamais dans leurs coeurs.

Reglemens faits
Par les chefs Sauvages de l'île Royalle, de Naltigonneiche et de Chikpenakady, contre
les personnes convaincues des crimes cy dessous mentionnés. Faits en présence de Monsieur
de Bourville, Chevalier de l'ordre militaire de St. Louis, lieutenant de Roy et commendant
à l'île Royalle dans le Conseil tenu pour la distribution des présents au Port
Toulouze le Neuvième juillet 1739.

Sçavoir

1e. Celuy qui frapera son Père ou sa Mère, sera puni de mort.
2e. Celuy qui volontairement et de dessin prémédité tuera son amy, sera puni de mort.
3e. Celuy qui violera la femme ou la fille de son amy, sera fouetté pendant neufs jours consécutifs à la porte de l'Eglise, par tous les paroissiens de la mission.
4e. Pareille punition pour les filles qui tomberont en faute.
5e. Celuy qui manquera à la fidélité qu'il doit, au Roy son père, en se chargeant des lettres pour l'Etranger, ou en le servant en quoy que ce soit, sera privé des présents du Roy, et ils retourneronts au profit du Village.
6e. Celuy qui commettera inceste sera pris et amené au Commandant du lieu, au jugement du quel les dits chefs referent la punition.
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Document Two - Translation from the French

1 Chart of the dialect and hieroglyphs of the Indians of Cape Breton or Isle Royale 1739

2 have ruled

3 The Indian chiefs of Cape Breton, Naltigonneich and Chikpenakady concerning those who should be convicted of what is forbidden here.

4 Sieur de Bourville and other officers from Cape Breton were also there during the distribution of presents.

5 At the same time the Indian chiefs considered it proper to order that what Sieur de Bourville had proposed to them should take effect.

6 For example

7 Anyone who strikes his father or mother or quarrels [literally, ‘pulls the hair’] with they will be put to death.

8 Anyone who consents to kill his brother and then kills him, will also be put to death.

9 Anyone who has relations with a woman against her will, even if both have consented, will spend nine days on his knees at the door of the church and everyone who enters during this number of days will give him a lash with a rod.

10 The same thing will be done to a female who is guilty in fact and in law of a similar crime.

11 Anyone who carries English letters or serves them in other ways will no longer share his brothers will share among themselves what he would have received of the presents, because he betrayed the King, our Father.

12 All those, being from the same family, who have relations together will be brought to the French leader, the Indian chiefs agree that they will be dealt with as he orders.

13 Sieur de Bourville will keep what is written here, the Patriarchs will have it also, and the Indian chiefs, and every spring they will deliberate about anything which
disturbs their agreement [literally, "offends the eye"] because what is important to them is to do the will of the King, their Father, they will help their brothers to do this spiritually and bodily, and commit them to being as dutiful and obedient to the King as they themselves are. This remains forever in their hearts.

Rules made

By the Indian chiefs of Isle Royalle, Naltigonneiche and Chikpenakady against persons convicted of the crimes mentioned above. Made in the presence of Monsieur de Bourville, Knight of the Order of St. Louis, King’s Lieutenant and Commander at Isle Royale during the Council held for the distribution of presents at Port Toulouse, 9 July 1739.

Namely

1. Anyone who strikes his father or mother will be punished with death.
2. Anyone who voluntarily and with premeditation kills his friend will be punished with death.
3. Anyone who violates his friend’s wife or daughter will be lashed for nine consecutive days at the door of the church by all the parishioners of the mission.
4. The same punishment for women who fall into error.
5. Anyone who lacks the fidelity that is owed the King, his Father, by carrying letters for foreigners or serving them in any way will be deprived of the King’s presents which will be turned over for the benefit of the village.
6. Anyone who commits incest will be taken and brought to the commander of the place, to whose judgement the said chiefs refer the punishment.
Notes on Documents One and Two

A number of features in the Tableau’s text should catch the reader’s eye. First, punishment by death was called for in instances of striking a parent or killing a fellow Micmac (lines 10-12). The use of “parent” here may be figurative; that is, the law may have applied to all cases involving the physical abuse of elders. Rape and illicit sexual relations were to be punished by public floggings “at the door of the church” (lines 13-15), the Shubenacadie (“Chikpenakady” in the Tableau), Antigonish (“Naltigonneich”) and Cape Breton bands all having standing churches by 1738. In lines 18-20 the regulations prohibited Micmacs from carrying “English letters”, probably a reference to correspondence between British military officials. To be caught doing so meant the forfeiture of the following year’s presents, and the French promise to reward loyal Micmacs (“his brothers will share among themselves what he would have received”) with these presents was likely an attempt to entice informants. Finally, the response called for in cases of incest is especially noteworthy: the accused was to be turned over to “The French leader” for judgement and punishment (lines 21-23). Why this transfer of jurisdiction was stipulated and what comprised incest in this context are not known.

