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Under the Flag: Canadian Sovereignty and the Native People in Northern Canada

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UNDER THE FLAG: CANADIAN SOVEREIGNTY
AND THE NATIVE PEOPLE IN NORTHERN CANADA

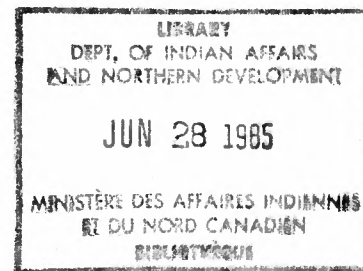
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Abstract

The right of Canada to exercise sovereignty over the northern regions of this country and its Native inhabitants is based partly on sixteenth-century European theories of Native rights and partly on the later British assertion that North America was terra nullius in which Native people had clear but limited title to the land. Yet it was not until the beginning of this century, after decades of indifference and neglect, that the Canadian government, fearful of rival claims, took steps to make real its theoretical authority over the Native people in northern Canada. This process occurred first in Yukon during the gold rush, then in the Western Arctic and Hudson Bay just after 1900, and finally in the Central and Eastern Arctic during and after the first World War.

Until the 1940s it was the policy of the Canadian government to assert its sovereignty over the north and its Native people firmly, but with as little expenditure as possible. The North-West Mounted Police, charged with the task of bringing the north "under the flag", served as efficient agents of the central authority, bringing law to the Arctic regions and dispensing what meagre benefits were provided to the Native people during that era. The advent of sovereignty was virtually without opposition, largely because it was imposed gradually and with sensitivity to Native traditions, and because it initially imposed few burdens on the Native people. In the period under study in this work, the Canadian government wished to assert to the world its unquestioned ownership of the north, but it avoided the responsibility of caring for its inhabitants; thus the establishment of sovereignty tended to be symbolic rather than practical. It did however lay the foundation for the modern era of extensive government involvement in the north and the lives of its people.

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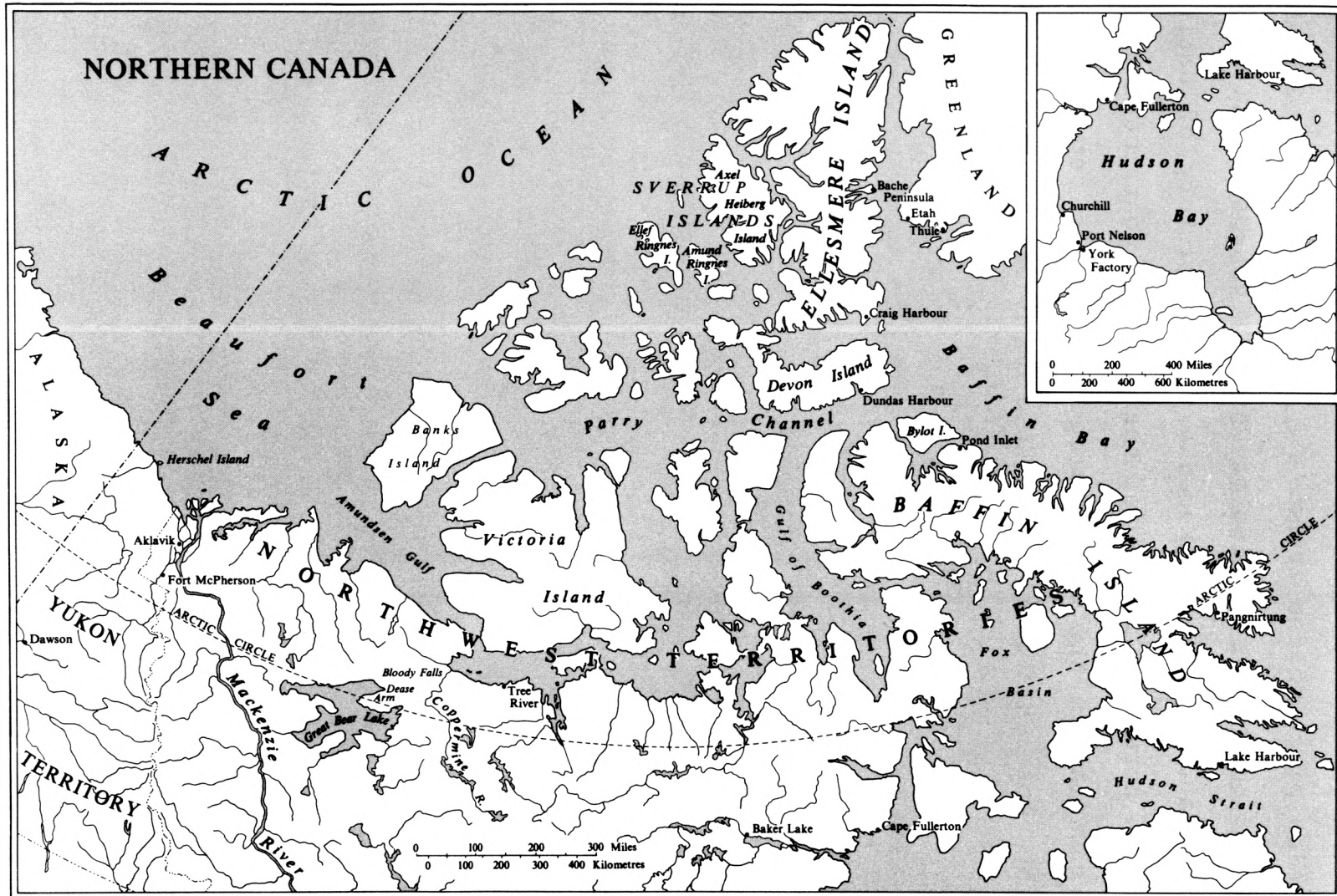
Preface

This work is a study of the extension of Canadian sovereignty to Yukon, Hudson Bay, and the Western, Central and Eastern Arctic between 1895 and 1925. It comprises eight chapters. The first is an examination of the concept of sovereignty, as rationalized and developed by the European powers who conquered and colonized the Western Hemisphere. The second chapter deals briefly with the idea of Native title. Next the concept of sovereignty is examined as it applies to the Canadian north. The final five chapters trace the extension of sovereignty to five regions of the Canadian north.

As will be seen in the first chapter, the most commonly accepted evidence of the existence of a nation's sovereignty over a territory is the effective administration of that territory, particularly the administration of law in it. Such administration of law was the method chosen by the government of Canada to demonstrate its sovereignty over these northern regions. It is for this reason that so much of the history of the establishment of sovereignty over northern Canada lies in the relations between the Mounted Police and the Native people. For many years, the police were the only permanent government representatives in hundreds of thousands of square kilometres of northern Canada. It is fortunate, therefore, that they so carefully recorded their dealings with the Native people in the north.

It is hoped that this work, which is intended as a companion piece to the author's A Survey of the History and Claims of the Native Peoples of Northern Canada,¹ will be of interest and of use to students of the history of Native people in northern Canada, and that it will contribute to an understanding of the early period of contact between them and the representatives of the government of Canada.

¹ Ottawa, 1983.



Principal Places of Contact between Native People and Government Representatives in Northern Canada.

Chapter 1

The Idea of Sovereignty

Before examining the concept of sovereignty, it is necessary to understand the idea of international law, of which sovereignty is a part. International law in turn may be defined in various ways: as an abstract concept, as a system of regulating relations between states, and as a method of justifying actions taken by a state in its own interest. One reads much in law books about the first two definitions, but it is the third that is of the greatest importance for the Native people in those parts of the world colonized by Europeans.

This chapter deals with several questions of relevance to the history of Native people in Canada: what is the theoretical basis of the claims of European powers to sovereignty over territories which had since time immemorial been occupied by hundreds of thousands of human beings with a variety of well-developed and sophisticated cultures? What rationale led these powers to believe they had the right to total control of these lands, which were to them new-found? And on what theory or rationalization did these powers base their ideas as to the extent of the rights of the Native inhabitants? The answers lie in the theory of international law.

International law has been defined as the "principles, customs, standards and rules by which relations among states and other international persons are governed . . . [it] has as its primary target the regulation of the conduct of states in their reciprocal relations".¹ It is important to note that these "principles, customs, standards and rules" are, in the last resort, binding on no one, and are really aimed at producing order among states rather than arriving at "justice". In other words, international law is a favoured alternative to more violent means of settling international disputes, but it does not have the force of compulsion on a nation that the civil and criminal law of a state has on a citizen of that state. In 1984 the government of the United States announced that it would ignore any decision of the World Court at the Hague concerning the alleged mining of the harbours of Nicaragua by the U.S. Central Intelligence Agency. This flouting of international law may be considered reprehensible, but it is not "illegal" in the layman's sense of the word--no punishment, for example, is likely to ensue--nor is it very unusual.

International law, therefore, is a matter of convenience more than compulsion. The basic contradiction which weakens it as an international force is that in individual countries the common interests of its citizenry in the existence of their country serve as a basis for a

¹ S.A. Williams and A.L.C. de Mestral, An Introduction to International Law, Chiefly as Interpreted and Applied in Canada (Toronto, 1979), p. 1.

system of law which compels obedience. But "in the international society no one overwhelming interest common to all states could serve as a basis for international law and explain its norms. . . . There is no incentive for states to sacrifice a lower individual national interest to the fulfillment of a higher international interest".²

It is important to keep this in mind when studying the questions of sovereignty and international law, for the basis of self-interest behind law can sometimes be obscured. In examining the effect of such law on the destiny of Native people it is necessary always to be aware of where the self-interest lies. Those who wrote and codified the law imagined that it came not from themselves or their national interests but from a higher source: God, nature, moral law, the will of the people. "In case of success, what started as a utilitarian principle serving some state's interest is then metamorphosed into a moral principle, and the universality of the norm obscures its . . . mundane function of protecting the lawgiver's interests".³ An obvious example of such obscuring which concerns this study is the way that international law deals with the question of the territorial rights of aboriginal peoples. The laws dealing with this question were drawn up not by God or by Reason,

² Werner Levi, Contemporary International Law: A Concise Introduction (Boulder, Colorado, 1979), pp. 3-4.

³ Levi, op. cit., p. 3.

but by colonizing states, and they reflect the interests of these states.

The history of the development of international law, which extends over the past four hundred years or so, is a reflection of the history of the Western European nation-states of that era. This is the main reason why some newer states, third world and communist, object to some facets of modern international law, seeing it, logically enough, as a reflection of the policies of colonialist powers. International law began to develop in the fifteenth and sixteenth centuries, at the same time as the rise of the modern nation-state.⁴ Before the existence of such nation-states there was no need for international law; what relations existed between powers were based on feudalism and religion, with the Pope and the Holy Roman Emperor at the head of the Western World. Questions of sovereignty were often settled by the Pope; the decision of Pope Alexander VI in 1493 to partition the New World between Spain and Portugal is perhaps the most famous example. In this era, roughly before 1500, sovereignty and law were based on fealty to a person--this idea is the basis of the feudal system--so that "international" relations were essentially of a personal nature, and local rulers could and often did change allegiance without notice or justification to anyone.

⁴ This account of the history of international law follows S.A. Williams and A.L.C. de Mestral, op.cit., and Werner Levi, op. cit.

There was no such thing as national citizenship; one owed loyalty to one's lord, but one was not a German or an Italian or an Irishman in 1400, except in the ethnic sense. Sovereignty, in theory, came from God through His vicar the Pope, to the King and thus to the princes and their subjects. The Western World was thus, in theory, universal, under absolute rule; there was no need for international law; indeed, the word "international" had little or no meaning.

This situation began to change with the rise of European nation-states in the fifteenth and sixteenth centuries. Because each state was separate and individual, some code or set of laws and mutually agreed-upon regulations was needed to protect these states and bring order to their relations with one another. Over the centuries a body of international law was promulgated, often, in the early days, by theologians, which was based partly on the legal codes of the classical world, partly on expedient, and partly on the humane dictates of Christianity. They applied at first only to "civilized" states--that is, the Christian states of Western Europe, for pagans and barbarians were felt by many to have few or no rights--a convenient doctrine after the Europeans happened upon the New World.

Before the rise of the modern nation-state, there was no such thing as national sovereignty, in its modern sense. Not even absolute monarchs possessed complete sovereignty,

for they almost always owed allegiance to someone else, and had to share some amount of their power with the Holy Roman Emperor or the Pope, who as the vicar of Christ, was in theory and to a degree in reality the supreme temporal as well as spiritual ruler. A good example of the limitations of a king's power is the quarrel between Emperor Henry II and Pope Gregory VII, which ended in 1077 with the penitent Emperor kneeling in the snow at Canossa. Complete royal sovereignty in England did not occur until Henry VIII broke with Rome in the sixteenth century. In short, true sovereignty did not exist until the mediaeval world had given way to the modern one.

International law, when first proposed, applied to relations between rulers rather than relations between states, since until well into the seventeenth century the ruler embodied the state. The early canons of international law dealt mostly with matters of concern to individual princes: war, diplomacy and reprisals. The early writers on international law sought to bring a measure of order and moderation to the potentially violent relations between princes. Even in the middle ages the Church had sought to ameliorate the violence of quarrelling rulers by declaring an increasing number of days of the year off-limits to war, a regulation which was, however, frequently ignored. But the concept of sovereignty appeared early in the history of international law as well, since all rulers were concerned with the territorial integrity of their kingdoms. And the

idea of sovereignty was particularly important when it came to setting rules for the acquisition of new territory, especially territory occupied by non-Christians.

International law as it deals with the idea of sovereignty is not concerned with a rationale for the existence of states. Since states existed before international law was drawn up, international law has always taken their existence for granted. What sovereignty is concerned with is the power and particularly the extent of these states. For this study the most important concept is the theory of how these states may grow by extending their sovereignty over other territories.

According to the canons of international law, there are several ways by which a state can acquire sovereignty over new territory, not all of which have relevance to this study.⁵ The four ways which do concern this study are occupation (including discovery), prescription, cession and conquest.

Occupation, in international law, refers to the acquisition by a state of territory which is not under the sovereignty of another state; such territory is terra nullius, or no man's land, which is not the same thing as having no inhabitants--an important distinction.

⁵ One which does not is called "accretion", the extension of land through the forces of nature by such means as the deposit of soil in a river estuary, or through volcanic activity. Legal experts sub-divide this category into "avulsion" and "alluvion", with fine distinctions to bedevil the student of law.

Prescription means the effective occupation of territory which is under the sovereignty or is claimed by another state at the time of occupation. Cession refers to the transfer of territory from one sovereign state to another as the result of defeat in war, or by purchase, gift or exchange. Conquest is obvious, and although the transfer of sovereignty by conquest was forbidden under the Covenant of the League of Nations and again under the Charter of the United Nations, it may still occur if such a transfer is hidden under the form of a forced cession. It will be noted that all these concepts are European, and have nothing to do with the traditions or customs of non-European peoples; nonetheless, they were applied to non-Europeans as well.

Finally there is the idea of sovereignty resting on discovery, which falls under the category of occupation, and which may be open to challenge if it is not followed by some other form of the exercise of sovereignty, such as actual occupation.⁶ In the early days of European penetration of the Western Hemisphere, discovery was a popular means of establishing claims to sovereignty. But sovereignty by means of discovery had a serious weakness. Because all that was required of the discoverer was to make some symbolic gesture, such as planting a flag and claiming territory in the name of the sovereign, it was very easy for exaggerated

⁶ See the discussion of occupation in Gustav Smedal, Acquisition of Sovereignty Over Polar Areas (Oslo, 1931), pp. 13-36.

claims to be made, and it was very difficult to determine boundaries. Jacques Cartier planted his flag on the banks of the St. Lawrence in 1534 and claimed for France a territory the extent of which he had not the faintest idea. This seems absurd, and yet, as will be seen, the late nineteenth-century claim of Canada to some of the islands of the high Arctic rested on no better foundation.

Because exaggerated claims could and did lead to international disputes, theoreticians of international law were holding by the mid-eighteenth century that discovery was not enough to establish sovereignty, that possession had to be real rather than theoretical. The great Swiss jurist Emmerich de Vattel (1714-1768) wrote in 1758

Hence the Law of Nations will only recognize the ownership and sovereignty of a nation over unoccupied lands when the Nation is in actual occupation of them (réelement et de fait), when it forms a settlement upon them (forme un établissement), or makes some actual use of them. In fact, when explorers have discovered uninhabited lands through which the explorers of other nations have passed, leaving some sign of their having taken possession, they have no more troubled themselves over such empty forms than over the regulations of Popes, who divided a large part of the world between the crowns of Castile and Portugal.⁷

⁷ Le Droit des Gens, I, Section 208, quoted in Smedal, op. cit., p. 16.

This pronouncement, which is generally accepted in the twentieth century, is of great importance in the history of the establishment of Canadian sovereignty in the north.

Thus sovereignty is established by many means, but most obviously through effective occupation. But a question crucial to Canada's Native population has been skipped over. How could the Western Hemisphere have been considered terra nullius, when it maintained a population of millions? Were they not people? Had they no rights? These questions posed a dilemma for the early theoreticians of international law, a problem of reconciling the desire of European states to possess the New World with the obvious fact of the high degree of sophistication in cultures such as the Aztec and the Inca. Although the rationale for conquest was formulated for the situation in Latin America, it is of importance to Native people in Canada because it underlay later reasonings more specifically applicable to North America.

