

The Fisheries Stand-off in Atlantic Canada: Understanding the Complexity of this Issue (A Personal Perspective)

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[This paper was written last fall at the height of the dispute in Nova Scotia over the “moderate-living lobster fishery”, being conducted by the Sipekne'katik band (the second largest Mi'kmaq band in Nova Scotia). It was originally written as the tension was escalating because people in my own family and community – Deer Island, New Brunswick – had asked me to write about it and because the Indigenous Relations Working Group of the Canadian Baptists of Atlantic Canada (CBAC), of which I have been a member for several years, was trying to help pastors and churches (especially in the area of Nova Scotia where the tension was most pronounced, but throughout Atlantic Canada more generally) understand the issue and how they might respond in a way that is in keeping with our commitment as a denomination to reconciliation. After the article was published on the CBAC website (<https://baptist-atlantic.ca/news/the-fisheries-stand-off-in-atlantic-canada-understanding-the-complexity-of-this-issue/>), I posted it on my own Facebook page. Some good conversations ensued and eventually the issue subsided, in that the confrontations stopped and a special mediator was appointed by the Federal Government to “facilitate discussions” – see <https://globalnews.ca/news/7418671/ns-lobster-dispute-ottawa-mediator/>.

The article is being posted here to exemplify an attempt to engage in difficult conversations on complex issues by seeking a “more complete truth”. It begins by acknowledging our biases, but is driven by an honest desire to understand other perspectives in the hopes of finding common ground and a way forward that is both peaceful and just for all parties. Since writing this in October, 2020, there have been some new developments as Indigenous bands and non-Indigenous fishers and their organizations attempt to work with and/or around the Department of Fisheries and Oceans. I may, at some point, write an update but for now, what follows is the original article with a few very small edits made for clarity.]

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I am very heavy-hearted as I witness – from a distance - the stand-off in Saint Mary's Bay between fishers of the Sipekne'katik band who have band-issued “moderate-living” lobster licenses, and traditional fishermen from the area (and beyond) who are frustrated with what they consider to be “illegal traps” that are being fished “out of season”. I don't have all the answers and I'm just one flawed person, wanting to understand and act in a way that promotes right relationship in light of historic treaties.

First, a few comments for clarification, which will hopefully help avoid needless misunderstanding (although I realize that it's probably not possible to avoid misunderstanding completely):

1. In this paper I often talk about the “stand-off” as if there are just two groups or two sides and of course it's not as simple as that. Within those two groups there are different perspectives and we could also see Government officials as another “group”, the media as

- a “group”, and the general public as a “group”. There are multiple groups and multiple perspectives but I’m starting with the conflict on the water between Indigenous and non-Indigenous fishers and then seeing other groups and perspectives in relationship to that;
2. You will notice that I often use the term “traditional fishermen” or “traditional fishers” when speaking about non-Indigenous fishers. The media and government have largely stopped using the term “traditional fishers” in favour of the term “commercial fishers”. I find this interesting. It’s a subtle shift in language but it may have the effect of creating (or reinforcing) a bias within the general public against traditional fishers on this stage. In my view, the non-Indigenous fishers are traditional fishers who are fishing commercial, DFO issued licenses, not to be confused with “corporate” participants in the fishery.
 3. There are lots of things that I don’t know about this issue. As you will quickly see, my bread and butter come from my family’s involvement in fishing. I want to declare my bias. I’ve been motivated to write this because I think most people can’t possibly know many relevant details and I think opinions should be formed and adapted based on knowledge of relevant details. I’m not trying to “win an argument” here, but rather my aim is to help us gain understanding of a very complex issue so that our opinions are informed and rooted in the best information we can get. We all have lots to learn.

I have never liked conflict and this situation is volatile with rumours of violence on both sides. The stand-off brings my own values and allegiances into tension. I’ve been a voice within the Canadian Baptists of Atlantic Canada (CBAC) for the elimination of racism (serving 10 years on the Racism Working Group) and for reconciliation with Indigenous peoples in Canada (as part of the Indigenous Relations Working Group). My sincere desire is to live up to the words of Indigenous mentors who speak of walking in a good way, with a good mind and a good heart.