Document Three

Translation/Transliteration from the Micmac

Hieroglyphic signs in the following transcription were scanned and formatted to appear, line by line, as in the original (without horizontal dashes between glyphs, however). Printed below each glyph in descending order are: (1) Maillard’s alphabetic form in plain type, (2) its modern-day Micmac equivalent (Cape Breton dialect), transliterated in the Smith-Francis orthography and printed in boldface, and (3) its English translation. Where we could not read Maillard’s handwriting, questionable segments have been underlined or, in one case, indicated with the word “illegible” (line 23). Diachronic change and Maillard’s idiosyncratic spellings account for a number of differences between our transliteration and the original; these differences, we believe, are not significant for our purposes. The letter “8” in Maillard’s orthography signifies a high back vowel, as in ‘boot’. Note that at line 5 Bourville’s name is spelled Boulville and was probably pronounced /bu:lvi/, Micmac lacking the phoneme /r/ (apparently, the equally non-phonemic /v/ posed no problem for native speakers). At line 30 the first two glyphs, separated by a horizontal dash in the Tableau, appear to constitute a single sign for wo’kmatijik. Finally, in two instances (lines 4 and 32), the missionary omitted glyphs for wjit (‘for’) and ta’n (‘what’, ‘who’, ‘that’); these omissions were probably copying oversights on his part.

14 Translation and glyph analysis by Schmidt with invaluable assistance from Murdena Marshall, Wilfred Prosper, Helen Sylliboy and Thomas George Poulette.
### Document Three: Translation/transliteration from the Micmac

<table>
<thead>
<tr>
<th>Line</th>
<th>English</th>
<th>Micmac</th>
<th>French</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>They came to a consensus</td>
<td>Kijoudimitich</td>
<td>Nalkilkonneich</td>
</tr>
<tr>
<td>2</td>
<td>Indian chiefs</td>
<td>Ln8i-chakmak</td>
<td>Unama’ki</td>
</tr>
<tr>
<td></td>
<td>delegu</td>
<td>8namakik</td>
<td>tle’k</td>
</tr>
<tr>
<td></td>
<td>Nalkilkonneich</td>
<td>Nalkilkonneich</td>
<td>Antigonish</td>
</tr>
<tr>
<td>3</td>
<td>delegu</td>
<td>ak</td>
<td>Chikpen-akadi</td>
</tr>
<tr>
<td></td>
<td>tle’k</td>
<td>aqq</td>
<td>and</td>
</tr>
<tr>
<td></td>
<td>Nalkilkonneich</td>
<td>ketla’min</td>
<td>spoken truthfully</td>
</tr>
<tr>
<td>4</td>
<td>missing glyph</td>
<td>8ge</td>
<td>tan</td>
</tr>
<tr>
<td></td>
<td>wjit</td>
<td>ta’n</td>
<td>ala</td>
</tr>
<tr>
<td></td>
<td>for</td>
<td>those</td>
<td>there</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>thus have they laws</td>
</tr>
<tr>
<td>5</td>
<td>Jebel</td>
<td>elp</td>
<td>ouindgi8ichakmak</td>
</tr>
<tr>
<td></td>
<td>Jelpel</td>
<td>elp</td>
<td>weniuj saqamaw</td>
</tr>
<tr>
<td></td>
<td>Now there</td>
<td>also</td>
<td>French chief</td>
</tr>
</tbody>
</table>
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6

\[ \begin{align*}
\text{tegotk} & \quad \text{ak} & \quad \text{8namakik} & \quad \text{edliyalz8z8ltigik} \\
\text{teko'tk} & \quad \text{aqq} & \quad \text{Unama'ki} & \quad \text{etlialsusultijik} \\
he is present & \quad \text{and} & \quad \text{of Cape Breton} & \quad \text{there other bosses}
\end{align*} \]

7

\[ \begin{align*}
\text{elp} & \quad \text{tегодэм8тигик} & \quad \text{тебитимкек.} \\
\text{elp} & \quad \text{теко'тмоти'жик} & \quad \text{тепи'тимкек.} \\
also & \quad \text{they are present} & \quad \text{where presents are distributed.}
\end{align*} \]