Fortunately for the European conquerors, there was the precedent of the Crusades, in which land occupied by non-Christians could by right be occupied, regardless of the fact that, for example, the culture of the Saracens was in some ways more advanced than that of the Europeans. The rationale behind this position was that Christ had transferred His spiritual and temporal powers to St. Peter and thus to the Papacy, and therefore there was no legitimate

secular power outside the Church of Rome.⁸ The Pope had the right to dispose of such territory or to appoint a Christian ruler to govern it. This meant essentially that any conquest of pagans or occupation of their lands which had Papal approval was perfectly justified in the eyes of all Europeans. Complaints against this policy were voiced not on behalf of the aboriginal peoples but by European powers which felt cheated of the spoils. Thus France complained of Pope Alexander's division of the New World in 1493 not because it denied sovereignty to the Natives but because there was no share in the proceeds for the French.

It is fashionable in our day to sneer at these late Renaissance and early modern Popes and Kings with their self-serving reasonings which gave them an excuse to extend their control over the millions of Native people of North and South America. Indeed, much of such reasoning was cant. But it must be remembered that in the sixteenth century there was no such thing as cultural relativism. Few if any Europeans of that century saw anything to admire in "heathen" cultures. Exerting political control as a means of bringing the pagans to Christ was a duty to the Christian and a benefit to the pagans; there were many who sincerely believed this. The difficulty of passing judgement on such a belief is the difficulty of all theological judgements: it

⁸ See O.P. Dickason, "Renaissance Europe's View of Amerindian Sovereignty and Territoriality", in Plural Studies, VIII, No. 3 and 4, 1977, pp. 97-107.

is a question of faith and opinion. But it must not be thought that every European who welcomed the conquest of the Western Hemisphere as a means to harvest souls was a hypocrite, small comfort though this must have been to the Natives.

The "discovery" of the New World by Columbus intensified the ponderings of European jurists over their masters' rights to sovereignty in these new lands. The general consensus was that although Native people must be treated humanely and brought to God, they had few or no political rights. They were, however, at least fully human; Pope Paul III had declared so in his 1537 Bull Sublimus Deus, which stated

Indians are truly men . . . they may and should, freely and legitimately, enjoy their liberty and the possession of their property [presumably meaning chattels, not land]; nor should they be in any way enslaved; should the contrary happen, it shall be null and of no effect.⁹

The Scottish Dominican John Major (or Mair, 1469-1550), professor of theology at the Sorbonne, held that since Jesus had declared that His kingdom was not of this world, the Pope had no temporal authority. Thus political rights came not from faith but natural law, and so the pagan had as much right to his land as the Christian to his. This seemed to -----

⁹ Quoted in Peter A. Cumming and Neil H. Mickenberg, eds., Native Rights in Canada, 2nd ed. (Toronto, 1972), p. 14.

augur well for the Natives of America. But Christians had also not only the right but the duty to preach the gospel; if the unbelievers resisted, Christians had the right to use force and to seize power. And as everyone knew

those people live like animals . . . it is evident that some men are by nature free, and others servile. In the natural order of things the qualities of some men are such that, in their own interests, it is right and just that they should serve, while others, living freely, exercise their natural authority and command.¹⁰

Thus good intentions and declarations rapidly turned into a rationale for conquest.

An influential early writer on the subject was the Spanish theologian and jurist Francisco de Vitoria (or Franciscus de Victoria, 1480-1552), professor of moral theology at the University of Salamanca. In a series of lectures delivered in 1532 and later printed under the title De Indis et de Jure Belli Relectiones he gave his opinions on the rights of the Natives of the New World, particularly in relation to the colonizing powers.¹¹ Franciscus de

¹⁰ P. Laturia, Maïor y Vitoria ante la Conquista de America, quoted in Dickason, op. cit., p. 98.

¹¹ The modern edition of this work is Franciscus de Victoria De Indis et de Jure Belli Relectiones: Being Parts of Relectiones Theologicae XII in J.B. Scott, ed., The Classics of International Law (Washington, 1917). The spelling "Victoria" instead of "Vitoria" will be used here, since this is the usage of the best modern edition of his works in English.

Victoria ruled on these matters in response to a request from Emperor Charles V, who in 1539 and 1541 submitted several questions to him on the way in which the Natives of the New World ought to be dealt with. This was a subject which had been a matter of discussion for nearly fifty years by the time de Victoria tackled it. As early as 1494, after Columbus' first voyage, the question of how to deal with these people had been put to a commission composed of jurists and theologians, who had ruled in favour of kindness and generosity, and Queen Isabella in 1495 had ordered humane treatment.¹² Unfortunately, however, the humane wishes of the Spanish government clashed with the wishes of the explorers and conquistadores, who wanted to exploit the new colonies. Because slavery was common in Spain and Portugal in 1500, especially the enslavement of non-whites, it was easily introduced in various forms into the New World. Generous theories soon gave way to the necessities of colonial exploitation, and by 1503 the Spanish government had authorized compulsory labour and the sale for labour of the Indians of the Caribbean. By 1511 the Carib Indians were being branded with hot irons as a mark of indentification and ownership. By 1520 Bartholomew de las Cases was beginning his famous career of championing the

¹² See the introduction to Victoria op. cit. by Ernest Nys, translated by John Pawley Bates, for a discussion of the question.

interests of the Natives, but by then the Native population of the Caribbean was fast disappearing.

It was in the midst of this situation that Victoria asked his famous series of rhetorical questions on the Indians of the New World. In the first section Victoria considers the question of whether the Indians of the New World, being unbelievers, have sovereignty over their land: "Whether the Indian aborigines before the arrival of the Spaniards were true owners in public and private law; and whether there were among them any true princes and overlords". Through lengthy reasoning based, as is his entire work, partly on logic but mainly on the authority of the Church fathers and the classical philosophers, he eventually gives the answer "yes". The Indians, he says, are the true owners of their property, for a number of reasons. First, they are "in peaceable possession of their goods, both publicly and privately. Therefore, unless the contrary is shown, they must be treated as owners and not be disturbed in their possession . . ."¹³ Second, though barbarians (barbari) they cannot be denied ownership because of unbelief, nor did the fact that they are unbelievers entitle Christians to seize their goods or their lands.¹⁴ Thirdly, the Indians are not, as some have claimed, "of unsound mind" (meaning not that they are insane, but that

¹³ Op. cit., p. 120.

¹⁴ Op. cit., p. 125.

they are incapable of reason), and thus incapable of exercising sovereignty. They have, says, Victoria, the use of reason:

[T]here is a certain method in their affairs, for they have polities which are orderly arranged and they have definite marriage and magistrates, overlords, laws, and workshops, and a system of exchange, all of which call for the use of reason; they also have a kind of religion. . . . Also, it is through no fault of theirs that these aborigines have for many centuries been outside the pale of salvation, in that they have been born in sin and void of baptism . . . Accordingly I for the most part attribute their seeming so unintelligent and stupid to a bad and barbarous upbringing, for even among ourselves we find many peasants who differ little from brutes.¹⁵

Here Victoria, though he commits the error common to his contemporaries of thinking the Indians stupid merely because their culture was non-European, at least distinguishes them from brutes--a distinction which not all his countrymen were prepared to make.

Victoria's conclusion in this section is that the Indians undoubtedly have "true dominion in public and private matters, just like Christians", and that neither they nor their rulers could be robbed of their property on the grounds that they did not own it. "It would be harsh to deny to those, who have never done any wrong" he concludes, "what we grant to Saracens and Jews . . . We do not deny

¹⁵ Op. cit., pp. 127-128.

that these latter people are the true owners of their property, if they have not seized lands . . . belonging to Christians".¹⁶

In the second section of the Relectiones Victoria considers and dismisses several explanations of how, if the Indians owned their land, the Spanish could legitimately lay claim to it. Again through lengthy reasoning, he arrives at the following conclusions. Simply because the Indians have been told about Christianity but have not accepted it is no excuse for the Spanish to attack them, he says, and in any case it is not clear that Christianity has been presented to them in such a manner that they are bound to believe it under penalty of sin. Even if they were to be presented with sufficient evidence of Christianity but continued to reject it, seizing their lands would not be justified.¹⁷

In the third and final section, entitled "On the lawful titles whereby the aborigines of America could have come into the power of Spain", he at last finds a rationale for the conquest of the New World. First, he says, the Spanish have the right to travel in the New World and trade there, as do all men, so long as they do so peacefully. But if the Indians molest the Spanish in these peaceful pursuits, the Spanish must defend themselves, and if necessary may build fortresses and wage war, "and may avail themselves of the

¹⁶ Op. cit., p. 128.

¹⁷ Op. cit., pp. 130-149.

other rights of war".¹⁸ This rule applied to all men, Christian and non-Christian. Another justification would arise if the Indians were to hinder the preaching of the Gospel, especially violently; this would also be an excuse for waging a "just war" upon them. Such war would also be justified if the Indians were to try to bring Native converts back to paganism. Or if a large number of Indians became Christian, the Pope would have the right to depose pagan rulers and appoint Christian ones, lest such pagan rulers promote apostasy. Human sacrifice and cannibalism also provide a rationale for conquest, for the Spaniards, as Christians, had the duty to stop "all such nefarious usage and ritual". If the Indians objected, "it is a good ground for making war on them . . . for changing their rulers and creating a new sovereignty over them".¹⁹ This would be true even if all the Indians assented to these customs and sacrifices. Another justification was voluntary choice, "as if the Indians, aware alike of the prudent administration and the humanity of the Spaniards . . . were to accept the King of Spain as their sovereign".²⁰ Finally, there is the justification of "allies and friends". If Indians asked for the Spanish to aid them in a war with other Indians, as the Tlaxcaltecs were said to have done against the Aztecs, then

¹⁸ Op. cit., p. 154.

¹⁹ Op. cit., p. 159.

²⁰ Op. cit., pp. 159-160.

the Spanish had the right to "share the rewards of victory . . . and to receive whatever could fall to them under the law of war".²¹ He concludes by saying that all interference with the Indians must be for their welfare and in their interests, and not merely for the profit of the Spaniards, for "this is the respect in which all the danger to the soul and salvation lies".²²

Victoria's reasoning has been quoted here at length, not to approve of his conclusions, but because his Relecciones has been cited so often by students of the history of European relations with North American Native people. It might be said that his justification for conquest was irrelevant, since the conquest proceeded, and with great cruelty, indifferent to his advice. But his dictum that the Indians had the right to property, and if peaceful could not legally be deprived of it, is an early exposition of the theory of Native rights, even if it was constantly and blatantly ignored. Nearly every writer on the subject quotes Victoria's pronouncements on the basic rights of Native people, and through their use in courts of law they have acquired to an extent the force of legal precedent.

It will be noted that Victoria begins his argument by accepting the idea of Native sovereignty over their lands.

²¹ Op. cit., p. 160.

²² Op. cit., p. 161.

He then qualifies this sovereignty by supporting the position that force could be used to protect the rights of Christianity, and then qualifies it further by allowing the use of force to protect Spanish commerce. Since profit was the chief motive of the conquistadores, Victoria, for all his reservations, had given his blessing to the horrors of conquest. Victoria's contemporary, Sepulveda (1490-1572), had fewer qualms, and enthusiastically justified the subjugation of the Natives of the New World, stating that it was necessary and right to

divide the Indians of the cities and fields among honourable, just and prudent Spaniards, especially among those who helped to bring the Indians under Spanish rule, so that these may train the Indians in virtuous customs, and teach them the Christian religion . . . In return for this, the Spaniards may employ the labour of the Indians in performing those tasks necessary for civilized life.²³

The fact that it was official policy of the Church to deal humanely with the Indians was of little effect against the tide of violence and greed which swept over the Americas. Pope Paul III's Bull Sublimus Deus was not publicized in Spain's American colonies, since the Emperor saw it as a challenge to his authority. When in 1639 Pope Urban VIII decreed excommunication for those who deprived the Natives of their liberty or property the threat was widely

²³ Quoted in Dickason, op. cit., p. 100.

ignored.²⁴ By that time the Protestant Reformation and the trend towards secularism had weakened the authority of the Papacy so that its dictates in such matters could be safely ignored. In any case, even the best efforts to protect the interests of Natives were bound to be secondary to the exigencies of European politics, and they inevitably fell short of the colonists' will and ability to evade them.

The rationale for the extension of sovereignty over the peoples of the New World expounded by Victoria, Sepulveda and others was specifically aimed at the more highly-organized Native societies of Mexico, Central America and Peru. Elsewhere in the Americas Victoria's rationale, though laying a theoretical basis for conquest, was not as useful, because Native societies there were different. Many North American Indian groups did not have the kings and princes nor the sophisticated city-states found further to the south. North of Mexico an additional rationale had to be found, and the most popular one was that these lands were no man's land, terra nullius, in the sense that they were being put to no good use. True, they had Native inhabitants, but these people were nomads and were therefore not making proper use of the land as God had intended it to be used. This idea ignored the fact that not all North American Indians were nomadic; the Iroquois and others in the north-

²⁴ Ludwig Pastor, The History of the Popes, 40 vols. (London, 1923-1953), XXIX, p. 262, quoted in Dickason, op. cit.

east of what is now the United States and many tribes in the south-west were largely sedentary farmers whose agricultural practices were in some cases equal or superior to those of the Europeans. Nonetheless the Europeans held the notion which many of them knew to be false that North America was a wilderness where the Indians ranged like wild beasts. Such a situation was an affront to the laws of God and man. God had commanded man to till the earth, and since European nations had surplus populations, it was only right that they should take possession of it. In Le Droit des Gens Vattel had pronounced that

Uncertain occupancy of these vast regions can not be held as a real and lawful taking of possession; and when the Nations of Europe, which are too confined at home, come upon lands which the savages have no special need of and are making no present and continuous use of, they may lawfully take possession of them and establish colonies in them.²⁵

This was the basis of the European acquisition of Canada. It rested on the European assertion that Canada was no man's land and could thus be properly brought under the sovereignty of whatever European power could successfully occupy it.²⁶

²⁵ Quoted in Dickason, op. cit., p. 102.

²⁶ F. Jennings, in The Invasion of America: Indians, Colonialism and the Cant of Conquest (Chapel Hill, 1975), offers an excellent analysis of the rationale for conquest.

The actual basis of the acquisition of sovereignty, as opposed to the theoretical was, of course, force, either threatened or overt. The elaborate rationales described above presumably provided comfort to those Europeans who were unwilling to say "might makes right" while grabbing what they could get. Indeed the "might makes right" doctrine contradicted the whole idea of international law, and opened the door to anarchy in Europe; thus it had to be disguised under a gloss of legalisms. But the history of relations between Europeans and Native people in North America is one of the imposition of the will of the former over the latter by force at first, when force was necessary, and later by threats of force. Surely even Victoria could not have believed that any Native group would submit itself to the "prudent administration and humanity" of any European power except through some kind of compulsion. Such compulsion was not always through force of arms--starvation, deceit, disease would sometimes do--but it was almost always compulsion.

In Canada, however, the process was somewhat different. Here European sovereignty for centuries existed only in the abstract for Native people; there was no deposition of old rulers and imposition of new ones, as had occurred in Mexico and further south. In Canada relations between Natives and Europeans took the form of trading partnerships and military alliances. What might be called "developmental sov-

ereignty",²⁷ that is, the stage of sovereignty where the land held only in a theoretical form passes into private hands, occurred very late in Canada; in Rupert's Land not till the last quarter of the nineteenth century. By this time, any active resistance to European sovereignty was either futile, as in the case of the 1885 rebellion, or simply unthinkable. Because developmental sovereignty occurred so recently in Canada, there was hardly the need for the elaborate rationales for its assertion that were developed elsewhere. Nonetheless, these rationales are at the foundation of the justification for Canadian sovereignty over Native people. Though usually unspoken, they are the essential answer to the question "by what right do those of European ancestry hold this land?".

But loss of sovereignty does not mean loss of all right. There still exists the right of private property and certain rights to land. The question of Native title, which is in the process of resolution in this country, will be dealt with in the following chapter.

²⁷ I am indebted to my colleague Dr. Kenneth S. Coates for this phrase.



Raising the Flag of the Dominion of Canada, Cockburn
Island, N.W.T., August 1906. Public Archives Canada
PA 96489.

Chapter 2

Native Title

The concept of title to the land is not the same thing as sovereignty. It is instead part of "Native rights", a somewhat imprecise term used to describe what is left to Native people after sovereignty has passed to the European, or in this case the Canadian, power. It is not necessary to discuss Native title at length here, since in the companion piece to this work it has been considered in considerable depth.¹ But its relevance to the sovereignty question makes a summary necessary. Because the theory of Native title differed from one colonial power to another, it will be necessary also to concentrate on the British New World possessions.

From the beginning of the British presence in North America, it was official policy that aboriginal title did exist. Even though sovereignty had passed to the British, the Native people retained certain rights. As early as 1629 the Massachusetts Bay Company decreed that the rights of the Indians of Massachusetts were to be settled by purchase.² Of course, this decree and others like it were constantly

¹ See W.R. Morrison, A Survey of the History and Claims of the Native Peoples of Northern Canada (Ottawa, 1984), chapter 2.

² A. Young, ed., Chronicles of the First Planters of Massachusetts Bay, 1623-1636 (Boston, 1846), p. 159, quoted in Cumming and Mickenberg, op. cit., p. 15.

ignored, officially and unofficially.³ The Royal Proclamation of 1763, which has been referred to as the Magna Carta of Native land rights in Canada, decreed that lands could not be alienated from Native people except by cession or purchase.

However, Native title was severely limited by two restrictions which became part of British law and practice in the seventeenth and eighteenth centuries. The first was the principle that Native lands were held in common rather than by individuals, so that individuals did not own, nor could they sell land. The second limitation was that aboriginal title could be surrendered only to the Crown; that is, private sales could not be made. This limitation in theory protected Natives from being coerced or tricked into parting with their lands by unscrupulous speculators. The Crown, in theory, would deal with them in a more kindly manner. The corollary of this doctrine was that after 1763 no land could be alienated without the consent of its Native inhabitants, although this sometimes meant in practice the acquisition of the signatures of a few so-called "chiefs" on a treaty of cession.