I am the Director of International Studies at St. Stephen’s University (in St. Stephen, NB) where I facilitate and teach courses aimed at helping students understand Indigenous history and culture with the hopes that this will inspire them to work toward peace and reconciliation. SSU has benefited greatly from a variety of Indigenous elders and leaders who have generously invested in our educational efforts around these issues. I consider the Chief of the local Peskotomuhkati Nation a friend and we have served together on a variety of committees. I recently ran as a candidate for the Green Party in New Brunswick, for the riding of Fundy, the Isles, Saint John West; the Green Party has always recognized and promoted Indigenous treaty rights in the province.

As many of you also know, I live on Deer Island, a fishing community in Southwestern New Brunswick. My husband’s roots in this territory (the traditional territory of the Peskotomuhkati) go back to the late 1700s. His ancestors settled in the Quoddy Region and made their living fishing and farming – initially for subsistence. My husband grew up fishing with his grandfather and father. When our son was in grade 6 and 7, he homeschooled so that he could go lobster fishing in the spring with his father and grandfather (who had planned to retire at 77 but stayed on for those 2 years to enjoy having three generations on the boat together). Our son is now 30 and last year went out on his own, buying a lobster and scallop license and his own boat (I’ll talk more about that later). Our son-in-law fishes with us and we have four grandchildren – all living within 2 kilometers of our home on Deer Island - who we hope will also have an opportunity to fish.

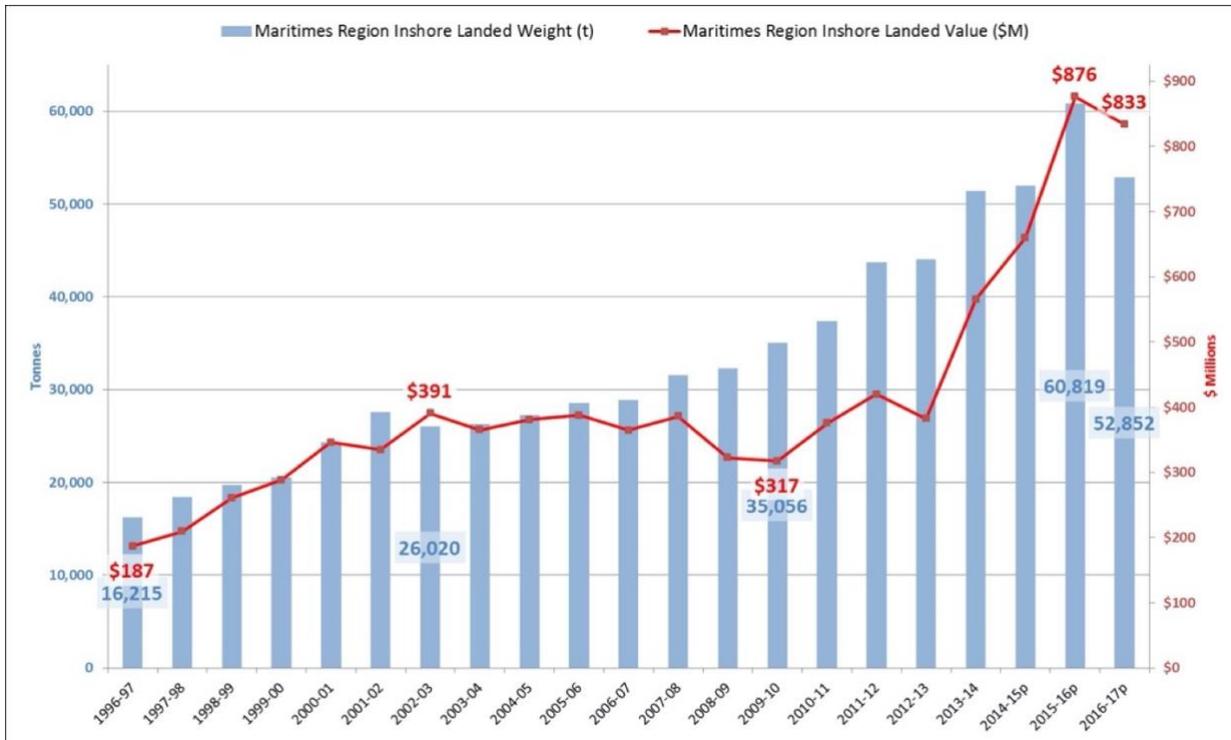
We feel incredibly fortunate, and we recognize that this is a way of life that isn't available to everyone, nor, honestly, wanted by everyone. Fishing is hard work and not something most people can do. Fishing is in the blood of fishermen. My husband is more at home on the water than he is on land or in our home.

