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THE MURRAY TREATY OF 1760: THE ORIGINAL DOCUMENT DISCOVERED

David Schulze*

1. *The Facts of the Sioui Case*

The facts surrounding the Murray Treaty of 1760 are as follows: in late August 1760, three British armies converged on Montreal to complete the conquest of New France. Two arrived from the British colony of New York and the third, under the command of General James Murray, came from Quebec City, which had fallen to British forces the previous autumn.¹

On September 5, 1760, Murray was in Longueuil, directly across the St. Lawrence River from Montreal, where he met the Hurons of Lorette. He signed a certificate stating that the chief of the Hurons had come to make peace, they were received into Murray's protection and were guaranteed the protection of their religion and customs, as well as certain trade freedoms.²

The Supreme Court of Canada held in *R. v. Sioui*³ that this certificate is a treaty within the meaning of the *Indian Act*, R.S.C. 1985, c.I-5, s.88. As a result, the four Sioui brothers were entitled to cut trees, camp and make fires as part of carrying on their customs and religious rites in a provincial park, notwithstanding provincial statutes and regulations.⁴

2. *The Missing Treaty*

In spite of the importance of the Supreme Court's characterization of the document issued by General Murray as a treaty in *R. v. Sioui*, the original of the Murray Treaty of 1760 had never been produced in evidence in those proceedings.

Before the Superior Court, the accused produced a photocopy of a handwritten version.⁵ In order to prove its authenticity, they produced a

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1 *Historical Atlas of Canada*, vol. 1 (Toronto: University of Toronto Press, 1987), plate 43.

2 See the text of the treaty reproduced *infra*.

3 [1990] 3 C.N.L.R. 127 (S.C.C.), aff'g. [1987] 4 C.N.L.R. 118 (Que. C.A.), rev'g. J.E. 85-947 (Que. S.C.), aff'g. J.E. 83-722 (Que. Prov. Ct.).

4 [1990] 3 C.N.L.R. 127 (S.C.C.) at 129-30, 153-54, 157-58.

5 The handwritten version in question appears to be different from the original reproduced in this article. The photocopy produced before the Superior Court is reproduced in Denis

typeset copy from the Archives du Petit Séminaire in Quebec City. An employee of the seminary archives testified that the typeset copy had been printed in Halifax in 1760.⁶ In addition, the accused produced an excerpt from a published report by the Dominion Archivist who had transcribed the same text (with one additional word) from the personal papers of a descendant of James Murray in 1910.⁷

As a result, Desjardins J. ruled that he could take judicial notice of the handwritten version, even if it did not constitute proof of a treaty within the meaning of the *Canada Evidence Act*.⁸ Both the Quebec Court of Appeal and the Supreme Court of Canada heard further extrinsic evidence to support the view that the document constituted a treaty,⁹ but no further evidence concerning the text of the treaty itself was lead.

3. *The Discovery of the Document*

I located the original version of the Murray Treaty of 1760 in February 1996 through the following series of events.

Consulting a well-indexed catalogue of the manuscripts in the special collections of the library of l'Université de Montréal, I discovered the existence of a copy of a certificate issued to the Hurons by General Murray and prepared by a notary in 1810.

An examination of the document at l'Université de Montréal¹⁰ revealed that six chiefs and warriors from the Huron Village at Lorette had appeared before the notary Barthélemy Faribault in Quebec City on August 4, 1810, to bring and deposit in his files ("ont apporté et Déposé en l'Etude") a document written in English – the text of which was the Murray Treaty – in return for a true copy ("à l'effet de leur en être délivré et à qui il appartiendra copie authentique").

Aujourd'hui Quatrième jour du mois d'Aout avant midi, de l'année Mil huit Cent dix

Sont Comparus en personne, par devant Les notaires publics en la province du Bas Canada résidents à Québec soussignés, Le Petit Etienne Sauvage Huron Premier chef du Village de la Jeune Lorette, Zacharie Thomas second, chef, Augustin Picard, troisième chef, et Louis Vincent aussi

Vaugeois, *La fin des alliances franco-indiennes: Enquête sur un sauf-conduit de 1760 devenu un traité en 1990* (Montreal: Boréal/Septentrion, 1995) at 92. Vaugeois notes, at 151, that Gilles Durocher of the National Archives of Canada told him the document appeared to be a transcription itself, but one which could well date from 1760.