So Native title did not mean that the Natives owned the land in the sense that non-Native society understands the concept of land ownership. Over the years it was established in the courts of Canada and the United States

³ See F. Jennings, op. cit., for a discussion of this point.

that their chief interest in the land was a usufructuary one. Usufruct is a legal term meaning "the right of enjoying a thing, the property of which is vested in another, and to draw from the same all the profit, utility, and advantage which it may produce, providing it be without altering the substance of the thing".⁴ In other words, the Natives had the right to use and to harvest the land, but not to alter it. But non-Natives could not alter it either, unless the Native title was purchased by the Crown. It is evident that in a country which developed as slowly as Canada did, it would be many years before this arrangement would lead to real difficulties on either side. In the Canadian north it is only in the last fifteen or twenty years--the period of modern Native claims--that this policy has been at issue.

Thus under British law Britain and by reversion Canada had sovereignty over British North America, even if Native title had to be extinguished by treaty before non-Natives could make use of the land. Yet in the Canadian north this title, based as international law required on discovery and occupation, was not as strong as it was in the south, and in the far north it was open to serious question. In the next

⁴ H. Black, Black's Law Dictionary (St. Paul, 1951), p. 1712.

chapter the basis of Canada's claims, firm and shaky, to her north will be examined.⁵

⁵ There is an extensive literature on the subject of Native title and Native claims in Canada. Some useful works on the subject which pertain to the area covered by this study are Mr. Justice T. Berger, Northern Frontier, Northern Homeland: The Report of the Mackenzie Valley Pipeline Inquiry, 2 vols. (Toronto, 1977); Keith J. Crowe, "A Summary of Northern Native Claims in Canada: The Process and Progress of Negotiations" in Etudes/Inuit/Studies, 3/1 (1979); Peter A. Cumming, Canada: Native Land Rights and Northern Development (Copenhagen, 1977); D.H. Pimlott et al., eds., Arctic Alternatives (Ottawa, 1973); René Fumoleau, As Long As This Land Shall Last: A History of Treaty 8 and Treaty 11, 1870-1939 (Toronto, 1973); Richard I. Hardy, "Metis Rights in the Mackenzie River District of Northwest Territories" in Canadian Native Law Reporter 1 (1980); Kenneth M. Lysyk, "The Rights and Freedoms of the Aboriginal Peoples of Canada" in W. Tarnopolsky and G. Beaudoin, eds., The Canadian Charter of Rights and Freedoms (Toronto, 1982); John K. Naysmith, North of 60: Land Use and Public Policy in Northern Canada (Ottawa, 1975); Lynne Niedermeir, "The Content of Aboriginal Rights: Definition as Denial" in Canadian Native Law Reporter 1 (1981); Mel Watkins, ed., Dene Nation--The Colony Within (Toronto, 1977); Sally Weaver, Making Canadian Indian Policy: The Hidden Agenda (Toronto, 1981).



N.W.M.P. Officers at Dawson, July 1900. Public Archives
Canada C 42765.

Chapter 3

Canada's Claim to Northern Sovereignty

So far in this study it has been established by what right (or by what rationale) the European powers and their ex-colonies have laid claim to sovereignty over the Western Hemisphere and its Native inhabitants. However, the previous two chapters explain these claims of sovereignty as they apply to Native people and their lands; they do not justify the claims of Canada to exclusive jurisdiction against possible claims of other European powers. For southern Canada, of course, the question of sovereignty was settled long ago by conquest, but in the north the matter has not always been clear. In fact, it has only been in the last fifty years that Canada's title to all her Arctic islands has been totally unquestioned. In this chapter the history of the establishment of this title will be examined.¹

¹ A very thorough treatment of this subject, unfortunately not published, is G.W. Smith, "The Historical and Legal Background of Canada's Arctic Claims", unpublished PhD dissertation, Columbia University, 1952. Other shorter but useful sources are W.F. King, Report upon the Title of Canada to the Islands North of the Mainland of Canada (Ottawa, 1905); I.L. Head, "Canadian Claims to Territorial Sovereignty in the Arctic Regions", McGill Law Journal IX, 1963; V.K. Johnston, "Canada's Title to the Arctic Islands", Canadian Historical Review XIV/1, March 1933; J.B. Scott, "Arctic and International Law", American Journal of International Law III, October 1909; G.W. Smith, "Sovereignty in the North: the Canadian Aspect of an International Problem" in R.St.J. MacDonald, ed., The Arctic Frontier (Toronto, 1966).

For a good part of northern Canada, sovereignty rests on the charter granted by the British Crown to the Hudson's Bay Company in 1670. The lands granted to the Company by Charles II comprised about half of present-day Canada (and a small part of the northern United States) including a large part of the Northwest Territories. The company was not "sovereign" in these lands; sovereignty continued to rest with the Crown. Nor was its exclusive control unchallenged. The French did not recognize the charter until forced to do so by the Peace of 1763. The Hudson's Bay Company's control over the region was vigourously challenged by fur traders from Montreal, particularly members of the Northwest Company, until the amalgamation of the two companies in 1821. It was in this latter year that an important assertion of British sovereignty in what is now northern Canada occurred. The original 1670 grant included a good deal of the modern north, particularly around Hudson Bay. But as part of the 1821 amalgamation the Company was given sole right of trading with the Natives over the whole continent north of the 49th parallel and east of the Rocky Mountains.²

In the approximately fifty years between the amalgamation and the surrender of the Company's lands to Canada, fur trade posts were founded all over the northwest part of British North America. These posts were not only profitable

² A.S. Morton, A History of the Canadian West to 1870-1871 (London, 1939), p. 628.

to the Company, but also provided clear evidence of effective British occupation. This expansion was partly the result of exploration carried out by men like Thomas Simpson, John Rae and Peter Dease, who were working for the Company, and expeditions carried out for the British government by Sir John Franklin and others. By mid-century there were posts all the way to the Arctic Ocean: Fort Reliance on the Coppermine River, founded in 1820, Fort Enterprise on Great Slave Lake in 1833, Fort Confidence on Great Bear Lake in 1837, Fort McPherson near the Mackenzie Delta in 1840, Fort Hope on Repulse Bay in 1846, Fort Yukon (actually in Alaska) in 1848, Forts Pelly and Selkirk on the Pelly River in 1846 and 1848. Fort Chimo on Ungava Bay (1830) and Northwest House on the Hamilton River (1832) opened trade in Northern Quebec and Labrador.³ Thus by 1850 "there was no sizeable region in the northern half of continental North America whose fur wealth was not being exploited by the Hudson's Bay Company".⁴

After the Company surrendered its lands to the Crown in 1869, which in turn transferred them to Canada in 1870, it proceeded to found new posts along the Mackenzie River, the

³ Morton, *op.cit.*, pp. 708-709.

⁴ G.W. Smith, "The Historical and Legal Background . . .", p. 140.

Arctic coast and the islands of the Eastern Arctic.⁵ Although after 1869 the Company had no administrative rights in Canada, it did serve in a quasi-governmental role in the Arctic prior to the arrival of more formal government agents, particularly the Mounted Police, in the twentieth century. Since before 1900 the Canadian government was most unwilling to assume any of the responsibilities involved in exercising sovereignty over the north,⁶ it was only too glad to let the Company take the census, distribute the mail, provide medical assistance and hand out relief supplies. Yet the Company, in performing these tasks, did so on behalf of the government of Canada, and so the principle of occupation through administration was reinforced.

Canadian sovereignty over the Northwest Territories has never been in doubt. Where the uncertainty lay was in determining the northern limit of these lands, and in particular the status of the Arctic islands. The vague status of this part of Canada was revealed by a request made by an American citizen to the British government in 1874 for

⁵ See two articles by M.J. Robinson and J.L. Robinson, "Exploration and Settlement of Mackenzie District, N.W.T.", Canadian Geographical Journal June-July, 1946, and "Fur Production in the Northwest Territories", Canadian Geographical Journal January, 1946, for a list of these posts. Another source is P.J. Usher, Fur Trade Posts of the Northwest Territories 1870-1970 (Ottawa, 1971). By 1944 a post had been opened as far north as Dundas Harbour on Devon Island.

⁶ This point is discussed in the next chapter.

a grant of land in Cumberland Sound to carry on a whaling business, and a request from a British citizen in the same year for a grant in the same region for a mining operation. After some correspondence between the British Colonial Office, the Canadian Governor-General and the Canadian Cabinet, it was admitted that

[T]he boundaries of the Dominion towards the North, North East and North West are at present entirely undefined . . . it is impossible to say what British Territories on the North American Continent are not already annexed to Canada . . .

Some urgency was felt, since the American who had asked for the grant of land had gone to Cumberland Sound and mined \$120,000 worth of mica and graphite, and it was unclear whose permission, if anyone's, he had neglected to ask. Eventually, at the request of the Canadian government, an Order in Council was passed at Westminster, on July 31, 1880, which "must be regarded as one of the key documents in the history of Canada's effort to acquire sovereignty in the Arctic".⁸

Whereas it is expedient that all British territories and possessions in North America, and the islands adjacent to such territories . . . be annexed to and from part of the said Dominion . . . Now therefore, it is hereby ordered and

⁷ G.W. Smith, "The Historical and Legal Background . . .", p. 155.

⁸ Ibid., p. 156.

declared . . . From and after September 1, 1880, all British territories and possessions in North America, not already included within the Dominion of Canada, and all islands adjacent to any of such territories or possessions shall (with the exception of the Colony of Newfoundland and its dependencies) become . . .⁹ part of the Dominion of Canada . . .

The language of this Order in Council, which is the basis for Canada's claim to sovereignty over her Arctic archipelago, is notably vague, probably deliberately so. For in 1880 there were large areas of the Arctic which were undiscovered and unknown, even by Canadian Natives--for no member of the Inuit race had set foot on the islands of the extreme north-west Arctic for a millenium, if ever. Since no one knew the exact limits of territory involved in such a transfer, its language was left indefinite. Moreover, Britain's, and thus Canada's claims to some of the islands which had been explored were not unassailable.

The reason that Canada's claim to sovereignty over her Arctic was not completely secure until about 1930 was partly that it was not until the 1920s that the last islands of the archipelago were finally explored, but also because some of the principal discoverers were not British, and it was not until 1930 that the last serious rival claim was abandoned. There were a number of other countries which had a greater or lesser right to claim Arctic territory. Some had a very good claim, and it was fortunate for Canada that none of

⁹ Quoted in W.F. King, op. cit., p. 10.

these claims was ever pressed. Space permits an account of only the more important of these.

The claim which had the greatest potential for trouble was that which was made on behalf of Norway by Otto Sverdrup, arising out of his Arctic expedition of 1898-1902.¹⁰ Sverdrup's expedition was financed partly by his government and partly privately, and it is not clear how "official" it was. During 1898-1902 he discovered and explored Axel Heiberg, Ellef Ringnes and Amund Ringnes Islands (the Ringnes brothers were a firm of brewers who had supplied him with money). He also was the first European to explore the western coast of Ellesmere Island and part of Cornwall and Devon Islands. All that he discovered, about 275,000 square kilometres, he claimed for Norway. It was clear that Canada did not recognize these claims, for the entire archipelago was included in the Northwest Territories by the Northwest Territories Amendment Act of 1905. More importantly, the Norwegian government took no steps to assert or secure these claims, and Roald Amundsen, Sverdrup's countryman, made no claims as a result of his pioneer navigation of the Northwest Passage in 1903-1906.

It was during the first decade of this century that the so-called "sector theory" became popular in some quarters in this country. This theory would have given Canada

¹⁰ The career of this remarkable man is described in T.C. Fairley, Sverdrup's Arctic Adventures (London, 1959). See also Otto Sverdrup, New Land, 2 vols. (London, 1904).

sovereignty over a pie-shaped area of the north, with the 141st meridian at the west of the wedge, the 60th at the east and the north pole at the point. The origin of this theory is a mystery, according to G.W. Smith, who studied the question,¹¹ but it was first raised in this country by Senator P. Poirier in 1907. Its attraction was that it automatically validated Canada's claims to the Arctic archipelago without the need for any other proof of sovereignty. Although some officials found it attractive, and the Soviet Union formally adopted it, it never became official policy, possibly because the United States was opposed to it. Vestiges of it remain in lines still appearing on maps issued by the Canadian government.

Although Canada, as will be seen, made efforts after 1900 to assert sovereignty over the regions explored by Sverdrup, no police post or any other Canadian presence existed in the islands Sverdrup had discovered as late as 1930, even though by that time, agents of the Canadian government had also explored the islands. In 1930, however, the government of Norway formally abandoned its claims, and Sverdrup's personal interests were extinguished when the Canadian government paid him \$67,000 for all the records of his expedition.

The second foreign power whose representatives' activities in the Arctic had the potential to challenge Canada's

¹¹ G.W. Smith, op. cit., chapter 16.

sovereignty was the United States. There were numerous American expeditions to the Arctic in the nineteenth century, but although much exploration was done, no important discoveries were made. The Greely expedition of the 1880s, sponsored by the U.S. government, did much exploration in new territory in northern Ellesmere Island, but made no claims, nor did any of the American expeditions. The American government did not seem eager to make any assertions of its interest. Thus for lack of interest, there was no threat from that quarter.

Finally, the last significant foreign claim, this one supported by a foreign government, was made on behalf of Denmark. Denmark's claim arose from the fact that the Inuit of north-western Greenland, which was a possession of Denmark, had been accustomed to travel across Smith Sound from Thule to hunt musk-oxen on Ellesmere Island. In 1919, as a result of the report of a Royal Commission on the condition of these animals,¹² the Canadian government asked the Danish government to restrain the Inuit from killing them. The Danes sought the advice of the explorer Knud Rasmussen, who lived at Thule. Rasmussen advised the Danes that ". . . the territory of the Polar Eskimos falls within the region designated as 'no man's land', and there is therefore no authority in the district except that which I

¹² Report of the Royal Commission to Investigate the Possibilities of the Reindeer and Musk-ox Industries in the Arctic and sub-Arctic Regions of Canada (Ottawa, 1922).

exercise through my station . . .". The Danish government forwarded this letter to Canada with its endorsement.¹³ The Canadian government protested to Denmark that Ellesmere Island was indeed part of Canada, and subsequently began a series of annual voyages there, in 1922 establishing an R.C.M.P. post on the island at Craig Harbour. Although Denmark never formally conceded Canada's claim to Ellesmere Island, she made no effort to dispute it or to put forward one of her own, and if her 1919 claim had any validity at that time, it has since lapsed. Thus the question of Canada's right to her Arctic is closed:

[I]t may be stated with confidence that today no foreign nation entertains any actual territorial claim within the Canadian Arctic. . . . one may agree with [the historical geographer] Trevor Lloyd's statement in 1946, at least as far as land territory is concerned, that "there are no competing claims".¹⁴

However, claiming sovereignty is not the same as exercising it. The exercising of sovereignty must be through occupation and in particular administration. Here then the theoretical is replaced by the human, for administration involves the government and its dealings with people. In Canada's north these people were mostly Native (particularly

¹³ This episode is described in Public Archives of Canada [PAC], J.B. Harkin Papers, v. 1, and also in V.K. Johnston, op. cit., and in G.W. Smith, "The Historical and Legal Background . . .".

¹⁴ Smith, p. 281.

outside Yukon), and so the emphasis of this study now shifts to an examination of the way in which sovereignty was brought to the Native people in Canada's north. Because the process was different in the different regions of the north, they will be dealt with separately.



Dene Indians, Hay River, Mackenzie District, N.W.T. Public
Archives Canada PA 42073.

Chapter 4

Sovereignty and the Native People in Yukon

The first region of the Canadian north to experience the advent of Canadian sovereignty was Yukon.¹ The Native population of what is now Yukon was almost entirely Indian, of various Athabaskan, or Dene, groups.² There were some Inuit in the extreme north of Yukon, but their numbers had been drastically reduced by disease in the late nineteenth century. It is difficult to arrive at a figure for the Indian population of Yukon in the early period because by the time the government took a census, their numbers too had been severely reduced by disease. Perhaps there were as many as 8,000 Indians in Yukon in the early nineteenth century; by 1895 there were 2,600, and by 1912 1,400.³

For about thirty years after Confederation the Canadian government showed no interest in the Canadian north or in its Native residents. Until Yukon was created a District in 1895 and then a Territory in 1898 it was simply part of the "unorganized" North-West Territories,⁴ a huge area which

¹ This chapter deals with southern and central Yukon. Herschel Island and northern Yukon will be considered in the next chapter, since the forces that affected them were not the same as in the southern part of the Territory.

² There were some Inland Tlingit resident in Yukon as well.

³ See the Department of Indian Affairs and Northern Development publication Indians of the Yukon and Northwest Territories (Ottawa, 1970), p. 20. There were 3,200 status Indians in Yukon in 1891, according to Indian and Northern Affairs Canada, Annual Review 1981-82 (Ottawa, 1982), p. 50.

⁴ The spelling "Northwest" was adopted in 1905.

came under the nominal authority of the lieutenant-governor of the North-West Territories in Regina, but in fact was terra incognita as far as Ottawa was concerned.⁵

Until 1894, when the first Mounted Police expedition reached Yukon, the region was completely outside Canadian control. Despite the fact that in that year it had a Native population of 2,600 and a non-Native population of about 500 (mostly miners), there was no "law and order" there--in fact not a single resident representative of the Canadian government. Representatives of Ottawa had passed through the country on exploratory or surveying trips,⁶ but there was such a power vacuum that beginning in the late 1880s, the miners had set up their own de facto legal system based on the "miners' codes" which had been drawn up during the California gold rush of 1849. These codes set up regulations by which the miners tried, sentenced and punished those who violated the code. One might have thought that this affront to Canadian sovereignty would have caused concern in Ottawa, but such was not the case. The chronic indifference to the north coupled with the confusion of politics in the early 1890s meant that no action was taken until the government was prodded into it.