We're grateful for the persistence and commitment of previous generations to build and sustain the foundation on which our way of life depends. We're grateful, but also feel the generational weight of the expectation that we will pass on this way of life to subsequent generations – that is, that the cycle will not be broken. We are very conscious of the fact that we answer to generations before and after us. That means we must constantly advocate for a sustainable fishery.

Much has changed in the fishery in our area over the generations. Even in the 35 years that I have lived on Deer Island, there have been many changes. The title of my PhD thesis was "Making it Pay: The Organization and Operation of the Deer Island Weir Fishery". I argued that Deer Island Fishermen had maintained their identity as independent commodity producers. I suggested that Deer Island fishermen had survived the vagaries of nature and of government policies and were able to preserve their unique way of life because they had maintained a multi-species fishery and because they were stubborn and fiercely independent. At that time, most fishermen fished and lived within their means, not taking prosperity for granted but saving in good years to help them through the bad. And there were bad years. Not everyone was able to stay in the fishery and periodically there would be an exodus from the island of those who could no longer "make it pay." The last great exodus was in the late 1950s and early 1960s.

When I first came to Deer Island in 1982, herring was the mainstay of the fishing economy and was supplemented by the lobster and scallop fisheries. Today, the lobster fishery probably accounts for about 85% of fishing income for Deer Island fishermen, and herring accounts for very little. The scallop fishery continues to play an important role in the overall stability of the fishery in our area, though it has never been the mainstay.

It's hard to briefly but adequately explain the changes in the lobster fishery over the last 25-30 years. Scientists and governments had warned of an imminent collapse in lobster stocks in Atlantic Canada in the early 1990s because the spawning stock was, according to their studies, dangerously low. But much to everyone's surprise, catches skyrocketed in the mid to late 1990s and only now are beginning to show signs of decline all along the shores of eastern North America. The following graph gives a general idea of the changes in landings and value for Lobster Fishing Areas (LFA) 27-38 (the Bay of Fundy and the Atlantic shore of Nova Scotia/Cape Breton).



This past spring, during COVID-19, both landings and value dropped as much as 30-50% (varying by district). We can understand the drop in value since Asian and European markets went soft, but the drop in landings is more worrisome.

It's important to understand this context in order to begin to appreciate the way traditional fishermen have reacted to the situation with the Sipekne'katik band. But as both sides say, their battle is not with each other but with the Department of Fisheries and Oceans (DFO). And this is certainly not the first "fight" traditional fishermen have had with the Department of Fisheries and Oceans (DFO); nor is it the first fight Indigenous bands have had.

In the last 35 years, traditional fishermen in our area have battled DFO on issues around aquaculture, a proposed Liquefied Natural Gas (LNG) terminal, a proposed Marine Park, the government's approach to Marine Protected Areas (MPAs), tidal power, protocols for protecting right whales, scallop quotas (resisting Individual Transferable Quotas – ITQs), protecting lobster nursery grounds from fish/scallop dragging, enforcing owner-operator regulations/legislation, lobster season changes, illegal summer lobster fishing, the Energy East pipeline, etc. etc. Each of these battles has been intense and prolonged and many of them are ongoing. Occasionally fishermen are united on these issues in their opposition and occasionally they are on opposite sides of the table. But always they are fighting for access within a sustainability framework as everyone recognizes that the sustainability of fishing as a way of life and of fishing communities generally, hinges on sustainable fishing practices on the water. It's all about making a living now and passing their families' fishing heritage on to the next generation.

And it's worth noting also that in my experience, traditional fishermen have not objected to the Food, Social and Ceremonial (FSC) Fisheries or the inclusion of Indigenous Fishers in the

commercial fishery, so long as conservation is at the heart of management policies and practice. Since DFO has a mandate to “manage” the fisheries for sustainability, employing what they term a “precautionary approach”, fishermen expect DFO to “do their job”, by enforcing their own regulations. But I’m getting ahead of myself...

Fishing has always been an uncertain way of life. In my thesis I looked in detail at the boom and bust nature of individual fisheries. At the moment it is tempting to conclude that traditional fishermen – with their bigger boats and (often) expensive trucks, are wealthy and greedy and just protecting their “share” of an enormous pie. And the fact is that fishing in Atlantic Canada has been the economic backbone of thousands of small fishing communities along our many miles of coast.