6 J.E. 85-947 (Que. S.C.) at 16. The decision by the Superior Court was on a trial *de novo*: [1987] 4 C.N.L.R. 118 (Que. C.A.) at 120.

7 *Ibid.*

8 *Ibid.* at 17.

9 [1987] 4 C.N.L.R. 118 (Que. C.A.) at 125-126; [1990] 3 C.N.L.R. 127 (S.C.C.) at 143-150.

10 Collections spéciales de l'Université de Montréal, Collection Melzack, document manuscrit M3/Q01.044.

sauvages Huron, quatrième chef dud. Village; encore, Nicolas Vincent premier chef, et Gabriel Vincent aussi sauvages Huron second chef, des Guerrier, du susdit village,

Les quels ont apporté et Déposé en l'Etude de M^r. Barthelemy Faribault l'un des notaires soussignés l'Ecrit sous seing privé Ecrit en Langue Anglaise dont suit la teneur;

...

à l'effet de leur en estre délivré, et à qui il appartiendra copie authentique, ce qui leur à été octroyé, par nous dits notaires soussignés, en l'Etude dudit M^r. Barthelemy Faribault, lun d'iceux après avoir été le dit Ecrit certifié sincer [?] et véritable, par les dits comparants, et signé des dits Louis Vincent ~~Augustin Picard~~, et Nicolas Vincent, et à leur requisition paraphé de nous dits notaires, dont acte à eux octroyé, les jour et an que dessus, et ont les dits compar[ants] susnommés déclaré ne savoir Ecrire ni signer, de ce requis, Excepté des dits Louis Vincent ~~Augustin Picard~~, et Nicolas Vincent qui ont signé lecture faite. Signé sur la minute, original demeuré en la dite Etude.

[stricken name appears in original]

During this period, each notary's set of records (his archive or "greffe") was required by law to be deposited at the court house of the notary's judicial district upon death.¹¹ I knew these notarial archives are now held by the regional centres of the Archives nationales du Québec (ANQ), so I ordered a copy of the particular document or notarial "minute" from Faribault's archive at the ANQ in Quebec City.

When I subsequently received a photocopy of the minute prepared by Faribault,¹² I was surprised to find attached to it the text of the certificate itself alone, in different handwriting. Upon somewhat closer examination, I recognized the signature of James Murray, several of whose letters and reports I had previously consulted.¹³

4. *The Authentication of the Document*

After receiving a photocopy of what I believed to be Murray's original certificate, I forwarded a copy to Ms. Patricia Kennedy, archivist in the State and Military Archives Programme of the Manuscript Division at the National Archives of Canada (NAC) and asked for her opinion.

Ms. Kennedy confirmed my view. She wrote to me:

On seeing the photocopy enclosed with your letter, I had no doubt that the

11 *An Ordinance Concerning Advocates, Attornies, Solicitors and Notaries*, S.Prov.C. 1785 (25 Geo. III), c.4, art. V.

12 Archives nationales du Québec, Centre d'archives de Québec, Archives du notaire Barthélemy Faribault, déposition de Louis Vincent et Nicholas Vincent *et al.*, 4 August 1810.

13 See: David Schulze, "The Privy Council Decision Concerning George Allsopp's Petition, 1767: An Imperial Precedent on the Application of the Royal Proclamation to the Old Province of Quebec", [1995] 2 C.N.L.R. 1.

signature was genuine. My colleague Gilles Durocher (our resident expert on handwriting) came immediately to the same conclusion. Subsequent comparison with known autographs merely reinforced our belief. You certainly deserve congratulations for having located the original pass of 5 September 1760.