8

\[ \begin{align*}
\text{Neguela} & \quad \text{In8i-chakmak} & \quad \text{делi 8лidedemitich} \\
\text{Nekla} & \quad \text{Inui saqamaq} & \quad \text{телi wulfite'tmi'tij} \\
\text{Henceforth} & \quad \text{Indian chiefs} & \quad \text{they see fit}
\end{align*} \]

9

\[ \begin{align*}
\text{pa tal el8deminau} & \quad \text{tletlen} & \quad \text{Chakmaw} \\
\text{pa tel elo'tumwanew} & \quad \text{na tle'tn} & \quad \text{Saqamaw} \\
here they agree to treat badly & \quad \text{it is said} & \quad \text{Chief}
\end{align*} \]

10

\[ \begin{align*}
\text{Boulville} & \quad \text{deli nechd8ab8g8etch.} \\
\text{Boulville} & \quad \text{telineastuapukwej.} \\
\text{Bourville} & \quad \text{thus let us try to to preach.}
\end{align*} \]

11

\[ \begin{align*}
\text{81a} & \quad \text{ketch} \\
\text{Wla} & \quad \text{ke'j} \\
\text{Here} & \quad \text{from now on}
\end{align*} \]
12 Sen Wen who

8negueik8 wnki'ku

his parents

mattach mata'j

he beats kisne

or

13 kamiaché
taqamaj

he hits

8negueik

npuaqniktuk
to death

eledau.
elitew.

he will be taken.

14 Sen Wen Who

8sigmachel

wikma'jl

his partner

agidek ajite'tk

he plans ne'pa'n

he kills

8negueik

npuaqniktuk

to death.

15 elp elp

also

nan ba

nan pa

so

niguem nekm

him

8negueik

npuaqniktuk

to death.

16 Sen Wen Who

epiligil

epitlilt1

a woman

8inalach wina'la

he molest s m8

mu

not

17 kedamag8k8nl

keta'makukni

she does not agree

ak aqq

elp elp

also

kisna kisna

or
They agree on nine days

Will be bowed there

The number of enters therefore

The number of days all once

They make his path straight with switches.

Elp tleí8aden epiligil (illegible).
Elp tiwa'titen epitliitl ---.
Also will say the woman ---.
Chkadu
Skatu
Like

tyalatokol
ela'toql
he carries

aglachie8ikt8k
aklasie'wiktuk
in English

yapchi8
l'apjiw
forever

Sti8tp8tp
tpiata
what he receives

Eligue8itigil
Elekewiti8j
from the King

aglachii8i8 katigui8
aklasie'we1 wi'katiknl
Englishmen's books

ak
aqq
and

delkimch
telkimj
you read

mun tpiat
ma'tpiat
he will not recieve

ak
aqq
and

Sigma
wikma
his family

okotch
qooj
therefore

k8schinal
kuji8inal
our father

adna8igil.
a'tna8qil.
he betrays.
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30

8okmatigik  Sisaditich
Wo'kmatijik  wina'titij
Who are related  they molest each other

31

laladen  SSendgi8ichakma8ikt8k
la'laten  wenjui saqamawiktuk
they will be taken  to the French chief

32

kedomitich  lin8ichakmak  tan  neguem
ketamatimitij  luui saqamaq  ta'n  nekm
they will agree  Indian chiefs  whatever  he

33

delch8mach  8ilelen.
telsumaj  tle'lin.
imposes on them  they will let be.

34

Chakmau Boulville  Kelnidau  8la
Saqamaw Boulville  Kelnidew  wla
Chief Bourville  he will hold  here

35

niguech  del8ikagik  Patliachk  elp
nike'j  telwikesik  Pa'tlia'sk  elp
now  it is written  the priests  also

36
they possess and Indian chiefs

dech paniakl every end of winter

also they will make right therefore

they will look at for they prepare well in advance

who the king their father sends them

so will come from for his relatives they will assist them
The Règlements of 1739

Their souls and their body also and their blood line reverently they will obey the king they imprinted in their hearts.

8schijakmi8ak ak 8stìnini8akel ak
wijijaqamijua'kl aqq wtininewage'1 aqq
their souls and their body also and

Eligue8iligil negmau
Elèkewilijil nekmow

8stalk8amau 8stelikepmichked8anau
takumanew telikepmisqatuanew
their blood line their way of reverent obedience.

delikepmichked8adich.
telikepmisqatua'tij.
their way of reverent obedience.

Yaptìdicìh tok 8skamelam8n8ek.
l'aptitij toq wskamalamunuqk.
Forever therefore imprinted in their hearts.