We think of these fisheries as being the domain of individual fishermen who have secured the legal right to fish by acquiring the necessary licenses and then fishing according to the (many and detailed) conditions of the license. And that is true, but it should also be recognized that every boat in the traditional fleet is supporting the livelihoods of multiple family units (through the captain and crew – often a minimum of 3 men and women per boat to up to 6 or 7 at times). On our boat, *The Groundskeeper*, for example, there is my husband and son-in-law, another person who fishes on a share and 1-3 more men and/or women who join the crew for a daily wage as needed. All of these incomes get dispersed throughout our communities. A good season supports the whole community and a poor season affects everyone in the community. I mention this because sometimes we think of Indigenous licenses as “communal” licenses which are intended to benefit the whole community, while we think of the traditional (commercial) licenses as being for individual benefit. But that’s not really the way it works.

In any event, the relative prosperity that individuals and communities in the non-Indigenous fisheries seem to be enjoying now is, at least for older fishermen, something new and not to be taken for granted. I worry that younger fishermen, who got into the fishery during the last 10-15 years, have not yet seen the bust side of the cycle. Of particular concern is the fact that the cost of lobster licenses and boats to fish them from, have sky-rocketed.

Until the mid to late 1960s, anyone could go to the local Fisheries Office and get a lobster license by simply paying a very modest fee (ranging from \$0.50 to \$5 a year). That was when governments assumed that the resources of the sea were inexhaustible. By the late 1960s, fisheries in Canada became “limited entry”, meaning that no new licenses would be issued. The value of a lobster license increased according to the principle of supply and demand. In 1976 my husband bought a license for \$500. In 1996, licenses in our area were going for about \$17,000. Last year (2019), our son bought his lobster license – the piece of paper that gives him the privilege to fish lobsters according to the conditions imposed by DFO - for well over half a million dollars, and incidentally, became the first fisherman in our family line to borrow money to buy a license. He also had to buy a boat and all of his own gear (traps, buoys, rope, winches, scallop drags, etc). It cost him roughly \$1.6 million in total to go fishing. Based on the strength of the lobster fishery, the bank was happy to approve the loan.

But that doesn’t change the fact that it’s a risky business. He’s smart and hardworking, but perhaps you can imagine some of the pressure he’s feeling and how vulnerable he is to

government action or inaction that might compromise or threaten the conservation imperative upon which the future of the fishery (and all fisheries livelihoods) depends. [And I must say, as an aside, that I've been very proud of his online engagement on this issue which has resulted in passionate but respectful dialogue with people who really want to understand both sides.]

Here is where it gets even more complex and difficult for the average Canadian bystander to understand the finer points of this whole situation. If you're relying on mainstream media sources, you might believe that nothing has happened to implement the Marshall decision since 1999. You might not know that the government has issued Food, Social and Ceremonial (FSC) licenses to bands and has spent hundreds of millions of dollars (about \$545 million according to this report -

https://macdonaldlaurier.ca/files/pdf/20191015_Marshall_Decision_20th_Coates_PAPER_FWeb.pdf page. 15) getting Indigenous communities into the commercial fishery.

That said, there have been many problems with the (perhaps) well-intentioned approach of government thus far to implement the Marshall decision. Consider this article from CBC from almost 3 years ago, which one might have thought came out yesterday – same band, same issue, same frustration - <https://www.cbc.ca/news/canada/nova-scotia/commercial-fishing-licences-fail-benefit-first-nations-mi-kmaq-communities-1.4341174>. No wonder Indigenous fishermen are frustrated... with government and with an approach (despite the money invested) that has failed to provide moderate livelihoods. We need to understand WHY these approaches haven't worked (or at least haven't worked as expected).

Fishermen – and some Indigenous peoples – have witnessed the misuse of FSC licenses (in that lobsters caught in these FSC traps have been sold, which is a direct violation of the conditions of the licenses), the failure of the strategy to involve Indigenous communities in the commercial fishery (with bands owning licenses but maybe leasing them to the highest bidder – often non-Indigenous captains and crews - thus depriving band members from participation and the respect they would have from fully participating in the commercial fishery... as just ONE of the many problems with the Indigenous commercial fishing strategy). Had these approaches – FSC and commercial licenses worked as intended – the Marshall requirement for a “moderate living” fishery might have been met. But it has not been. And thus, the frustration on the part of Indigenous fishers, and, more indirectly, non-Indigenous fishers.