Recent days have seen a flurry of rumor about the original pass and Barthélemy Faribault's attestation of it in his *greffe*. Speculation as to why the chiefs met with the notary in 1810 and why he retained the original was overlaid with concern about Murray's signature.¹⁴

At the ANQ's request, the original of the document was subsequently examined by André Münch, a documents specialist with the Public Security Ministry's crime laboratory. André Münch concluded, beyond all reasonable scientific doubt, that the signature is by the same person as numerous other archival documents believed to have been signed by Murray. Moreover, the handwriting exhibits numerous distinctive characteristics which it shares with other archival documents believed to have been signed by Murray; like those other documents, this one was written in ink with a quill pen. To refine his analysis further, André Münch studied the paper itself and concluded that it is very probably from the period around 1760, based both on its texture and a watermark.¹⁵

5. *Reporting on the Discovery of the Document*

The existence of the original of the Murray Treaty in Faribault's notarial archive did not remain unknown for long. The discovery was the subject of a report on Radio-Canada's nightly television newscast, "Le Téléjournal" on April 25, 1996.

Denis Vaugeois, amateur historian and former Parti Québécois Member of the National Assembly, subsequently reproduced the document in a collection of historical essays on the Huron which he edited. He wrote that the original had been found by chance ("par hasard").¹⁶

In an earlier work Vaugeois wrote himself, he had offered an extended critique of the authenticity of copies presented to the court by the accused in *R. v. Sioui*, which he used to buttress his view that the document signed by Murray was not a treaty, but merely a certificate of

14 Patricia Kennedy to David Schulze, 2 April 1996.

15 Rapport d'expertise, Objet: Examen de documents, "Traité de Murray", 9 September 1996, prepared by André Münch, Ministère de la Sécurité publique, Laboratoire de sciences judiciaires et de médecine légale. I express my thanks to André Münch and to the Archives nationales du Québec for making this report available to me.

16 Denis Vaugeois, "Note de l'éditeur" in A. Beaulieu, "Les Hurons de Lorette, le 'traité de Murray' et la liberté de commerce", in Denis Vaugeois, dir., *Les Hurons de Lorette* (Sillery: Septentrion, 1996) 254 at 294.

safe passage.¹⁷ It is worth noting that Vaugeois did not take advantage of the discovery of the original to reconsider his views.

6. *The Notary: Barthélemy Faribault*

Barthélemy Faribault was not just a notary, but the son, grandson and brother of notaries.¹⁸ He himself took up the profession at the age of 33, after having worked in business in Quebec City.¹⁹ Relatively little is known about Barthélemy Faribault, in comparison to his more prominent father, son and brothers, but two of those family members may have had some connection to Barthélemy's safekeeping of the Murray Treaty.

First, Barthélemy's son, Georges-Barthélémi Faribault was the source of the collection of documents which included the typeset copy of the Murray Treaty produced before the Superior Court in *R. v. Sioui* from the Archives du Petit Séminaire in Quebec City.²⁰

Georges-Barthélémi was a lawyer by training and an official of the House of Assembly of Lower Canada from 1812 till 1855. In particular, between 1815 and 1828 he was responsible for the Assembly's archives as the clerk of committees and papers. Later in life he became an important bibliographer and collector of documents and publications concerning Canadian history.²¹

It is possible Georges-Barthélémi Faribault learned of the Murray Treaty through his father, having been licensed to practise law in 1810, the same year the document was deposited.²² However, he was also clerk of committees between 1819 and 1824, when the petitions to the Legislative Assembly from the Hurons were being considered and the Murray Treaty was invoked,²³ as discussed below.

Denis Vaugeois has demonstrated quite convincingly that the typeset copy of the Murray Treaty introduced in evidence in *Sioui* was likely printed at the request of Andrew Stuart, who chaired the House of

17 Denis Vaugeois, *La fin des alliances franco-indiennes: Enquête sur un sauf-conduit de 1760 devenu un traité en 1990* (Montreal: Boréal/Septentrion, 1995) 128–29 and 151–64. I have expressed my disagreement with this work in a recent book review: "Recension" (1997), 42 McGill Law J. 1045.

18 Marthe Faribault Beaugard and Claude Lessard, "Barthélemy Faribault", *Dictionary of Canadian Biography*, vol. V, 1801 to 1820 (Toronto: University of Toronto Press, 1983) 312. (This is a biography of Barthélemy Faribault père, the father of the man who took deposit of the Murray Treaty.)