⁵ See on this question J.N.E. Brown, "The Evolution of Law and Government in the Yukon Territory" in S.M. Wickett, ed., Municipal Government in Canada (Toronto, 1907).

⁶ Particularly William Ogilvie, whose autobiographical reminiscence, Early Days on the Yukon (London, 1913), is a valuable source.

Here we encounter, for the first time in this study, the role of Native people in the establishment of sovereignty in Canada's north, for it was to a certain extent the plight of Yukon Native people which finally stirred Ottawa to action. The catalyst was the Anglican missionary-bishop in Yukon, William Carpenter Bompas.⁷ The bishop was appalled by the amount of liquor being brought into Yukon by the miners, and by the effect he perceived it was having on his Native charges. Not only were the miners trading liquor with the Indians, he discovered, but the Indians had learned, or had been taught to make a home brew out of sugar, molasses and dried fruit, which they called "hoo-chin-oo".⁸ The result was, according to Bompas, that the Indians were being taken advantage of, particularly the Indian women, and the liquor traffic was causing them to spend "nights of debauch". The kind of scene which so horrified Bompas was portrayed by another historian, who described the arrival of the whaling fleet at Pauline Cove, Herschel Island: "Liquor flowed freely and soon the whaling crews were staggering, laughing, howling, and fighting.

 7 His biography is H.A. Cody, An Apostle of the North: Memoirs of the Right Reverend William Carpenter Bompas, D.D. (Toronto, 1908). Bompas was Bishop of Athabasca 1874-1884, Bishop of Mackenzie River 1884-1891, and Bishop of Selkirk (Yukon) 1891-1906.

8 N.W.M.P. Report 1894, C, p. 76. These reports were published annually as Government of Canada Sessional Papers. The slang term "hootch" comes from this term. Since the word is originally the name of a Tlingit tribe, perhaps the miners were not guilty.

Eskimo women were caught up in the arms of the wild whalers and willingly disappeared into sod huts ashore or into the depths of the dank fo'c'sles of the fleet in the harbour".⁹

In 1893 he wrote two letters to the Superintendent General of Indian Affairs in Ottawa urging that the government step in to protect the Indians.¹⁰ The commercial interests in Yukon also urged the government to do something to stop the abuse of the Indians. The assistant manager of the North American Trading and Transportation Company, the largest commercial concern in the region, wrote Ottawa echoing Bompas' complaints, and warning that there might be violence if the Indians continued to be abused.¹¹ Until the arrival of these warnings, Ottawa, even the Department of Indian Affairs, had ignored the Yukon Indians; the department did not even mention them in its annual report. In the report for 1894, a typical year, the closest one gets to Yukon is a listing of Indians in the "Athabasca and M'Kenzie Rivers District".¹²

But in 1894 the government suddenly abandoned its policy of indifference and sent a detachment of Mounted

⁹ A. Stevenson, "Whalers' Wait", North, vol. 15, no. 5 (1968), p. 30, quoted in K.S. Coates, The Northern Yukon: A History, p. 58.

¹⁰ Bompas to T.M. Daly, Ottawa, ? May 1893 and 9 December 1893, Charles Constantine Papers, PAC, MG 30, E-2, v. 3.

¹¹ C.H. Hamilton to T.M. Daly, n.d., Constantine Papers, v. 3.

¹² Report of the Department of Indian Affairs for 1894 (Ottawa, 1895), p. 287.

Police north to bring the Indians and others in Yukon under the flag. This action was to a certain extent based on a genuine concern for Native welfare. But the extent of the concern was limited, as reference to the somewhat similar situation which brought the police to the Canadian prairies in 1874 demonstrates. Many books on the Mounted Police assert that the force was formed by the Canadian government to protect the Indians of the west from the abuses of American whiskey traders, and cite the fact that the shameful Cypress Hills massacre took place just before the force was set up. Yet this is only partly the case. One historian of the Mounted Police says of the massacre "What mattered profoundly was that at least thirty Indians . . . had been murdered on Canadian soil, with the Canadian government powerless to prevent the massacre or avenge it".¹³ What alarmed Ottawa in the case of this infamous assault on unoffending Indians was not the death of the Indians but the impotence of the government of Canada which the episode demonstrated. Canadian subjects had been murdered on Canadian soil, and there was no government representative within hundreds of kilometres to lift a finger. The embarrassment of the Canadian government at the evident flimsiness of its authority was the main concern.

The case was similar in Yukon in 1894. As will be seen when Herschel Island is considered, the government thought

¹³ R.C. Fetherstonhaugh, The Royal Canadian Mounted Police (New York, 1938), p. 7.

that the warnings of damage to the Indians might be exaggerated. Yet it could not ignore indefinitely the abuse of citizens, particularly by foreigners, for most of the miners were Americans. Thus in the spring of 1894 it was decided to send two members of the N.W.M.P.¹⁴ to Yukon to report on conditions and to make it clear that Canadian law was to prevail:

[I]n reference to . . . a letter from Mr. C.H. Hamilton, Secretary and Assistant Manager of the North American Trading and Transportation Company, and also two letters . . . from the Rt. Rev. Dr. Bompas . . . the Minister desires to state that in the interests of the peace and good government of that portion of Canada, in the interests also of the public revenue, it is highly desirable that immediate provision be made for the regulation and control of the traffic in intoxicating liquor, for the administration of lands containing the precious metals, for the collection of customs duties upon the extensive imports being made . . . for the protection of the Indians and for the administration of justice generally.¹⁵

It is clear from this official rationale for the extension of Canadian sovereignty to Yukon that the plight of the Indians was a concern, but only a secondary one; that financial concerns and the desire to keep public order were of paramount importance in the mind of the government.

¹⁴ The force was called the North-West Mounted Police until 1904, then the Royal North-West Mounted Police until 1920

¹⁵ A copy of the Privy Council Resolution, approved by the Governor-General on May 26th 1894, is in Constantine Papers, v. 3.

Indeed, although Constantine had officially been made an agent of the Department of Indian Affairs, his instructions from that Department cautioned him to spend as little money as possible, an admonition to which he had no objection.¹⁶

Immediately upon his arrival in Yukon, Constantine and his assistant, Staff-Sergeant Charles Brown, began to make practical demonstrations of the presence of Canadian sovereignty. The best way of doing this was by enforcing the laws of the North-West Territories, which applied to Yukon until it was given separate Territorial status. In particular, customs duties were collected, amounting to \$3,250, and although the miners grumbled, they paid nonetheless, thus showing that they recognized this sovereignty.¹⁷ As far as the condition of the Indians was concerned, however, Constantine was unsympathetic. He confirmed Bishop Bompas' complaint that the liquor traffic was uncontrolled, but he did not agree that it had led to social disorder, either among Natives or non-Natives. This was a typical point of disagreement between missionaries and public officials, particularly policemen. While some missionaries saw debauchery in every drop of liquor, the attitude of the police was considerably more relaxed. Constantine's opinion of the Indians, however, was sharply unsympathetic; they were, he wrote, "a lazy shiftless lot and are content to

16 Ibid.

17 N.W.M.P. Report 1894, C, p. 84.

hang about the mining camps. They suffer much from chest trouble, and die young".¹⁸ On a later occasion Constantine quarrelled with Bishop Bompas, whom he suspected of encouraging some Indians to occupy land which the police wished set aside for possible use as a detachment. Constantine wrote to Commissioner Lawrence Herchmer of the N.W.M.P. complaining that the Bishop was siding with the Indians against the Police, and said "I don't propose to be bluffed by an arrogant Bishop who thinks the only people worth considering are a few dirty Indians too lazy to work, and who prefer starvation . . .".¹⁹

There are several comments to be made on this ill-tempered remark, which might be passed over except that it was, as will be seen in the chapter on the Native people in the Eastern Arctic region, quite typical of the attitude of the police of that era. First, the police, as was their duty, mirrored the attitude of the government that Yukon Indians should be encouraged to work and to remain self-reliant, and on no account should they be permitted to become dependent on the state. Constantine had been instructed in 1894 "not to give [the Indians] encouragement to the idea that they will be received into treaty, and

¹⁸ Ibid., p. 78.

¹⁹ Constantine to Herchmer, 6 December 1896, R.C.M.P. Papers, Comptroller's Correspondence, PAC, RG 18, A-1 [hereafter CC], v. 140.

taken under the care of the government".²⁰ The police did give aid to destitute Indians who asked for it, but they did so grudgingly. They adopted a policy of requiring apparently healthy Native indigents to work on the huge woodpile behind the police barracks in Dawson, and were pleased to see that this policy weeded out many "undeserving" cases.

Another conclusion to be taken from this early contact between government representatives and Yukon Indians is that the Indians were considered to be of peripheral importance in the development of this new Territory. The main threat to Canadian sovereignty in Yukon was perceived to be and no doubt was in fact the thoroughly American character of Yukon society. At the height of the gold rush the population of Dawson City topped 30,000, the majority of whom were Americans. It was largely a society of American mores--certainly this was true outside the society of officialdom--where the fourth of July was a public holiday, and where the police had to restrain the citizens of Dawson from turning the city into a replica of a "wild west" American frontier town. The Americans were seen as far more of a threat than were the Indians, who were perceived more as a nuisance than a danger, or were simply ignored. If they were healthy they could work or starve, and in any case

²⁰ Quoted in K.S. Coates, "Best Left as Indians: the Federal Government and the Indians of the Yukon, 1894-1950", a paper presented to the Canadian Historical Association, Vancouver, June 1983, p. 3.

it would be better, the police advised, if they were put on a reserve, preferably far away from any settlement.²¹ For much the same reason the federal government refused to negotiate a treaty with the Yukon Indians. The policy of the government from the period of the establishment of sovereignty until the end of World War II was to encourage the Yukon Indians to continue their nomadic way of life and to make as few demands on the government as possible. The government's refusal to negotiate treaties with the Indians was based on the premise that the Natives were "best left as Indians". It also meant that the government assumed few obligations in regard to them.²² "Residential reserves" were set up in Yukon, tracts of land where Indians could live. But because they were not guaranteed by treaty they were not permanent, and could be moved if white society needed the land. The one near Whitehorse was shifted four times between 1915 and 1921.²³

Another comment to be made on Constantine's remark about the Yukon Indians is simply that it was not true. Constantine and the rest of the Mounted Police (who constituted almost the entire Yukon civil service in the gold rush period) made the error of generalizing from a -----

²¹ Supt. S.B. Steele to J.M. Walsh, Commissioner of the Yukon, 26 August 1898, R.C.M.P. Papers, CC, v. 155.

²² Free medical service, however, was from an early period available in the settlements to any Yukon Native who needed it.

²³ K.S. Coates, op. cit., discusses this issue.

sample. They saw the Indians who clustered around the settlements looking for handouts and assumed that all Yukon Indians were lazy and improvident. In fact, the Indians with whom they came into contact and for whom they had so much contempt were those few who for one reason or another had been overwhelmed by white society. Some, for instance, were tubercular, a fact recognized by Constantine when he spoke of "chest trouble". Others had fallen victim to alcohol. These people were not likely to succeed at the traditional hunting skills, and thus for them living on the fringes of the settlements was the alternative to starvation. But such people were the exception, not the norm. As K.S. Coates has pointed out,²⁴ the vast majority of Yukon Indians followed their traditional way of life quite successfully for fifty years or so after the gold rush, coming to the settlements periodically to trade, but otherwise living off the land as they had always done, with modifications to suit the new economic realities. What eventually put an end to that way of life was not the imposition of Canadian sovereignty in the 1890s but the advent of the welfare state in the 1940s and 1950s, particularly when government support was made dependent on sending Native children to school, which necessitated an abandonment of nomadism or a break-up of families.

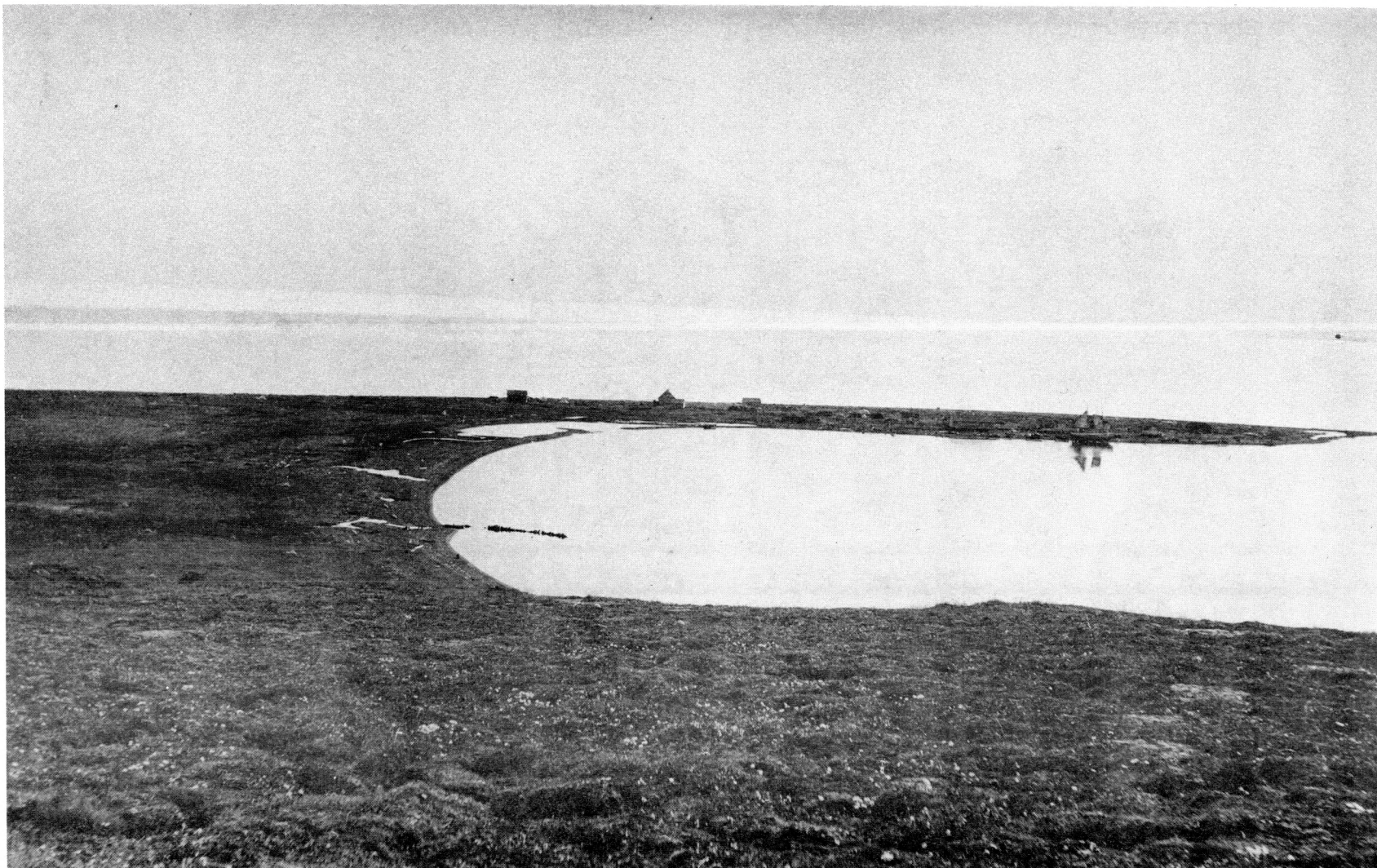
²⁴ Op. cit. See also his "Best Left as Indians: Native-White Relations in the Yukon Territory, 1840-1950", unpublished PhD thesis, University of British Columbia, 1984.

Thus the establishment of Canadian sovereignty in Yukon does not seem to have had much effect on the Natives of that region. Probably the main reason for this is that they were not the main targets of government concern. The gold rush made the Yukon Indians an instant minority in their own land, and the authorities were far more worried about the threat to Canadian control from American miners than any possible resistance from the Indian population. Once it was established that the Indians posed no threat to Canadian plans for Yukon they were pushed aside, ignored and relegated to a peripheral position in the new society. Only in the past dozen years have they asserted themselves and made claims on the government for the losses and dislocation they suffered.²⁵

²⁵ W.R. Morrison, A Survey of the History and Claims of the Native Peoples of Northern Canada (Ottawa, 1983) explores the modern period in chapter 3, "Yukon Native History and Claims".



"A Study in Types--Dog Rib Indian Boys". Public Archives
Canada PA 111535.



R.N.W.M.P. Detachment at Herschel Island, 1916. R.C.M.P.
Photo Archives, #4085-1.

Chapter 5

Sovereignty and the Native People in the Western Arctic Region

The case of the Western Arctic is somewhat similar to that of Yukon, for in this more northerly region the government was also stirred to action by reports of the abuse of Natives. But in a more important way the imposition of Canadian sovereignty in this northerly area was quite different, for here there was no overwhelming population of non-Natives. Here Canadians of Native origin constituted the majority of the population, and were thus at the forefront of events.

The area in question here is the lower Mackenzie River, particularly the Delta region, and the north slope of Yukon and the Beaufort Sea area, centering on Herschel Island. This island, though acknowledged as part of Yukon in 1930, was socially and economically part of the North-West Territories, and its history was almost entirely separate from that of the more southerly part of Yukon.