Before I go any further, I want to say that I don't support violence against people or property on either side. I don't support ramming of boats or firing rubber bullets or flairs (with the intent to injure or intimidate). The cutting of traps is a bit more complicated. Fishing out of season is an issue in many communities (and not just by Indigenous fishers). In the absence of what they consider legitimate enforcement by DFO officials, fishers use cutting of traps and making them unfishable (by cutting the heads out and bending back the doors so as not to trap lobsters in ghost gear) as a way to demonstrate to rogue fishers that they are out of line. This is a practice that goes back for generations.

Further, I understand why the Sipekne'katik band AND traditional fishers have felt that taking matters into their own hands (by fishing band-issued licenses or by interfering with traps) is the only way to get the government to act. I would love to be pushing for everyone to STAND

DOWN, but the unfortunate reality is that if everyone does stand down, the government will likely slow down or stall the pace of deliberation and action. And nothing will have changed.

I would love to live in a world where everyone tells the truth and acts with integrity. I would love to believe that we all recognize the folly of rapacious exploitation of natural resources. I would love to believe that our governments and all Canadians sincerely want to honour the various Peace and Friendship treaties made with Indigenous peoples. I would love to see a clear path forward that results in peaceful and respectful sharing of the lands and waters and all individuals living in right relationship with one another, the Creator, all living things, and themselves. These ideals are worth working toward.

Living in right relationship is hard work. It can't just be words on a page, apologies offered in public spaces, land acknowledgments as part of the preamble to public events. Reconciliation must begin with humility and with truth telling. It requires us to have ears to hear, eyes to see and a heart to understand. My reason for writing this article is to urge you – whoever you are and however you might be related to this particular issue – to recognize how incredibly complex this issue is (even once we agree that treaty rights MUST be respected) and still want to work toward a just and peaceful resolution.

It is easy (though painful) for us to look back at historical events arising out of the application of the Indian Act and be outraged by the effects these have had (and continue to have) on Indigenous peoples across this land. It is perhaps also easy to let that outrage predispose us to want to side with Indigenous peoples when we perceive that their struggles are real and wrong. We are motivated to make up for the wrongs of the past; we want to be “on the right side of history” this time around. Of course we do. I want to continue to be an advocate for, and practitioner of, Indigenous reconciliation. But what does that look like for this particular issue (or any issue)? How can we be sure that our “good intentions” today don't result in embarrassment and another round of apologies (perhaps next time to traditional fishermen) in the future?

I continue to wrestle with all of this in my own heart and mind. I have many questions about the Food, Social and Ceremonial (FSC) fishery like how many traps are permitted, by whom are they fished, and how are they regulated by DFO or the band. I have many questions about the way DFO brought Indigenous bands into the commercial fishery and questions about how Chiefs and Councils have used those licenses to generate and disperse revenue for their bands (this very recent CBC article summarizes some of the figures for the Indigenous commercial fishery but doesn't get at how the agreements are made between DFO and individual bands, for example - <https://www.cbc.ca/news/canada/nova-scotia/maritime-first-nations-hold-commercial-fishing-licenses-1.5745492>). I have questions about DFO and the role of the Minister of Fisheries in creating conditions like the standoff in Saint Mary's Bay. I have so many questions! And in the midst of my questioning, I'm appalled by the blatant racism and hatred and ignorance that I read on social media, from individuals on both sides of the issue.

Fishermen and Indigenous peoples actually have much in common. Before settlers came, Indigenous peoples had and defended their territories. This is the same impulse that motivates the actions of non-Indigenous fishers today. They are defending their “territory”. They are fighting for their culture and for their families and communities and the battle is not against

Indigenous peoples (but, as said earlier, against the federal government's failure to act in support of their own conservation regulations). Indigenous peoples have all but lost their cultures and way of life at the hands of the same government that now sets the rules and vision for how non-Indigenous fishers live and work.