19 Pierre-Georges Roy, *La famille Faribault* (Lévis: n.p., 1913) at 9.

20 J.E. 85–947 (Que. S.C.) at 16.

21 Yvan Lamonde, "Georges-Barthélemy Faribault", *Dictionary of Canadian Biography*, vol. IX, 1861 to 1870 (Toronto: University of Toronto Press, 1976) 249.

22 *Ibid.*

23 Cornelius Jaenen, "Rapport historique sur la nation huronne-wendat", in *Les Hurons de Lorette*, *supra* note 16, 161 at 245–47.

Assembly's committee on the Hurons' petition in 1824.²⁴ (An employee of the seminary archives testified before the Superior Court that the typeset copy of the Murray Treaty introduced in evidence had been printed in Halifax in 1760.²⁵)

As a result, the most likely explanation for the origin of the typeset copy of the Murray Treaty found in Georges-Barthélemy Faribault's collection was his position at the legislature, but it remains quite possible that his father's earlier connection to the document made him understand its importance.

An even more intriguing relative of Barthélemy Faribault is his younger brother, Jean-Baptiste. Like Barthélemy, Jean-Baptiste began his working life in business in Quebec City, but at age 23 he left for a fur trading post at Fort Michilimackinac, Michigan. He continued in the fur trade in the upper Great Lakes region, where he settled, married and learned to speak Sioux. In 1821, Jean-Baptiste Faribault assisted in the negotiation of a treaty between the United States and the Sioux (though it was not subsequently ratified) and he played a role in treaties signed in 1841 and 1851 by which the Indians of the upper Mississippi ceded lands in present-day Minnesota.²⁶

Unfortunately, without further research it is impossible to determine whether Jean-Baptiste and his brother Barthélemy Faribault knew of each other's involvement with Indian treaties.

7. *The Probable Purpose of the Notarized Copy*

a) *The Documented Use*

The notarized copy of the Murray Treaty found at l'Université de Montréal was in the papers of Herman Ryland, which suggests the Hurons obtained notarized copies at least in part so as to be able to put the text of the Murray Treaty before the government.

Ryland was an extremely important civil servant: he served as secretary to the governor of Lower Canada from 1793 till 1796 and from 1799 till 1813, in addition to occupying several other high-ranking positions.²⁷ In particular, in 1807 Ryland became a member of the board of commissioners for the management of the Jesuits' estates, charged with administering the property which the British Crown had taken from

24 Vaugeois, *La fin des alliances franco-indiennes*, supra note 17 at 128-29, 160-64.

25 J.E. 85-947 (Que. S.C.) at 16.

26 Paul Trap, "Jean-Baptiste Faribault", *Dictionary of Canadian Biography*, vol. VIII, 1851 to 1860 (Toronto: University of Toronto Press, 1985) 286.

27 Alexander M.C. Wright, *Manuscrits de la Collection de Canadienne Louis-Melzack: Inventaire analytique* (Montreal: Université de Montréal, Service des bibliothèques, 1992) xvii to xviii.

the Jesuit order of priests in 1800; Ryland was the commission's secretary and treasurer from 1811 till 1826.²⁸

Among the Jesuit properties which came under the Commission's administration was the seignury of Sillery, which had been granted in 1651 to the Hurons under the supervision of their missionaries, the Jesuits, by the Compagnie de la Nouvelle-France (Cent-Associés), then the governing body of New France. However, in 1699, after the Hurons had moved to Lorette, the Jesuits took over administration of the Sillery seignury for their own benefit.²⁹

From the time of the conquest of New France, the British regime had demonstrated an antipathy for the Jesuit order of Roman Catholic priests. In 1775, the Governor received instructions that the order was to be dissolved and suppressed and its estates were to be vested in the Crown. But since the needs of those Jesuit priests still in the colony were to be met for the rest of their lives, no action was taken with respect to their property until the last Jesuit priest in Lower Canada died in 1800.³⁰

The Hurons began to present petitions for the return of the Sillery seignury to them as of 1791 and their petitions correspond roughly to the major political developments with respect to the Jesuits' Estates. The first two petitions were to the governor, in 1791 and 1798; the second resulted in a reply from the governor's secretary, Herman Ryland. Other petitions were presented in 1799, 1807 and 1811, in addition to a letter to the colonial secretary in 1814 and to King George IV in 1825.³¹