The Native people of the Mackenzie valley are Dene, Athabascan people who have lived in roughly their present area for centuries, perhaps millenia. The names the early traders knew them by--Hare, Dogrib, Yellowknife, Slave, and so on--were given to them by others; to themselves they were simply Dene, part of a people whose territory stretched from the barren lands in the east to Alaska in the west. The Dene in what is now Canada began to have contact with non-

Natives early in the eighteenth century, when the Hudson's Bay Company established Fort Prince of Wales in 1717 to trade with them through Chipewyan middlemen. By 1840 a chain of trading posts extended all the way to Fort McPherson, and by mid-century Roman Catholic missionaries from Europe had arrived among them.

At the northern limit of Denendeh (land of the Dene) in the Mackenzie Delta, the Dene population shares its territory with the Inuit people. The Inuit of the Beaufort Sea-Western Arctic region, known as the Inuvialuit, have also lived in their land for generations, though here there has been a significant shift of population. Diamond Jenness stated that the Inuvialuit numbered about 2,000 in 1830, but by 1930 the descendents of these people numbered only twelve, the rest having succumbed to diseases imported from the south.¹ The vacuum was filled by Inuit who migrated east from the Alaskan coast or were imported by the whalers, so that most of the modern Inuvialuit are not historically indigeneous to the Canadian Arctic. However, the Inuit were so nomadic that it is really a quibble to differentiate between the people of the coast of Alaska and those of the Yukon coast.

These people, Inuit and Dene, were little touched by Canadian sovereignty before 1900. They knew nothing of the government, and the government knew nothing of them. Where

¹ D. Jenness, Eskimo Administration: II, Canada (Montreal, 1964), p. 14.

the Roman Catholic priests (and later the Anglicans) set up schools for Native children, the government gave small grants--the sum for the entire Northwest Territories in 1906 was about \$4,000--and the priests made returns for the census. So the government had a rough idea by 1900 of how many Native citizens lived in the Mackenzie and Western Arctic, but it had no wish before 1900 to bring law or government to them. A policy of benign neglect was the cheapest and therefore the best.

All this changed shortly after 1900. As was the case in Yukon, what motivated the government to extend its control over the western Arctic were in part reports of distress among the Native population caused by their treatment at the hands of foreigners. Beginning in the late 1880s, a new factor was introduced into the life of the Inuit in this region when Herschel Island began to be used as a wintering place for the western Arctic whaling fleet.² In the last days of the whaling industry, with the market for whale-oil being captured by petroleum products, and with the whales in the northern Pacific depleted, some enterprising whaling captains sailed around Point Barrow in Alaska to exploit the almost-untouched resources of the Beaufort Sea. Because Herschel Island had a good harbour it

² A good study of conditions among the whalers at Herschel Island prior to the establishment of Canadian sovereignty is T. Stone, "Atomistic Order and Frontier Violence: Miners and Whalers in the Nineteenth Century Yukon", Ethnology, XXII/4, October 1983.

became the central point of the fleet's operations, and because the voyage back to San Francisco (which was home port for most of the ships) was such a long one, most ships came north for at least two summers, wintering at Herschel. Most ships also brought trade goods with them and spent the off-season trading with the Inuit. Since there was no official representative of the Canadian government within hundreds of kilometres of Herschel Island, the whalers could do as they pleased in regard to trade goods, liquor and in general their dealings with the Natives.

The value of the trade was considerable. The whaling captains estimated that between 1891 and 1907 whales had been caught to the value of \$13,450,000 and \$1,400,000 worth of trade had been conducted with the Inuit and Indians who came from the interior to trade.³ These men had no interest in making territorial claims, of course, but their very presence, and the fact that they were carrying on a lucrative trade without paying duty on their goods, cast doubts on the reality of Canadian sovereignty in the region. What was even worse was that they were accused of corrupting the morals, and indeed the whole social structure of Inuit society. They also carried sickness north, particularly influenza, which had a devastating effect on the Natives.

³ The American captains G.W. Porter, G.B. Leavitt, J.A. Tilton and J.A. Wing reported this to Insp. A.M. Jarvis of the R.N.W.M.P. in 1907. R.N.W.M.P. Report 1908, K, p. 140.

Because the whalers spent the long winter season ice-bound in the harbour at Herschel Island, they made a practice of employing Inuit as servants and hunters, and quite often arrangements were made with Inuit women to serve as servants and sexual partners for the ships' crews.⁴ Since at the height of the trade, in 1896, there were nearly twelve hundred men at Herschel Island, the amount of social dislocation must have been tremendous.⁵ The whalers, like the early miners to the south, encouraged the Inuit to make home-brew, a practice which was illegal, and, officials believed, damaging.

This situation came to the attention of the government in the mid-1890s, partly through reports from missionaries, and partly at second-hand, from reports of the Mounted Police in central Yukon. An Anglican missionary, Rev. I.O. Stringer, had reached Herschel Island from Fort McPherson in 1894, and he and his successor, Rev. C.E. Whittaker, sent reports of the debauchery and demoralization of the Inuit to Bishop Bompas, who forwarded them to the government. The

⁴ K.S. Coates, in "Furs Along the Yukon: Hudson's Bay Company-Native Trade in the Yukon River Basin, 1830-1893", unpublished M.A. thesis, University of Manitoba, 1979, pp. 153-4, suggests that since Inuit males loaned their wives to other men as a means of solidifying partnerships, the "so-called illicit relationships between the native women and the whalers were socially sanctioned by the Inuit and were intended to strengthen trading ties". See also A. Balikci, The Netsilik Eskimo (New York, 1970), pp. 140-143, for a discussion of this question in another context.

⁵ Supt. Constantine, N.W.M.P. Report 1896, p. 28. See also K.S. Coates, The Northern Yukon: A History, chapter V.

Mounted Police made similar reports. In the fall of 1895 Supt. Constantine reported that he had heard from a deserter from one of the whaling ships that

The carryings-on of the officers and crews of the whalers there was such that no one would believe . . . large quantities of whiskey are taken up in the ships . . . as long as the liquor lasts, the natives neither fish nor hunt, and die of starvation in consequence. . . . the captains and mates of these vessels purchase for their own use⁶ girls from nine years and upwards . . .

In regard to these liaisons, it can be said in partial defence of the whalers that many of the children who resulted from these unions were provided for by their fathers, and even taken south for education, though others, regrettably, were simply abandoned when the ships departed.

The crews of the whaling ships were a very rough lot, certainly not the emissaries one would have chosen to show the Inuit what "civilized" men were like. They led a hard life, and since they were paid in shares of the profits, and in the later whaling period they often caught few whales, they sometimes had nothing to show at the end of two years in the north. They were not permitted the officers' privilege of living with Native women, though temporary liaisons were common, and the tedium of the winter at Herschel Island must have been immense. And when news of -----

⁶ Supt. Constantine to Commissioner Herchmer, 4 September 1895, R.C.M.P. Papers, CC, v. 135.

the Klondike gold strike reached the Beaufort Sea, some crew members began to attempt to desert, which was illegal, and which led to disorder. Later, an officer of the Mounted Police described them. Many, he said,

are not sailors at all, and have never been to sea before signing on, some are men who have come to sea to get away from the drinking habit, and a few . . . have done time for some offence in the United States. . . . Altogether they . . . require to have a firm hand over them.

It is understandable why Bishop Bompas, given his conception of how the Inuit should behave, was worried about their morals. While writing to the government to complain about the exploitation of the Natives in southern Yukon, he advised that events further north might also call for government action. With considerable exaggeration he described the relations between the whalers and the Inuit, which were, he said, resulting in "deeds of furious violence . . . among the natives . . . to the utter ruin of both races".⁸ At that time, the authorities were unenthusiastic about an expedition to the Western Arctic. The Mounted Police were the logical ones to send, but by 1896 they had sent twenty men to Yukon, and soon were to send three hundred more. They had none to spare for the Arctic. And

⁷ Insp. D.M. Howard, ? August 1906, R.C.M.P. Papers, CC, v. 309.

⁸ Bompas to the Minister of the Interior, 18 June 1896, R.C.M.P. Papers, CC, v. 314.

there were those in government who believed that reports of harm done to the Natives were exaggerated. The Comptroller of the Mounted Police expressed the opinion that what was occurring at Herschel Island was only natural: "It is so difficult", he complained, "to convince the goody-goody people that in the development and settlement of a new country allowances must be made for the excesses of human nature".⁹ On the other hand, the government of Canada had reason to be suspicious of the motives of the Americans. The history of the nineteenth century showed what happened when Americans established themselves in new territory. California had once been under Mexican sovereignty, as had Texas. The Herschel Island question arose at a time when enthusiasm for imperialism in the United States was at an all-time high. True, the whalers at Herschel Island had not claimed the Western Arctic for the U.S.A., but one could not be too careful in such matters where Americans were concerned.

Until the Yukon rush died down, however, the government did not feel it could shoulder fresh responsibilities. And then there was the Boer War, which occupied the government's attention, and also drained the strength of the Mounted Police. The government made do with stopgap measures for several years; in 1894 it asked John Firth, the Hudson's Bay

⁹ F. White to A.E. Forget, Lieutenant-Governor of the North-West Territories, 7 October 1903, R.C.M.P. Papers, Comptroller's Letterbooks, PAC, RG 18, A-2, p. 90.

Company man at Fort McPherson, to act as unofficial government representative, and in particular to keep an eye on the whalers.¹⁰ Of course, his information was all at secondhand since he was 300 kilometres from the centre of whaling activity.

Finally, in the winter of 1902-03, plans for an expedition to the Western Arctic were drawn up, and an appropriation passed through Parliament disguised, apparently so as not to alarm the Americans, as an extension of the fisheries protection service.¹¹ The official explanation was that although Canadian sovereignty in the area was unquestioned, it would be wise to show the flag to make this fact perfectly clear:

[I]t is feared that if American citizens are permitted to land and pursue the industries of whaling, fishing, and trading with the Indians without complying with the revenue laws of Canada and without any assertion of sovereignty on the part of Canada, unfounded and troublesome claims may hereafter be set up.¹²

¹⁰ E.G. Stewart, "Fort McPherson and the Peel River Area", unpublished PhD thesis, Queen's University, 1953, p. 339.

¹¹ J.A. Smart, Deputy Minister of the Interior to Clifford Sifton, Minister of the Interior, 21 March 1903, Northwest Territories Correspondence, Department of the Interior Papers, PAC, RG 15, B-1a, v. 232. An expedition was sent at the same time to Hudson Bay; it will be examined in the next chapter.

¹² J.A. Smart, memo, n.d. (probably summer 1903), R.C.M.P. Papers, CC, v. 293.

Concern for the Native residents seemed to be peripheral in this statement of the government's goals, and yet when its representatives reached the Arctic, they found themselves more involved with Native people than perhaps they had planned.

The Mackenzie Delta-Western Arctic expedition of 1903 was also in part a reflection of the Alaska boundary dispute, which was settled in the same year. This dispute, the resolution of which was a disappointment and even a humiliation to Canadians, had also involved "unfounded and troublesome claims" (though more recent scholarship has proven that the right of the case lay with the Americans),¹³ and it seemed to the Canadian government only prudent to confirm Canada's right to the Western Arctic in an unmistakable manner.

Thus in the spring of 1903 a small party of Mounted Policemen was sent north from Edmonton to bring the Western Arctic under the flag. The officer in charge of the expedition, Superintendent Constantine, was the man who had performed the same service in Yukon. His orders required him to proceed down the Mackenzie River, reporting on conditions along the way, to establish a police detachment at Fort McPherson and then to continue to Herschel Island and set up

¹³ See N. Penlington, The Alaska Boundary Dispute: A Critical Reappraisal (Toronto, 1972).

another detachment if he found it possible to do so in the same season.

Constantine, four constables, and a non-commissioned officer, Sgt. F. Fitzgerald, who was to become famous in the later history of the region as the leader of the "lost patrol", went down the Mackenzie on a Hudson's Bay Company steamer in the summer of 1903, stopping at each community along the way. As he reported on the settlements, it became apparent to Constantine that there was an obvious need for the assertion of Canadian sovereignty, not just over the Arctic, but over the entire Mackenzie valley. The settlements along the Mackenzie--Fort Norman, Fort Simpson, Fort Good Hope, and the rest--were isolated, self-contained communities in which the only non-Native presence consisted of fur traders and missionary priests. A good number of these people were not Canadians; many of the Hudson's Bay Company officers were British,¹⁴ and the Roman Catholic missionaries were mostly from France or Belgium. Constantine, who was one of the quintessential late Victorian Anglo-Canadians prevalent in the ranks of the Mounted Police of that era, was horrified to see that at several of the missions on the Mackenzie the flag being flown was the tricolour of France. He reported that this showed the obvious need of the assertion of Canadian sover-

¹⁴ Though there were of course other firms, Revillon Freres for example, who employed Canadians, and there were private traders as well.

eighty in the area. His superiors agreed, and recommended the liberal distribution of Union Jacks so that the Natives might make no mistake as to which government they lived under.¹⁵

Several years later, the police put this policy into action, with unfortunate results. At Fort Simpson the police ordered the fathers to lower their flag and hoist the Union Jack. Since the flag flying over the mission that day was not the tricolour but the flag of the international Red Cross, one might have thought that there was no affront to Canadian sovereignty. The police, however, wishing the question made clear, prevailed, and the Union Jack went up, under protest. The fathers had the last laugh however; their Bishop, Gabriel Breynat, the future "flying bishop", had friends in high places in the Liberal administration of Sir Wilfrid Laurier. He complained to them, the police were compelled to apologize, and the offending constable was transferred to another division. Breynat, in his memoirs, attributed the action of the police not to a desire to emphasize Canadian sovereignty over the region but to an aggressive anti-Catholicism. It was, he said, "un incident fâcheux et bien regrettable" which showed that "même dans le

¹⁵ Constantine Papers, PAC, v. 4.

Nord, nous eûmes à souffrir, quoique rarement, des activités de certains fanatiques".¹⁶

It should be said that in other ways the priests approved of the police, seeing in them the means of enforcing behaviour on Native people which the missionaries could only urge upon them. It was one thing to preach against liquor, but the police could enforce the laws against it, or try to. Some years after the incident recounted above, Bishop Breynat wrote approvingly of this aspect of the role of the police vis-à-vis the Natives: "I completely agree with you about the good work done by the R.C.M. Police . . . they should be empowered with the means to prevent, among the native population, the teaching by the whites and [the] practice of gambling, brewing, birth control, bolchevism [*sic*], etc."¹⁷ This interesting letter shows, besides the Bishop's conservatism (banning birth control! And who was preaching communism among the Dene in 1923?) the reliance of the missionary priests on the Mounted Police to enforce an approved code of behaviour on the Dene. When one remembers that Treaty 11 had been signed only two years before this letter was written, it can be seen that by

¹⁶ Gabriel Breynat, Cinquantes Ans au Pays des Neiges (Montreal, 1945-48), II, pp. 182-185. No date is given for the incident; it probably occurred around 1910.

¹⁷ Breynat to J.K. Cornwall, President of the Northern Trading Co., Edmonton, 27 January 1923, J.D. Craig Papers, PAC, RG 85, v. 582, f. 567.

this time the outside influences on the Dene were increasing considerably.

However, in 1903, at the beginning of the imposition of sovereignty on the Natives in the Mackenzie valley, the authorities employed a light hand in dealing with them. When Sgt. Fitzgerald went to Herschel Island in the summer of 1903 to establish a police detachment, he was ordered to take the advice of the Hudson's Bay Company man at Fort McPherson on how to deal with the Natives at the island. He was not to meddle with Native customs; they were to be respected as long as they were "consistent with the general law".¹⁸ What this instruction meant was not made clear, but the idea evidently was that the Natives were not to be harrassed with petty regulations so long as they committed no major offences and did not challenge the authority of government representatives. In other words, the coming of Canadian sovereignty was not to interfere unduly with the Native way of life. An example of the approach taken during the early period of the imposition of sovereignty of making this idea clear without too much disruption of the status quo was Supt. Constantine's handling of the case of a Native man found in possession of home brew at Fort McPherson: "one native man . . . I arrested and sentenced to two days' imprisonment but gave him to understand that if I had not to

¹⁸ Constantine to Fitzgerald, 18 June 1903, Constantine Papers, v. 3.

go to Peel River he would get 30 days. I had to sentence him, if I did not it would have no effect on them."¹⁹

As for the disintegration of Inuit society at Herschel Island, Sgt. Fitzgerald, after two years at his post, concluded, as his superiors had already done, that the warnings of the missionaries were exaggerated, and that tales of debauchery, particularly of the sexual kind, were not accurate. It was true that Inuit women were acting as concubines for the ships' officers, but in many cases they were encouraged to act as such by their husbands, and many considered it an honour to be so chosen. The other Inuit envied them their luck. "I cannot reconcile the stories" reported Fitzgerald, "with the eager manner in which the Esquimaux greets [sic] the arrival of the ships and go on board shaking hands with everyone they meet. If the women were ill-treated and abused . . . they would surely keep away from the ships after one lesson". The Inuit did not seem to have suffered; they were "a fine, manly looking lot . . . the stories about their being diseased and demoralized by the whalers I do not think is [sic] true".²⁰

On the other hand, another police report directly contradicted this cheerful picture. Two years earlier it was reported from Fort McPherson that "the numbers [of -----

¹⁹ N.W.M.P. Report 1903, I, D, p. 49. Constantine had the power of a justice of the peace, so he was able both to arrest and to sentence petty wrongdoers--a convenient arrangement for the police.

²⁰ R.N.W.M.P. Report 1905, I, L, p. 128.