I just need to add a word about conservation because I have often heard it said that the lobsters being caught with the band-issued licenses are such a small fraction of the total lobster catch that it is surely insignificant. A healthy lobster stock requires protection of breeding grounds. Lobsters breed according to water temperatures in naturally protected inshore areas. Lobster seasons, especially in the Bay of Fundy, are established to ensure that breeding is not disturbed and that the quality of live lobsters on the market is good (which generally excludes soft shell lobsters which tend to be processed rather than sold live). The main concern of the traditional fishers is that the band-issued licenses in Saint Mary's Bay will result in a drastic reduction in the brood stock. And as the "moderate-living" fishery spreads across all 41 lobster districts in Atlantic Canada, what impact will that have on the sustainability of the lobster fishery? At issue, as I understand it from the perspective of traditional lobster fishers, is not the moderate livelihood fishery, but the fact that it is happening outside of seasons which are set according to conservation principles to protect the stock. But, that said, this is far from a perfect system! I actually have little confidence in the DFO science, on which conservation measures are based. The fishing effort in the lobster fishery, with bigger boats and better technology, has grown dramatically, even with a limited entry fishery. I fully expect that there will be a decline in the landed weight of lobsters in our district, and it will reflect the overall effort of which Indigenous fishing is just one part.

Can anything good come from the current stand-off? In my Education for Reconciliation class at St. Stephen's University, we watched a short documentary put out by Mennonite Central Committee (MCC) called Reserve 107, about the relationship between the Young Chippewyan Band, Mennonites and Lutherans as they have worked together to resolve a land claim in Laird, Saskatchewan. Perhaps it is a model that could work elsewhere, or perhaps it's not. But at least the principles seem important – it's a story of building trust based in relationship. You can watch this 30 minute documentary here: <https://www.reserve107thefilm.com/>.

What can we do? Here are some suggestions:

1. Talk to people who have different perspectives and learn from them – ideally people who have direct experience with the issue at hand. Recognize that these issues affect some people much more directly than others and it's worth taking the time to hear their stories;
2. As you have opportunity, be a peacemaker and bridgebuilder – it is true that we are all treaty people (treaties were made on our behalf) and if we are to create a different future, we need to understand and respect the intentions of those who signed the treaties and do our best to honour them;
3. Do some research – make a list of questions and then seek out answers. And be prepared to have your stereotypes challenged. Single story narratives are part of the problem so be ready for more nuanced narratives (and watch this excellent TED talk on The Danger of a Single Story - https://www.ted.com/talks/chimamanda_ngozi_adichie_the_danger_of_a_single_story?la

[nguage=en](#)). We lament the numerous deep and deepening divisions we see in our society; the world seems to be more and more fragmented as people choose sides on complex issues. We then have a tendency to start defending our “side” and attacking those on the opposing side. As people stop listening and learning and settle into more and more entrenched positions, the chance for respectful dialogue and peaceful resolution gets more and more difficult. As we determine to speak truthfully, with compassion and care and respect, perhaps we can play a small part in creating space for real dialogue;

4. For a better understanding of how Canada’s fisheries are managed and how DFO has attempted to incorporate Indigenous bands into the fisheries following the Marshall decision in 1999, check out some of the following links:
 - a. https://macdonaldlaurier.ca/files/pdf/20191015_Marshall_Decision_20th_Coates_PAPER_FWeb.pdf
 - b. <https://www.canada.ca/en/fisheries-oceans/news/2019/05/setting-a-new-course-for-indigenous-and-government-of-canada-collaboration-through-the-co-development-co-design-and-co-delivery-of-fisheries-programs.html>
 - c. <https://www.dfo-mpo.gc.ca/publications/fisheries-peches/marshall-1999-eng.html>
 - d. <https://www.dfo-mpo.gc.ca/fisheries-peches/aboriginal-autochtones/afs/afsoct03ex-eng.html>
 - e. https://www.fraserinstitute.org/sites/default/files/costs-of-canadian-governments-reconciliation-framework-for-first-nations_0.pdf.
5. Recognizing that the above sources are written ABOUT Federal Government efforts to implement the Marshall decision BY government officials (or based on the perspective of the Federal Government), look for information from Indigenous sources about the implementation of Marshall.
6. If you are a person of faith who believes in prayer, PRAY for those directly involved and impacted by this conflict, now and in the future. Peaceful resolutions will require much wisdom.

There is a lot at stake here, and not just for the people directly impacted by the stand-off in Saint Mary’s Bay. It can feel overwhelming, but we owe it to future generations (as well as to our ancestors) to do the hard work of walking in a good way with a good mind and a good heart.