Committees of the Legislative Assembly considered petitions from the Hurons asking for return of the Sillery seignury in 1819 and 1824.³² In 1824, a copy of the certificate issued by General Murray in 1760 was among the documents presented to the special committee by the Hurons.³³ A year earlier, another committee had investigated the state of Crown lands in the province and asked Ryland detailed questions about the Jesuits' estates.³⁴

Therefore, it is clear that the Hurons invoked the Murray Treaty in

28 *Ibid.*; Roy C. Dalton, *The Jesuits' Estates Question, 1760-1888; A Study of the Background for the Agitation of 1889* (Toronto: University of Toronto Press, 1968) 57-58, 79.

29 Cornelius Jaenen, "Rapport historique sur la nation huronne-wendat", in *Les Hurons de Lorette*, *supra* note 16, 161 at 179, 182; Roy C. Dalton, *The Jesuits' Estates Question*, *supra* note 28 at 63-64.

30 Roy C. Dalton, *The Jesuits' Estates Question*, *supra* note 28 at 19, 57-58.

31 Marguerite Vincent, "Un siècle de réclamations de la Seigneurie de Sillery par les Hurons (1791-1896)", (1978) 7:3-4 *Recherches amérindiennes au Québec* 21 at 22.

32 *Ibid.*

33 Marguerite Vincent Tehariolina, *La Nation huronne: Son histoire, sa culture, son esprit* (Sillery: Septentrion, 1995) 142-43; Vaugeois, *La fin des alliances franco-indiennes*, *supra* note 17 at 78.

34 Roy C. Dalton, *The Jesuits' Estates Question*, *supra* note 28 at 84-85.

support of their petitions for the return of the Sillery seigneurie and it seems likely that Ryland obtained his notarized copy as part of these efforts.

However, it is certainly not the case that the Hurons only began to rely on the Murray Treaty after the notarized copy was prepared in 1810. At least as early as 1804, an individual Huron had presented a copy to the Court of Special Sessions of the Peace in a family law matter where the customs of the Huron village were at issue.³⁵

b) *The Legal Context*

The utility of a notary, under Quebec's civil law, is that legal acts entered into before him or her are presumed to be authentic³⁶ and therefore make proof of their contents. Thus, for example, notarized wills need not be probated.³⁷

Obviously, the fact that in 1810 the notary Barthélemy Faribault prepared a copy of the Murray Treaty dating from 1760 could not by itself establish the document's authenticity. This is implicitly acknowledged by the reference in the notarial minute to the document as "l'Ecrit sous seing privé," that is, a private writing. A private writing is one "setting forth a juridical act and bearing the signature of the parties,"³⁸ for which the burden of proof rests on the person who invokes it.³⁹

Nevertheless, filing existing official documents of great importance with a notary appears to have been an accepted practice in Lower Canada in the early nineteenth century. Just one year before the Huron chiefs appeared before Barthélemy Faribault to deposit the certificate issued to them by General Murray, the court had upheld property claims based on certificates issued decades earlier by the government of New France and only recently deposited with a notary.⁴⁰

During the construction of stone fortifications around Montreal, a royal edict in 1724 set out an area adjoining the walls within which no construction would be allowed. However the privately-held land affected by the reserve was not expropriated. In fact, in 1753 several individuals had their right to build on their land adjoining the fortification walls confirmed: the military engineers issued a certificate to one property-owner, stating that they had no objection to her building in the reserve

35 Vaugeois, *La fin des alliances franco-indiennes*, supra note 17 at 79.

36 Art. 2814(6), *Civil Code of Quebec*.

37 Art. 772, *C.C.Q.*

38 Art. 2826, *C.C.Q.*

39 Art. 2828, *C.C.Q.*

40 I am indebted for the following information to Alan Stewart, an expert on the history of late eighteenth and early nineteenth century Montreal.

and the intendant of New France declared construction there would be beneficial.⁴¹

When the fortifications were to be demolished, in 1802, a commission was established by statute to oversee the work.⁴² Among the commission's first acts was to issue a public notice that all persons interested in the lands within the fortification reserves should file an appearance before the Court of King's Bench.⁴³