Inuit] are decreasing very fast. Last spring at McPherson out of a band of 80, whose settlement was at Herschell [sic] Island, some 70 died of measles".²¹ This discrepancy may be best explained by understanding the attitude of the police towards immorality and law-breaking on the part of Native people. Offences relating to alcohol were dealt with severely by the police, since they were obviously illegal, and seemed to be detrimental to the health and social structure of the Native communities. Furthermore, in the north, as elsewhere in Canada, it was believed that alcohol made Native people unmanageable and was the cause of public and private disorder, and the police naturally spent much of their time denying Natives access to it. The prohibition of the use of alcohol by Native people was a priority with the government and its representatives. Sobriety was a highly important means of exerting social control over Native people, which is why alcohol figures so largely in the history of government-Native relations. The official preoccupation with Native drinking which is evident in this study was a reflection of official fears rather than the reality of alcohol consumption, which was frequently exaggerated. On sexual matters, however, the police had a more ambivalent attitude. If the Inuit did not object to what was going on, why should anyone else? And the position was further compromised when the police, as did so many

²¹ N.W.M.P. Report 1903, I, D, p. 49.

other non-Natives in the north, entered into liaisons with Native women. Sgt. Fitzgerald himself eventually married an Inuit woman "after the fashion of the country".

The story of Sgt. Fitzgerald and his wife Unalina is a sad one, and shows how these liaisons turned out in all too many cases. After Fitzgerald died on the "lost patrol" in 1911, Rev. C.E. Whittaker, Anglican missionary at Herschel Island, recounted how the members of the police there had "followed the practice of the American whalemens, in that several of them supported Eskimo mistresses". Fitzgerald had "fallen heir" to a woman named Unalina, and had had a daughter by her. Fitzgerald had requested that the missionary marry the pair, and had applied to his superior officer for permission to marry, as police regulations required. Inspector Jarvis replied that "he would prefer reporting to Ottawa that Fitzgerald had blown his brains out rather than that he had married a native woman, though he did not at all protest the current relationship" [my emphasis]. It all ended in tragedy; the little girl was crippled while playing, and when Fitzgerald died, Unalina, who considered herself his wife, as she was after the custom of her people, applied to the government for a pension. Her request was refused on the grounds that there was no marriage certificate, and she disappeared from the written

records.²² Quite apart from what this dismal episode shows of the racial attitudes of officialdom at the turn of the century, it illustrates one of the by-products of the advent of non-Natives: the arrival of men who used and then abandoned Native women. The sexual part of this arrangement may have been consistent with Inuit cultural practices; the abandonment was not, although it seems that Fitzgerald did make an effort to honour his commitment, and that it was his death and the prejudices of his superiors which were really at fault.

Another effect of the new order on the Natives of the region was more subtle. After the whalers and traders had been operating in the Mackenzie-Western Arctic area for a number of years, observers sympathetic to the Dene and Inuit began to note a change in their way of life, particularly their dietary habits, which seemed to foretell ominous consequences. Natives were employed by whalers and traders, particularly to hunt for meat, but also to act as sled drivers and do other tasks. They were paid sometimes in cash, but generally in trade goods or food. Observers reported that in a surprisingly short space of time, the Dene and particularly the Inuit had developed a taste for refined white flour, refined sugar, and above all, tea, which they consumed in large quantities. Foodstuffs like

²² C.E. Whittaker, "Memoranda", 1907, Public Archives of Manitoba, Archives of the Ecclesiastic Province of Rupertsland, MG 7, A-1, Box 4003.

biscuits and bannock began to replace part of the meat in their diet, and when they could not afford to buy imported food, or if the supply ships failed to come, they complained of starvation. Of course, as in Yukon, many Natives did not become entangled in this trap, but the ones who lived near the settlements often did, and these were the ones who came to the notice of the authorities. It seems hard to believe that in only a dozen years the Herschel Inuit and the Dene of the Mackenzie Delta should have forgotten how to hunt, or lost the will to do so, yet the police confirmed this on several occasions,²³ and so, most vehemently, did the explorer Vilhjalmur Stefansson.²⁴ Stefansson, who first came to the Western Arctic in 1906, was a great propagandist of the idea that "civilized" ways did nothing but harm to Native people. He also thought that most people exaggerated the difficulties of living in the Arctic; it was, in his famous phrase, a "friendly" place,²⁵ where one could, like the Native people, live happily off the land. Thus the increasing dependence of Inuit and Dene on processed food appalled him. In 1908 he observed that the whaling industry was dying, only one ship was wintering at Herschel, and as a result the Inuit were beginning to fear starvation:

²³ S/Sgt. Fitzgerald's report, 30 November 1906, R.C.M.P. Papers, CC, v. 353, for example.

²⁴ For a biography of Stefansson, see R.J. Diubaldo, Stefansson and the Canadian Arctic (Montreal, 1978).

²⁵ V. Stefansson, The Friendly Arctic (New York, 1921).

It is true, as experience has since shown, that in the absence of whalers the Eskimos of the Mackenzie River are able to live perfectly well on the game and fish of the country; but they did not think so themselves in the summer of 1908, any more than those of us used to high living think we can get along on the simple fare of the poor . . . everyone therefore considered they were facing a critical winter. . . . The whalers had never seen Eskimo living anywhere except around the whaling ships and dependent on them; neither had the mounted police, and, consequently, it seemed to all of them that the district was facing a period of starvation.²⁶

Whether Stefansson's assertion that the Inuit would be better off if left alone was valid or not, the fact was that they had become so tied to the whaling industry in the approximately twenty years in which it was carried on, that when it failed there was real distress. By 1910 there were occasional reports of starvation from the Western Arctic. In that year the report of the Mounted Police at Herschel Island had an ominous ring:

I visited the natives on the island . . . issued some of them flour and bacon, and then tried to give them a square meal about once a week. There was 47 natives on the island and it was impossible to try and feed them from our supplies . . . but we filled their stomachs now and then . . . they had to eat a number of their seal skins . . . One family had to eat their dogs . . . It was very hard on the children, they could not go the seal skin and the seal

²⁶ V. Stefansson, My Life with the Eskimo (New York, 1913), pp. 40-41.

oil. From now on they will pull through alright [sic] and there²⁷ was [sic] no deaths from starvation.

It may be asked why the Inuit did not simply go back to the old ways; was it possible to lose the old skills within a single generation? The answer seems to be "yes", and it must be remembered, Stefansson's doctrine to the contrary notwithstanding, that Inuit did starve on occasion in the days before non-Natives brought them tea and biscuit powder, so perhaps this was not an unusual event. And again, these were not all the Inuit, just the ones who had become tied to the whaling industry.

Part of the assertion of sovereignty over a region is the administration of justice in it. What justice did the Inuit and Dene of the Western Arctic receive at the hands of the representatives of the Canadian government during this early period? The reports coming to Ottawa were generally complacent in tone; one from 1910 is typical: ". . . any complaints brought to our notice have been fully investigated. The natives have been protected on the score of morality and in regard to intoxicants".²⁸ This sounds positive, but there is some evidence that the Native population received only partial justice. As has already been indicated, the police, as the local arbiters of

²⁷ S/Sgt. Fitzgerald's report, 16 May 1909, R.C.M.P. Papers, CC, v. 372.

²⁸ Insp. G.L. Jennings' report, 16 February 1910, R.C.M.P. Papers, CC, v. 383.

justice, enforced the Territorial liquor laws in the vicinity of their posts, acting as Justices of the Peace under the Northwest Territories Amendment Act of 1905. But in cases of serious crime, the nearest court which had authority was in Edmonton, which meant that the accused and all witnesses had to make a lengthy trip, or else the case had to be ignored. An example of how this situation tended to cheat the Native people of justice occurred in 1907.

In that year a Dene woman at Fort McPherson accused a white man of raping her. Because a case of rape was beyond the competence of the police to try, the officer commanding at Fort McPherson forwarded the particulars of the case to Commissioner A. Bowen Perry in Regina, asking if he thought the evidence was strong enough to justify the expense of bringing everyone concerned south for a trial. Commissioner Perry conferred with the Comptroller in Ottawa, who asked the opinion of the Department of Justice, and after much letter-writing and delay the decision was made that the evidence was insufficient for a trial.²⁹ Possibly the complainant had no case in law, but the correspondence shows that the decision not to proceed was based as much on financial considerations as on legal ones. The affair does not speak well for the practical efficacy of sovereignty in the Western Arctic. Fortunately, cases of serious crime in the region in this early period were quite rare.

²⁹ Correspondence relating to the case is in R.C.M.P. Papers, CC, v. 336.

One question which is overdue for an answer in this account is how the Native people reacted to the imposition of Canadian sovereignty. It goes without saying that they did not openly resist it, since had they done so, the tiny force of government representatives would have found their position untenable. But whether they accepted this new order of things cheerfully, sullenly, with resignation or with indifference is not easy to answer, since few written records exist to show what the Natives of this period thought about the new situation. Luckily, however, one of the Mackenzie Delta Inuit, a man named Nuligak, who witnessed this process as a young boy, lived to write his memoirs of it.³⁰ Nuligak, born in 1895, was raised by his grandmother, and was one of a band of Inuit who maintained the old ways for many years, coming into contact with non-Natives only periodically, chiefly to trade. He was therefore not one of those few who fell foul of the southern culture at Herschel Island or Fort McPherson. Yet he was witness to many of the events involved in the early stage of the establishment of sovereignty in the Western Arctic. The tanit (white men) passed through his life, changing it in many ways, and yet there is not a word in his memoirs of bitterness towards the newcomers. Instead there are stories of friendship and co-operation with the sailors and traders.

³⁰ M. Metayer, trans., I. Nuligak (Toronto, 1966).

For example, the account of the Christmas celebrations at Herschel Island in 1904 when he was nine years old:

White men and Inuit played games together as well as hunting side by side. We played baseball and wrestled. We danced in the Eskimo fashion to the sound of many drums. Men and women sang. It was really beautiful!³¹

There is a sense of wonder and even gratitude for all the new foods and gadgets that they brought. As far as debauchery was concerned, Nuligak was, if anything, enthusiastic:

Finally we reached Herschel [this was in 1903 or 1904]. Herschel! The great big town! I felt happy at the sight of so many houses. There were drinking bouts every day. People would drink anything; the Alaskan Inuit are renowned for that.³²

Of course with only one sample it is dangerous to generalize, but since Nuligak seems to have been typical of the successful Inuit hunters of his generation, one might risk the conclusion that he derived some benefit from the new order. He was eventually able to buy a forty-foot schooner with a ten horsepower engine through the Hudson's Bay Company, so he must have been among the wealthier Inuit. The last chapter of his memoirs is entitled "Only Happy

³¹ Op. cit., p. 32. K.S. Coates, in The Northern Yukon: A History, quotes similar reminiscences from other sources.

³² Op. cit., pp. 31-33.

Memories". His memoirs show that the relations between the races had a kinder side than that of disease and cultural dislocation.

Summing up the advent of sovereignty in the Western Arctic-Mackenzie region, it can be said that it laid only a light burden on the Natives at first. The government gave them little, and expected little in return, except that they conform generally to the laws of Canada, as loosely enforced in the north. It was not until a decade later, during the first World War, and in a different region, that the government began to exert a heavier hand.



Superintendent J.D. Moodie. R.C.M.P. Photo Archives, #3910.



Inuit Special Constable "Scottie", employed by the Mounted Police at Fullerton Detachment, 1904. R.C.M.P. Photo Archives, #6321.

Chapter 6

Sovereignty and the Native People
in the Hudson Bay Region

The next part of northern Canada in which Native people were confronted by the advent of Canadian sovereignty was the west coast of Hudson Bay. This was a region where Natives and non-Natives had mingled for a very long time--since the voyage of Henry Hudson in the early seventeenth century and particularly since the chartering of the Hudson's Bay Company in 1670. Like the Mackenzie Delta, the region supported an Inuit population in the north and an Indian one in the south, and at Churchill, as at Fort McPherson, all races mingled. Here, as in the Western Arctic, the catalyst which stimulated the government to assert sovereignty over this previously ignored land was the presence of American whalers. Americans began to catch whales in Hudson Bay around 1860, wintering at Cape Fullerton on the northwestern shore of the bay.¹ There was also a Scottish whaling fleet which operated in the waters around Baffin Island, but these ships returned to home port in the winter. There were fewer American ships in Hudson Bay than at Herschel Island, and they apparently did not distribute liquor as freely as did their countrymen farther to the north. But they had been in contact with the Inuit

¹ A good short history of the industry is R.A. Stackpole, American Whaling in Hudson Bay, 1861-1919 (Mystic, Conn., 1969).

and Indians much longer than had their northern counterparts, and the Native people of the Western Hudson Bay region had thus been through a more prolonged period of cultural change. Diamond Jenness described the resulting "buckling" of Native culture:

Metal pots and pans ousted the cooking-pots of stone; garments of cotton and wool overlay and underlay the native garments of fur . . . the Eskimo hunters threw away their self-made bows and arrows to equip themselves with firearms, abandoned their hunting kayaks and their umiaks . . . and adopted the clinker-built whaleboats that the ships' captains left behind.²

The government, alarmed by the presence of foreigners who were hunting whales and trading freely with the Native people in what Canada considered to be her inland waters, decided in 1903 to send a force of Mounted Police to the Bay, to establish a detachment or two, and generally show the flag. This expedition was planned as part of one of the periodic government voyages to the Eastern Arctic which had begun in 1884,³ and which had served as demonstrations of Canadian sovereignty over the islands of that part of the north.

The police contingent was headed by Superintendent J.D. Moodie, and comprised a non-commissioned officer and four

² Jenness, op. cit., pp. 11-12.

³ For an account of the 1903 expedition, see A.P. Low, Cruise of the Neptune (Ottawa, 1906).

constables. Their orders were to protect the Natives, show the flag, but to avoid giving offence to the Americans. "It is not the wish of the Government" Moodie's instructions read, "that any harsh or hurried enforcement of the laws of Canada be made . . ." Instead, he was to "impress upon the captains of whaling and trading vessels, and the natives, the fact that after reasonable notice and warning the laws will be enforced as in other parts of Canada".⁴ As was the case at Herschel, the authorities adopted a cautious approach. The tentative nature of the government's attitude is shown by a reply Moodie received in 1904 to his letter asking the Department of Marine and Fisheries what, if anything, they wanted done about the Americans whaling in Hudson Bay. The Deputy Minister advised him that the government had not set a policy, and asked him to "use your own judgement . . . it is not the wish of the Government that hurried or harsh measures with reference to the laws should be made".⁵ The uncertainty of the situation is further demonstrated in a letter in which Moodie outlined a policy of applying the laws differently to Natives and non-Natives: "In the case of offences by natives I would take chances and try them--as I have done before in the N.W.T.--but where a whiteman was concerned I would not take

⁴ Unsigned memo, 5 August 1903, R.C.M.P. Papers, CC, v. 293.

⁵ F. Gourdeau to Moodie, 18 September 1904, R.C.M.P. Papers, CC, v. 293.

chances of an action for false imprisonment or whatever the penalty might be".⁶

In investigating the condition of the Inuit of the Cape Fullerton region, Moodie did not find a great deal of debauchery or physical deterioration. He did, however, express great alarm at what he perceived to be the way in which the Inuit were being cheated in trade. The idea that the Inuit were being robbed by the traders was quite common among the police, probably because of their approving and rather sentimental view of them. Moodie observed on one occasion that the traders were giving a hundred primers for Winchester rifles in exchange for one musk-ox skin. The primers cost ten cents a hundred in New York, while the robe sold for fifty dollars. "Everything owned by the traders is valued at twenty times its price" he wrote, "and everything owned by the native is cut down in value a hundredfold".⁷ But this criticism rested on the paternalistic belief that the Inuit had no commercial sense, which as the police themselves noted many times, was manifestly not the case. The Inuit had a surplus of skins, and the rifles and ammunition were of great economic value to them. If they were willing to trade, why should anyone object? It was difficult to set a value on a musk-ox skin at Cape Fullerton, whatever its worth was in New York. More to the point was Moodie's

⁶ Moodie to Comptroller F. White, 10 September 1904, ibid.

⁷ R.N.W.M.P. Report 1904, IV, p. 113.

observation that the Inuit, with the encouragement of the traders, were killing every musk-ox they could find, to the point where he felt they were in danger of extermination in the area. He believed that he could not ban hunting them, since they were an important source of food. He thus improvised and laid down his own law, telling the traders that the export of musk-ox skins was henceforth prohibited.⁸ Moodie felt that if the musk-oxen were exterminated, as seemed likely, the Inuit would have nothing to offer the traders, and would be reduced to begging. When the whaling industry disappeared the traders would abandon them--a process which happened in the Barren Lands after World War II and was graphically described by Farley Mowat.⁹

The paternalistic desire to protect and aid the Inuit sometimes had unfortunate, or at least debatable results. Superintendent Moodie evidently belonged to the school of thought which believed the igloo to be a cold and drafty place and pitied the race which had to live in one. In 1907

⁸ Ibid. Under the Northwest Game Act of 1894 Musk-oxen could not be killed between March 20th and October 15th, but there was no other restriction on hunting them. They were not completely protected until 1917. Arthur Ray points out that in the nineteenth century the Hudson's Bay Company adopted much the same sort of conservation program in areas where fur-bearing animals were in danger of being over-hunted. See A. Ray, "Some Conservation Schemes of the Hudson's Bay Company, 1821-1850: An Examination of the Problems of Resource Management in the Fur Trade", Journal of Historical Geography, vol. 1, no. 1 (1975).

⁹ In The Desperate People (Toronto, 1959) and The People of the Deer (Boston, 1951).

he reported with pride that he had provided a house for an Inuit employed at Cape Fullerton by the police:

Scottie . . . has a small shack made of rough boards and tarpaper, and with a stove in it. I can assure you he appreciates thoroughly the warmth and comfort of such a place, humble as it is. It is my intention to erect similar shacks at each post for all employed natives. Realizing the comfort of such will do more to civilize these people than all the preaching in the world¹⁰ unaccompanied by care of the body also.