Following publication of this notice, one of the owners of land where the French military engineers had confirmed the right to build on the fortification reserve now appeared before a notary and deposited those certificates issued 50 years earlier.⁴⁴ The property-owner, Jean-Baptiste Lefevre, then filed notice of his claim with the court, including copies of the documents; the owners of neighbouring properties who subsequently filed notices also made reference to these documents. In 1809, the Court of King's Bench rendered *ex parte* judgments upholding the claims of all the owners of property whose rights had been confirmed in 1753 by the military engineers.⁴⁵

It is impossible to determine whether the Hurons knew of these particular proceedings, but it is clear that in depositing the original of the Murray Treaty with a notary, they had followed an accepted course of action to establish its authenticity and make it available for use in legal matters.

8. *The Textual Differences Between the Original and the Version before the Court in Sioui*

There is only one difference between the original of the Murray Treaty and the version cited by the Court in *Sioui*: instead of referring to "liberty of trading with the English," the original grants the "liberty of trading with the English Garrisons."

This alternate wording is already well known, as it appears in the version transcribed by the Dominion Archivist in 1910 from the papers held by James Murray's descendant and subsequently published.⁴⁶ This

41 Archives nationales du Québec, Centre de Montréal, Archives du notaire Louis Guy, déposition de Jean-Baptiste Lefevre, 23 May 1803, no. 136.

42 *An Act for removing the old Walls and Fortifications that surround the City of Montreal, and otherwise to provide for the Salubrity, Convenience and Embellishment of the City*, S. Lower C. 1802 (41 Geo. III), c.16.

43 *Quebec Gazette*, 3 February 1803.

44 Archives nationales du Québec, Centre de Montréal, Archives du notaire Louis Guy, déposition de Jean-Baptiste Lefevre, 23 May 1803, no. 136.

45 Archives nationales du Québec, Centre de Montréal, Court of King's Bench, no. 230 02/15.

46 A. Beaulieu, "Les Hurons de Lorette, le 'traité de Murray' et la liberté de commerce", in *Les Hurons de Lorette*, *supra* note 16, 254 at 286; Vaugeois, *La fin des alliances franco-indiennes*, *supra* note 17 at 209–210.

version was put before the Court,⁴⁷ though it does not appear in the judgments.

This provision of the Murray Treaty was not at issue in *R. v. Sioui*. It was raised more recently in *Québec (Sous-ministre du Revenu) v. Sioui*, only to be withdrawn at trial, where the litigant preferred to rely purely on the protection of "their Customs" as grounds for exempting one of the Hurons of Lorette from the requirement to register his business and collect sales tax. The argument was unsuccessful.⁴⁸

The most important point to be made concerning the qualification of the word "English" by "Garrisons" in the Murray Treaty is that it may be of little legal significance, in view of the factual situation prevailing when the treaty was made. On September 5, 1760, all the British citizens in New France were part of the armed forces completing the conquest; none resided anywhere else but in garrisons. As a result, freedom to trade with "the English" necessarily meant freedom to trade with those in "the English Garrisons."

The expert witness for the Government of Quebec in *Québec (Sous-ministre du Revenu) v. Sioui*, Alain Beaulieu, has suggested that the "liberty of trading with the English Garrisons" granted to the Hurons by Murray must be understood in the context of the network of British forts in the Great Lakes and the St. Lawrence, taken from the French near the end of the Seven Years' War. He cites a number of commanding officers who reacted with dismay in the spring of 1760 to the news that Indians allied to the French had been able to trade furs at British forts. As a result, Beaulieu concludes that a treaty of peace was required for such Indians to be allowed to trade at British garrisons.⁴⁹

With respect, I believe this conclusion is too hasty. As Lamer J. pointed out in his judgment, General Murray had acted as military governor of the Quebec district since 1759 and had "used his powers to regulate, *inter alia*, the currency exchange rate and the prices of grain, bread and meat."⁵⁰ Murray was therefore most immediately concerned with trade in the most densely settled parts of New France; it is also worth noting that ordinances issued by the military governors of the districts of Montreal and Three Rivers in the months following the

47 J.E. 85-947 (Que. S.C.) at 16.

48 *Québec (Sous-ministre du Revenu) v. Sioui*, [1996] 1 C.N.L.R. 122 (Que. S.C.) at 136; *aff'd*, [1997] 3 C.N.L.R. 88 (Que. C.A.).

49 A. Beaulieu, "Les Hurons de Lorette, le 'traité de Murray' et la liberté de commerce", in *Les Hurons de Lorette*, *supra* note 16, 254 at 288-91.

50 [1990] 3 C.N.L.R. 127 (S.C.C.) at 137.

Conquest established restrictions on trade with soldiers.⁵¹ Clearly, more research is needed on this question.

9. Conclusion

In spite of the importance of the Supreme Court's characterization of the document issued by General Murray as a treaty in *R. v. Sioui*, the original of the Murray Treaty of 1760 had never been produced in evidence in those proceedings.

I located the original version of the Murray Treaty of 1760 in February 1996 after first discovering the existence of a notarized copy; the original was in the notary's archives. Six chiefs and warriors from the Huron Village at Lorette had appeared before the notary Barthélemy Faribault in Quebec City on August 4, 1810, to bring and deposit in his files the Murray Treaty in return for a true copy.

Archivists at the National Archives of Canada specialized in eighteenth century official documents confirmed the document's authenticity. A documents specialist with the provincial Public Security Ministry's crime laboratory concluded beyond all reasonable scientific doubt that the signature is by the same person as numerous other archival documents believed to have been signed by Murray.

The notarized copy of the Murray Treaty was in a collection of papers belonging to Herman Ryland, an extremely important civil servant. The Hurons submitted several petitions to the government, including at least one in 1798 which was reviewed by Ryland as secretary to the governor of the colony.

The evidence therefore suggests the Hurons obtained notarized copies at least in part so as to be able to put the text of the Murray Treaty before the government. A notarized copy of the Murray Treaty was among documents presented by the Hurons in 1824 to a special committee of the Legislative Assembly struck to consider their claim to the Sillery seigneurie. However, the Hurons had invoked the Murray Treaty even before Faribault's notarized copy was prepared in 1810.

The fact that a notary prepared a copy of the Murray Treaty 50 years after it was entered into could not by itself establish the document's authenticity. Nevertheless, filing existing official documents of great importance with a notary appears to have been an accepted practice in Lower Canada in the early nineteenth century and such documents were taken seriously by the courts.

51 *Report of the Public Archives for the Year 1918* (Ottawa: King's Printer, 1920), Appendix B, "Ordinances and Proclamations of the Règne Militaire" at 95, 97, 213.

There is a difference between the original of the Murray Treaty and the version cited by the Court in *R. v. Sioui*: instead of referring to "liberty of trading with the English," the original grants the "liberty of trading with the English Garrisons." This alternate wording was already well known. It may also be of little significance, however, since on September 5, 1760 all the British citizens in New France were in garrisons.

The following is a transcription of the original of the Murray Treaty of 1760.

These are to Certifie that The Chief of the
Huron Tribe of Indians, having come to me
in the name of His Nation, to Submit to
His Britanick Majesty, & make peace,
has been received Under my protection with
his whole tribe, and henceforth no English
Officer or party is to Molest, or interrupt
them in returning to their settlement at
Lorette, and They are received upon the same
terms with the Canadians, being allow'd
the free Exercise of their Religion, their Customs
& liberty of trading with the English Garrisons
recommending it to The Officers Commanding
the posts to treat them kindly, Given under
my hand at Longueuil this 5th day of
September 1760

Ja: Murray

By the Genl^s command

John Cosnan

Adjut^t Genl

I have and do certify that the Chief of the
 Huron Tribe of Indians, having come before
 in the name of the Nation to submit to
 His Britannick Majesty, & asked peace,
 was being received under my protection with
 his whole tribe, and henceforth no English
 Officer or party is to molest, or interrupt
 them in returning to their settlement at
 Lorette, and they are received upon the same
 terms with the Canadians, being allowed
 the free exercise of their Religion, their Customs
 & liberty of trading with the English Nations
 recommending it to the Officers commanding
 the posts to treat them accordingly, Given under
 my hand at Longueville this 5th day of
 September 1760
 J. A. Murray
 By the Gen^l command
 Johnesnard
 Adj^{nt} Gen^l