Although obviously well-meaning, this was just the sort of action which altered Inuit culture. The shack was hard to heat, unsanitary (because unlike the igloo it was permanent), and bred tuberculosis, the curse of the Inuit. Doubtless this action was perceived as advantageous to Natives as a first step in their "civilization", but its wisdom has been hotly debated. Stefansson abhorred the practice, seeing in it disease and cultural dissolution, while Farley Mowat wrote that it was inevitable if the Inuit were to survive.¹¹

In 1905 a second police detachment was opened at Churchill, and in the same year a patrol was made from Fullerton up Chesterfield Inlet to let the Inuit of Baker Lake know of the presence of the government representatives. Churchill became the headquarters of official activity in -----

¹⁰ Supt. Moodie's report, 30 December 1905, R.N.W.M.P. Report 1905, IV, p. 14.

¹¹ In The Desperate People, pp. 290-292.

the region. It was the community where both Indians and Inuit lived, so the police could deal with both races in one location. It also had a Hudson's Bay Company store, which made it less desolate than Fullerton, which had only the whaling ships. In 1911 a detachment was opened at York Factory, but in 1913 it was moved to Port Nelson, when that place was designated the terminus of the Hudson Bay Railway. Port Nelson, with hundreds of men working on the harbour facilities (until the project was shut down during World War I), was a special case--an urban setting in the north.¹² Churchill and Fullerton remained isolated until the 1920s.

The reports which came out of these settlements concerning the Native people give the impression of the representatives of the Canadian government emphasizing Canadian sovereignty by exercising a benevolent control over them--protecting them from the rapacious traders and from liquor, explaining the new laws to them, gently guiding them towards the new ways. Yet some aspects of the relationship emerge to alter this picture. For instance, in 1909, after six years at Cape Fullerton, the Mounted Police had never had an interpreter who could speak Inuktitut. The corporal in charge of the detachment remarked that "if such a man was stationed here I think it would be a very short time until -----"

¹² Construction was stopped in 1917. When it began again in 1927 the government had changed its mind and moved the terminus to Churchill. All the harbour facilities at Port Nelson were abandoned. See A.M. Pratt and J.H. Archer, The Hudson's Bay Route (Governments of Saskatchewan and Manitoba, 1953).

the police would be looked upon as the chief authority . . . at present the whalers can do about as they please, and . . . the police have very little to say about it".¹³ At Churchill, in the same year, it was reported that "We are still without a Chipewyan interpreter, which makes intercourse with the Indians difficult".¹⁴ Having to depend on English-speaking Native people and their own meagre command of Native languages reduced the effectiveness of the police as agents of sovereignty, and also their ability to help the Native people. Certainly it must have impaired the Native people's understanding of the role of the police. In 1910, during a patrol from Cape Fullerton to Wager Inlet, Cpl. Joyce heard a rumour that an Inuit had deserted his wife in the middle of the winter. Because he had no interpreter, and none of the Inuit he met had more than a few words of English, he could not get a clear account of the matter: [H]ad I been able to procure a competent interpreter for the trip" he wrote, "I feel confident that the patrol would have resulted in the arrest and conviction [of the culprit]".¹⁵ He went on to complain that the Native people "have a very poor idea of the reason that the police are stationed here . . . some of the American whalers . . . -----"

¹³ Cpl. M.A. Joyce's report, 1 July 1909, R.C.M.P. Papers, CC, v. 365.

¹⁴ Supt. Moodie's report, 31 October 1909, R.N.W.M.P. Report 1910, III, A, p. 7.

¹⁵ Cpl. Joyce's report, 9 July 1910, R.C.M.P. Papers, CC, v. 385.

have done considerable to confuse the natives in that respect".¹⁶ One wonders how he expected to enlighten them without knowledge of their language.

An interesting picture of the early relations between the representatives of the government and the Indians of the Hudson Bay region is provided by the records of a patrol made from Norway House to Churchill in the winter of 1907 by Inspector E.A. Pelletier of the R.N.W.M.P. In the course of the trip he made speeches to the Indian bands he met, and the patronizing tone of these speeches reveals much of the official attitude towards the Native people of that era--in 1907 it was still that of the "Great White Father". At Cross Lake Pelletier (who presumably did have an interpreter) addressed a group of what he called "good Indians":

I want to tell you something about us. We, the Police, have just come into this territory. We have not come here to trade, we are wealthy; we have come here to look after everything, to see that everybody behaves well. We have always been the great friend of the good Indians. We are just the same to white men; we punish bad Indians and bad white men just the same . . . Whenever you and your councillors have trouble with your people, come to us and explain matters; have confidence in us for we are here for your good. Whenever white traders ill use you or steal from you come to us without fear and tell us . . .

16 Ibid.

In the same area was another band which was not so well-behaved, having gained a reputation for being "immoral, lying, unscrupulous and thieving". Pelletier chastised this group:

I am very sad to hear these reports. We were under the impression that the Indians in this country were good Indians, obedient to the Chief and councillors, but now we see this is not so. If this keeps going on amongst your tribe we will be compelled to build a jail at Norway House and will get after the bad Indians. I want you to go round your people and tell them that we have had nearly enough of their bad behaviour, that we are keeping track of all those that do wrong . . . It is for them to behave themselves well so that we may be inclined to forgive them, their bad conduct up to the present.¹⁷

Unfortunately the reactions of the recipients of these pompous lectures were not recorded. Today they would probably elicit laughter, but in context they are quite revealing of the contemporary official attitude towards Native people.

As was the case in the Western Arctic, it is difficult to discover what the reaction of the Native people in the Hudson Bay region was to the advent of Canadian sovereignty as personified by the Mounted Police. What little evidence exists suggests that the Native people, particularly the Indians, resented and perhaps feared the police. For

¹⁷ Insp. E.A. Pelletier's report, 22 March 1907, R.C.M.P. Papers, CC, v. 337.

instance, in 1915 the Chief of the Indians at York Factory, complaining that their treaty promised them an annual visit by a doctor, and they had not seen one for two years, added "I and my councillors . . . would like to have a visit of an Inspector of Indian Affairs . . . the present Indian agent, the commanding officer of the R.N.W.M. Police, takes no interest in us, and we feel very much as if we were not wanted".¹⁸ Perhaps even more revealing of the attitude of the Indians is the fact that at Churchill in 1911, it was reported that the Indians had coined their own nickname for the police. It was, in their own language, "the prisoners".¹⁹ This is not a bad translation of the word "police" in so far as it expresses one part of their duties, but it is significant that the Indians did not call them protectors, or lawgivers. It likely also has something to do with the fact that the government had sent up to Churchill a steel cell which looked like a monkey cage in a zoo, for use as a lock-up. Indeed, the whole subject of relations between police and the Native people is germane to this study, and will be discussed later at greater length.

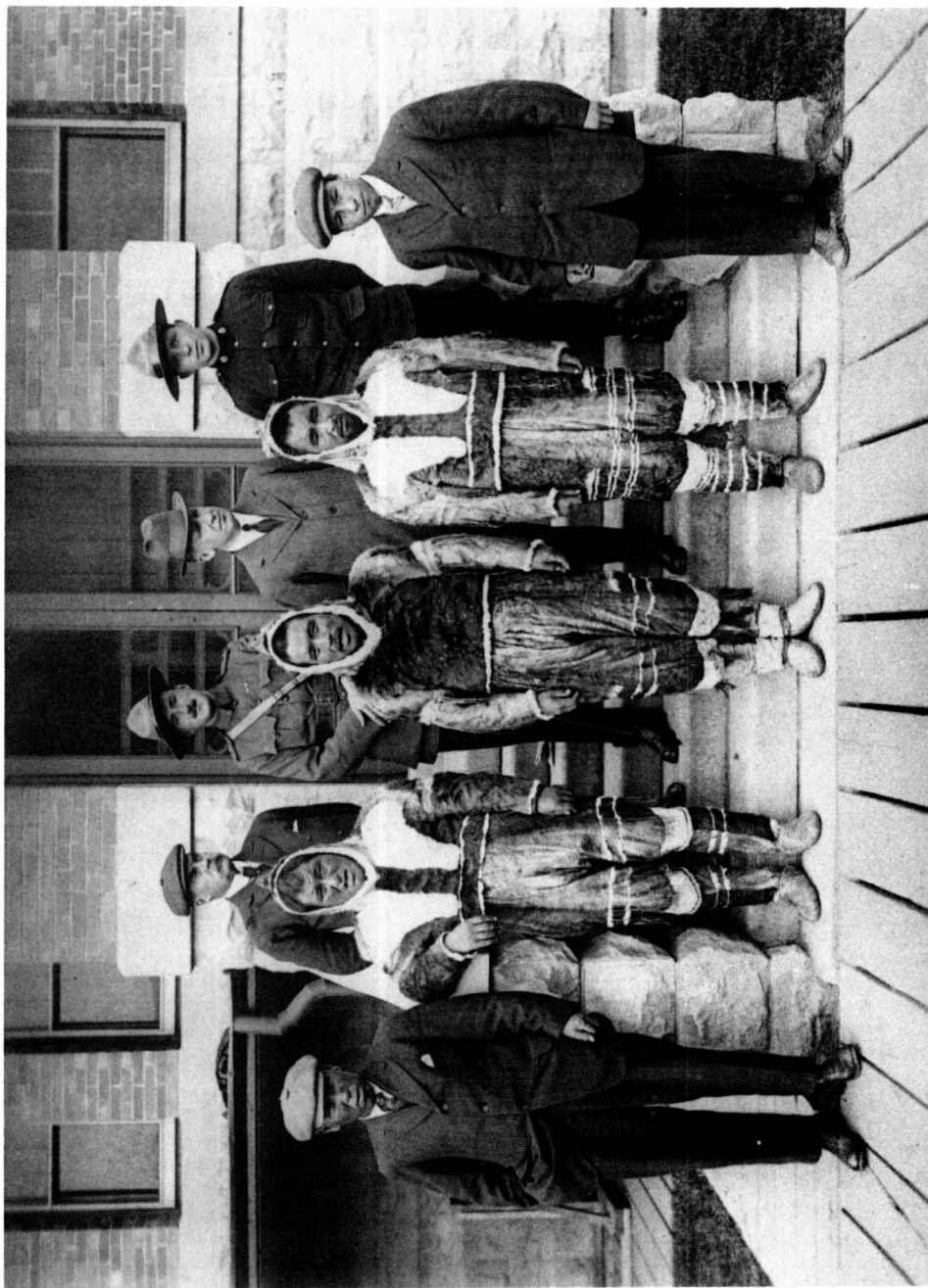
In some ways the effect of government upon the Native people of this part of Hudson Bay continued for many years to be largely symbolic. The police detachment at Fullerton

¹⁸ Chief Charles Dastercoot to the Deputy Minister of Indian Affairs, 29 December 1915, R.C.M.P. Papers, Commissioner's Files, RG 18, B-2, v. 58.

¹⁹ Supt. C. Starnes' report, 4 December 1911, R.C.M.P. Papers, CC, v. 402.

continued its lonely existence, even after the last whaler left for good on the outbreak of World War I, as the only official presence in an area of hundreds of thousands of square kilometres. Its continued existence was justified on the grounds that it "protected" the Native people, exerting a "beneficial influence" on them by discouraging "evil customs" such as infanticide among them; it was also the "only point in the vast area tributary to the northern part of Hudson Bay where there is an established authority".²⁰ But its influence was not great; in this period the main activity in this regard lay elsewhere.

²⁰ Commissioner A.B. Perry, in R.N.W.M.P. Report 1918, p. 15.



The Trial of Sinnisiak and Uluksuk. Back row, left to right, C.C. McCaul, defence lawyer; Insp. C.D. LaNauze; J.E. Walbridge, K.C.; Cst. J.E.F. Wight. Front row, left to right, Special Cst. Ilavinik; prisoners Uluksuk and Sinnisiak; witnesses Koela and Pat Klengenber. R.C.M.P. Photo Archives, #302-1.

Chapter 7

Sovereignty and the Central Arctic Inuit

When during the first World War the representatives of Canadian sovereignty first arrived in the Central Arctic, they encountered, in many instances, people who had never seen a non-Native. Here, in a huge territory roughly centered around the Coppermine River-Coronation Gulf-Bathurst Island region, lived bands of Inuit who were completely unknown to the government of Canada. Some had met Europeans; in 1910 there may well have been Inuit alive who as children had seen Sir John Franklin, or witnessed his fate. But as late as 1915 members of the Canadian Arctic Expedition and other expeditions were meeting Inuit who had never before met a Caucasian.¹ Thus there were Inuit whose first contacts with non-Natives were not with traders or missionaries, but with the Mounted Police as agents of the Canadian government. Moreover, in several instances these contacts were not in the form of routine civil or administrative dealings, but in the course of the investigation into three widely-publicized and rather sensational murder cases.

If one proof of sovereignty is the effective administration of territory, then it must be admitted that the administration of the law in a criminal case, particularly a

¹ See Diamond Jenness, The Life of the Copper Eskimos [Part A of vol. XII of the Report of the Canadian Arctic Expedition, originally published in 1922] (New York, 1970) for a contemporary description of these people.

case of murder, is a most dramatic manifestation of sovereignty in action. Moreover, since the accused in these cases were Inuit, the cases show the manner in which Canadian law was introduced into this Central Arctic region. It shows one aspect of the official attitude towards the Inuit--how the Inuit were to be brought to the realization of what sovereignty and the law meant to them. It also shows the reaction of the Inuit to the new way of things.

The first affair, known as the Radford and Street case, involved an American explorer named H.V. Radford and his Canadian companion, Geroge Street. Radford had considerable experience in the Canadian north, and Street was a young and inexperienced man from Ottawa. In July of 1912, while on an expedition to the Arctic coast, they were murdered by members of the Killinimuit group of Inuit near the southern end of Bathurst Inlet. Apparently Radford, who had a reputation for bad temper, had threatened and then struck an Inuit who was acting as a guide and sled driver for the expedition. This was an incredibly foolish thing for anyone who knew anything at all about the Inuit to do. It was well known that Inuit who maintained their old ways, in which the communal virtue of even temper was prized, and bad temper was a serious threat to the group, believed that if a man spoke harshly to you he had it in his mind to kill you. It was thus only sensible, and quite proper, to defend yourself by killing him first.

News of this affair took about a year to reach southern Canada, and there was mixed opinion as to the course of action to be taken. Some felt the Inuit should be punished, otherwise "no man's life will be safe hereafter in the far northern Frontier".² Others felt that "Men who go into such a country like that must take chances of such a fate, and can hardly look for governmental protection",³ a position which downplayed the importance of sovereignty. The administration of Sir Robert Borden decided to send the R.N.W.M.P. to investigate the affair, but not with a punitive intent. The government ordered the police to find out who was responsible for the killings, to "establish friendly relations with the tribe, secure their confidence, and carefully inquire into all the circumstances".⁴ It took the Mounted Police four years to accomplish this objective, for they began by establishing a camp on Baker Lake in 1914-1915, and then an advance camp on the Thelon River. It was not until the winter of 1917-1918 that the killers were finally found. In the course of this affair the police encountered a good number of Inuit who had never met non-Natives before; this happened on several occasions as late

² Edmonton Bulletin, 15 December 1913.

³ Edmonton Journal, 15 December 1913.

⁴ Commissioner Perry, in R.N.W.M.P. Report 1914, p. 23.

as 1918 in the vicinity of Kent Peninsula and Bathurst Inlet.⁵

Once the police had located and questioned the men who had done the killing, they came to the conclusion that the original explanation of the affair was correct--that Radford had precipitated the murders by his foolish treatment of the Inuit. Sir Robert Borden had already asked the advice of Sir Wilfrid Laurier, and advised the police that Laurier

considers the Eskimos a very peaceable race, and thinks that . . . no jury would convict them. He thinks the way you suggest--to quietly bring these people under the influence of the law--is the only course to be followed.⁶

Because of the complete candour of the Inuit, the police had no doubt that their version of events was correct, so other than lecturing them on Canadian law (which they did with every Inuit they encountered) and telling them that the government would not forgive their ignorance of Canadian law a second time, they took no further action. It was, all things considered, a sensible disposition of the case, and one which showed commendable sensitivity to Inuit culture.

The second case was similar, but it had a different and more significant outcome. It concerned the murders of two Oblate missionary priests, Fathers Jean-Baptiste Rouvière

⁵ Insp. F.H. French's report, 27 March 1918, R.C.M.P. Papers, CC, v. 557.

⁶ Borden to Comptroller Lawrence Fortescue of the R.N.W.M.P., 5 May 1914, ibid.

and Guillaume Le Roux, who, working out of a cabin at the east end of Great Bear Lake, began in 1911 to travel and work among the Coppermine Inuit. Late in 1913 they were murdered, near Bloody Falls on the Coppermine River, for essentially the same reason as the two explorers: Father Le Roux had become impatient with the slow progress of a sled journey and had threatened and then assaulted their Inuit guides. This case caused a much greater stir to the south, perhaps because it was the second one, perhaps because the victims were priests and there were sensational details involved, or most likely because the murderers were brought south to Alberta for trial.

Again the police were ordered to investigate, again they found the men responsible--two men named Sinnisiak and Uluksuk--and again the Inuit were uniformly co-operative and candid. Sinnisiak in his confession to the police who arrested him told what had happened--a tragic case of cultural misunderstanding:

Ilogoak [Le Roux] was carrying a rifle. He was mad with us . . . and I could not understand his talk. I asked Ilogoak if he was going to kill me and he nodded his head . . . he pushed me again and wanted me to put on the harness . . . I was scared and started to pull. . . . Uluksuk and I started to talk and Ilogoak put his hand on my mouth. Ilogoak was very mad and was pushing me. I was thinking hard and crying and very scared and the frost was in my boots and I was cold. . . . I got hot inside my body and every time Ilogoak pulled out the rifle I was very much afraid. . . .

he looked away from me and I stabbed him
in the back with a knife.⁷

Another aspect of the case which caused public comment was
the ritual cannibalism which followed the murders:

After they were dead I said to Uluksuk,
before when white men were killed, they
used to cut some off and eat some.
Uluksuk cut up Ilogoak's belly; I turned
around. Uluksuk gave me a little piece
of the liver. I eat it, Uluksuk eat it
too.⁸

This time the government decided to prosecute the two men.
This decision was due in part to the feeling that the Inuit
had ignored the government's warning in the previous case
(though the chronology of events made it impossible for them
to have learned a lesson from it), but more because the
priests' superior, Bishop Gabriel Breynat, did not believe
the story that the fathers had provoked the attack. It was
also in part an indication that Canadian sovereignty had
arrived in the Central Arctic, that the government was
prepared to spend substantial sums to see that the law was
enforced there. As one student of this affair put it, it
was to be made "unmistakably clear that the land was no
longer theirs [the Inuit's] alone, that . . . it had passed
out of their hands and into the hands of a succession of
'Great White Fathers'. Now, white man's law, not the

⁷ R.N.W.M.P. Report 1916, O, p. 219.

⁸ Ibid.

traditional justice of the Inuit, would prevail".⁹ The trial of Sinnisiak and Uluksuk was not only to see justice done but to see justice taught.¹⁰ As the lawyer prosecuting the case said during the trial, it was in part an object-lesson for the Inuit:

These remote savages, really cannibals, the Eskimo of the Arctic have got to be taught to recognize the authority of the British Crown . . . It is necessary that they should understand that they are under the law . . . that they must regulate their lives and dealings with their fellow men, of whatever race . . . according to . . . the main outstanding principles of that law, which is part of the law of civilization . . .¹¹

It was felt that this object could be served without severely punishing the guilty men. Thus instead of a death sentence the judge read Sinnisiak and Uluksuk a lecture, telling them that the "Big Chief far away" had decided that "because they did not know our ways . . . he will not have them put to death [but] . . . if they kill any person again then they have to suffer the penalty".¹² The two Inuit were sentenced to life imprisonment, the sentence to be served at the police detachment at Fort Resolution. It should be noted in passing that elements of cultural confusion persis-

⁹ R.G. Moyles, British Law and Arctic Men (Saskatoon, 1979), p. 8.

¹⁰ Ibid.

¹¹ Quoted in ibid., p. 9.

¹² Quoted in ibid., p. 81.

ted in the trial. The reference to the "Big Chief far away" was obviously a metaphor associated with the Indians of the prairies, and was quite inappropriate when applied to Inuit.

But the real irony of the case came in its aftermath. Sinnisiak and Uluksuk were taken to Fort Resolution where they spent two years, supposedly in detention, but for practical purposes at liberty. They were forbidden to leave the post, but there was no place to confine them. They were apparently likable men, and the police began to employ them as sled drivers, notably on the 1919 expedition to set up a detachment at Tree River, 100 kilometres east of the Coppermine. After two years they were freed, and in 1922 they returned to their people, supposedly having learned their lesson. The Commissioner of the Police hoped that they would "no doubt have a salutary influence on their tribe as they will be able to inform them of the power and justice of the government".¹³ Unfortunately, the lesson learned was that crime paid, for while in the custody of the police the two men had learned some English, and had acquired enough cast-off goods and supplies in lieu of wages to make them important men among their people. It was reported by a member of the police that "they came back with rifles, ammunition, trunks full of white man's clothing, and enough pale-faced cussedness to high-hat the rest of the tribe. Now they're big men among the natives, and some of

¹³ R.C.M.P. Report 1919, p. 15.

the others think all they've got to do to have a good time is to stick a knife into someone".¹⁴ Uluksuk had become a braggart and a bully, boasting of his deeds. Within two years he had been shot by a man he had been abusing.¹⁵

The third and final case concerned Alikomiak and Tatimagana, two Inuit from the same general area as the men involved in the other cases, who were tried for murder at Herschel Island in the summer of 1923. The two men had killed four Inuit at Coronation Gulf in August 1921 in a dispute over women, and Alikomiak, while under arrest at Tree River in April 1922, had shot and killed Cpl. W.A. Doak of the R.C.M.P. and Otto Binder of the Hudson's Bay Company. This time the government was not in a forgiving mood. A government representative had been killed, an event which struck at the whole structure of Canadian sovereignty in the Central Arctic, and the police naturally reacted strongly to the murder of a member of the force. A trial was scheduled for Herschel Island. The northern location was designed to impress the gravity of the offence and its subsequent punishment on the Native people. The attitude of the government was set on conviction and execution even before the trial began. The lawyer appointed to defend the two Inuit suggested even before he met his clients that "as

¹⁴ Nora and William Kelly, The Royal Canadian Mounted Police: a Century of History (Edmonton, 1973), p. 164.

¹⁵ Sinnisiak died about six years later, by what means is not known.

kindness had failed in the past I strongly recommend that the law should take its course and those Eskimos found guilty of murder should be hanged in a place where the natives will see and recognize the outcome of taking another's life".¹⁶ The Commissioner of the R.C.M.P. agreed, writing to the Department of the Interior that "Kind and generous treatment of the Natives who have committed murders in the past has apparently had the opposite effect to that intended, and I am afraid there is a danger of the Natives concluding that crime is a thing to be rewarded by the White man".¹⁷ If true, this was partly the fault of the authorities. So the two men were convicted, and after a debate in the press as to whether their lives should be spared, they were hanged at Herschel Island on February 1st, 1924. The Toronto Star had an interesting comment:

It is up to the parliament of Canada to see whether the "foreign" policy of the government in regard to these people is coherent and reasonable, whether there is any thought-out policy, or merely a "mandate" to the police¹⁸ to run things the best they know how.

¹⁶ T.L. Cory (solicitor for the Northwest Territories Office and son of the Deputy Minister of the Department of the Interior) to O.S. Finnie (Director, Northwest Territories Branch of the Department of the Interior), 12 September 1922, Department of the Interior, Northern Administration Branch Papers, PAC, RG 85, v. 607, f. 2580.

¹⁷ Cortlandt Starnes to O.S. Finnie, 14 August 1922, ibid.

¹⁸ Toronto Star, 6 November 1923.

It was true that the government had no "Native policy" in regard to the Inuit, but it did have the overall desire to see the writ of government run to the Arctic Ocean and beyond. That was the whole point of the trial and execution. As Hugh Brody pointed out in his perceptive study of Inuit relations with government, the police "represented the fact that one nation was determined to include the vast Arctic hinterland, not only within its geographical frontiers, but within its moral and legal boundaries as well".¹⁹ This was the harsher aspect of sovereignty.

A question which arises from these episodes of crime and punishment is why the Inuit accepted Canadian law so readily, apparently without complaint. With the exception of Alikomiak, none of the people involved in these cases resisted the police or was less than fully co-operative. Part of the answer lies in the difference between Canadian law and the aboriginal system of Inuit law, which was based on individual force, since there was no council of elders to dispense justice. Diamond Jenness reported that among the Inuit of the Coppermine region, "no man will commit a crime, save in the heat of passion, unless he believes that he can make good his escape until the affair blows over, or else that his kinsmen will support him against any attempt at

¹⁹ Hugh Brody, The People's Land: Eskimos and Whites in the Eastern Arctic (Harmondsworth, U.K., 1975), p. 29.

revenge".²⁰ Thus disputes were either ignored or settled quickly. Before the arrival of trade goods there was little theft, since there was so little privacy that all of a person's possessions were known to everyone, and there was little incentive to steal, since all material goods could be easily fabricated. Murder and blood feuds were frequent, however, and Jenness believed that "nothing but external influence" could prevent them. He approved of the role played by the police in the context.

An example of the clash between Inuit custom and Canadian law occurred at Herschel Island in 1909. An Inuit man and his wife had died from eating bad whale meat. The couple's most valuable possession, a whaleboat, was claimed by the woman's father, as was apparently the custom. But when a quarrel arose over the boat, the police were asked to adjudicate. The officer

explained the law to them and gave the whaleboat to Varwuk [the man's father], Ilyaki [the woman's father], though not liking to give the boat up in the presence of all his people, did so at once, and the Esquimaux were all pleased at the outcome. These people have implicit faith in the Mounted Police . . . they are very anxious to live according to the law of the white man.²¹

²⁰ D. Jenness, The Life of the Copper Eskimos (New York, 1970), p. 96.

²¹ Insp. G.L. Jennings' report, 1 August 1909, R.C.M.P. Papers, CC, v. 383.

A second revealing example is one of the instances, infrequent in the early days, when Inuit stole from non-Natives. In the summer of 1916 a family of Copper Inuit stole two cases of pemmican from the Canadian Arctic Expedition at Bernard Harbour. A police corporal visiting the expedition pursued the Inuit, caught up with them and demanded that the thief, a man named Nanneroak, make restitution. Nanneroak offered a seal pup, but the corporal took two boxes of cartridges, his most valuable possession. Nanneroak protested, but acquiesced in this irregular method of enforcing the law.²²

Diamond Jenness, who witnessed this episode, observed that the Inuit accepted the authority of the police in this case because "neither Nanneroak nor his kinsmen had the courage to resist, though they outnumbered the sled party four times over". This, he suggested, showed that the Copper Inuit "follows the multitude in thought and action". Any individualist among them was bound to become a person of note and influence. "The easy merging of one man's will in another's makes for the 'tolerance' of Inuit society . . . It partly accounts, too, for the ease with which these natives are dominated by Europeans, their pliant natures yielding readily to the aggressiveness of the outsiders".²³

²² Cpl. W.V. Bruce's report, 23 June 1916, R.C.M.P. Papers, Commissioner's Files, v. 58.

²³ D. Jenness, op cit., p. 232.

Thus the representatives of the government, who possessed a self-assurance which must have seemed awesome to the Inuit, naturally exerted tremendous influence over them, though Jenness noted that Inuit who had suffered "the contamination of foreign influence" were "more forward and assuming".²⁴ And in matters such as the dispute over the whaleboat it must have been a relief to the Inuit to have the matter settled, however against their customs, in a manner which excluded the possibility of a blood feud.

²⁴ Ibid., p. 233.



Inuit prisoners Uluksuk (left) and Sinnisiak, shortly after their arrest. R.C.M.P. Photo Archives, #4566-3.

Chapter 8

Sovereignty and the Inuit in the
Eastern Arctic

The last Native people in Canada to come under the influence of Canadian sovereignty were the Eastern Arctic Inuit. They, like the other Native people in northern Canada, had been ignored for decades as Canada proceeded with development of the southern part of the Dominion. True, beginning in the 1880s there had been periodic voyages to the Eastern Arctic, in which cairns were built and flags unfurled, but there were no resident government representatives there and no administrative activity--only the Native people, missionaries and traders going about their business as if the government of Canada did not exist. As one student of the sovereignty question put it

Canada was content to permit the residual Northwest Territories to remain a deserted and forgotten national attic. The government might be striving to extend that attic to the North Pole, but it had no intention of furnishing it with meaningful government if the expense could be avoided.¹

In other words, the assertion of sovereignty was of the symbolic rather than the practical variety. A.P. Low, for example, had reached Ellesmere Island in 1904, and in 1909 Captain J.E. Bernier had landed on Melville Island and

¹ J.A. Bovey, "The Attitudes and Policies of the Federal Government towards Canada's Northern Territories, 1870-1930", unpublished M.A. thesis, University of British Columbia, 1967, p. iv.

claimed the entire Arctic archipelago for Canada.² This was an era of heady nationalism. Sir Wilfrid Laurier had just asserted that the twentieth century was to be the century of Canada, and some Canadians were urging upon the government the "sector theory", which would have claimed the wedge-shaped area extending to the Pole which still appears on some maps today, though the government never officially endorsed it. Yet however assertive the nationalism might be, the government drew the line at spending money on the north, and so the Eastern Arctic, like the Western Arctic, did not come within the ambit of official administration until there was a threat to Canada's title from a foreign power. As Vilhjalmur Stefansson remarked, interest was then kindled in Ottawa, "for it is human nature to want whatever someone else wants. The Government actually began to spend money".³

The catalyst to Canadian interest in the Eastern Arctic was mentioned in chapter 4. It was the activities of Inuit hunters from Thule on the northwestern coast of Greenland travelling across Smith Sound to hunt musk-oxen on central Ellesmere Island. Ellesmere Island, in 1920 when the crisis blew up, was entirely outside the sphere of Canadian control, even though Canada claimed it. In 1895, by Order

² See Y. Dorion-Robitaille, Le capitaine J.-E. Bernier et la souveraineté du Canada dans l'Arctique (Ottawa, 1978) for a good description of the career of this remarkable man.

³ V. Stefansson, The Adventure of Wrangel Island (New York, 1925), p. 71.

in Council, Canada had reinforced the British transfer of 1880 by claiming the Arctic archipelago as far north as 83 1/4 degrees north latitude.⁴ But it was uninhabited land, for there had been no Inuit population there in historical times; the nearest human population were Greenland Inuit. In 1910 a trading post was established at Thule by Knud Rasmussen, an explorer and ethnographer, who acted as an adviser to the local Inuit and as unofficial representative of the Danish government, which did not proclaim its sovereignty over the region until 1921.⁵

It has already been recounted how Rasmussen described Ellesmere Island as no man's land, and how the Danish government endorsed this opinion. The Canadian government, though it publicly asserted that there was no question as to its sovereignty in the region, was privately worried. A confidential memorandum prepared for the Department of the Interior admitted that Canada's claim was not unassailable:

The situation as to sovereignty in the northern islands, therefore, appears to be that Britain has had an inchoate title which now probably through the lapse of time may be considered to have terminated; that the Low and Bernier expeditions may have established a "fictitious" title which also has probably lapsed; and therefore, that apparently Denmark or any other country is in a position to acquire sovereignty

⁴ Statutes of Canada 1896, pp. xlvii-xlix.

⁵ P.D. Baird, The Polar World (London, 1964), p. 174.

by establishing an effective occupation
and administration.⁶

The government decided that Canada had to assert its authority in the Eastern Arctic, both because the land might be worth something (Yukon was not forgotten), and for what were called "sentimental" reasons: "Ellesmere and other northern islands have always been regarded in Canada as Canadian, and there doubtless would be a strong sentiment against their being taken possession of by any other flag".⁷ It was suggested that one way to establish sovereignty was to move some Inuit from Cape Fullerton, where whaling had ended and food supplies were failing, to Ellesmere Island--an early example of what might be called the "theme of the portable Inuit" in northern Canadian affairs. Once at Ellesmere, the Inuit could be protected by the R.C.M.P., and thus sovereignty would be assured. For good measure, police detachments could be established in those parts of the Eastern Arctic already inhabited by Inuit, particularly northern Baffin Island.

The alarm felt by the government is shown by the bizarre nature of the suggestions made to forestall the Danes (this was before they abandoned their claims). In the winter of 1920-21, for example, it was suggested that in the

⁶ Memo, n.a., n.d., J.B. Harkin Papers, PAC, MG 30, C-63, v. 1. Harkin was the Commissioner of Dominion Parks in the Department of the Interior, and was the civil servant primarily concerned with Arctic sovereignty in this period.

⁷ Memo, n.a., n.d. (probably October 1920), "Title to Northern Islands", ibid.

event of a sudden move by Denmark, a police detachment could be landed on Ellesmere Island by a dirigible sent from the Imperial Air Station in Scotland.⁸ Government officials trembled to think what the public reaction would be if the Eastern Arctic were to be lost:

One has but to recall the outburst of public indignation and protest in Canada at the decision of the Alaskan arbitration [of 1903] to realize what public opinion would be if any neglect on the Government's part resulted in the loss of an area thousands of times larger and more important than was involved in the Alaskan case.

Eventually in the summer of 1922, an expedition was sent north, and two police detachments were established, one at Pond Inlet, which was central to the North Baffin Island Inuit, and one at Craig Harbour, on the extreme south-east corner of Ellesmere Island, where nobody lived, and perhaps no one ever had. Pond Inlet was not set up to forestall rival claims, since there was no dispute over Canada's title to Baffin Island. But by this time it was accepted by the government that sovereignty had to be more than a merely passive claim--some evidence of administrative activity had to be present. And Baffin Island seemed to be in need of

⁸ Memo to the Advisory Technical Board (the committee which was overseeing the question of Arctic sovereignty), n.d., ibid.

⁹ Harkin to W.W. Cory, Deputy Minister of the Department of the Interior, 26 May 1921, ibid.

supervision, for there had been murders there, particularly of a Newfoundland trader named Robert Janes.

The Janes case was similar to the others mentioned earlier. He had come to the Pond Inlet region in 1916, had met little success as a trader, had grown lonely and morose, or "bushed" as the northerners would say. In 1920, during an attempt to reach the "outside" by way of Chesterfield Inlet, he had been shot by some Inuit who had become alarmed by his threatening attitude. The case was investigated in 1921, and in 1923 a judicial party came to Pond Inlet. One man was acquitted, one was sent for two years to the Pond Inlet detachment, and a third to Stony Mountain penitentiary in Manitoba for ten years. The police felt that the episode had had a salutary effect:

[The sentences] will have a more beneficial effect than a sentence of death. Noo-kud-lah was led away immediately after sentence was passed, to the ship, through a gazing crowd of his own people . . . hardly possible that a native with the prestige that Noo-kud-lah must have had with the other Eskimo at the time he killed Janes could have been subjected to greater humiliation.¹⁰

In 1923 another detachment was set up at Pangnirtung, and in 1924 another at Dundas Harbour, on the south-east coast of Devon Island. In 1926 Bache Peninsula was established, in -----

¹⁰ Inspector C.E. Wilcox's report, R.C.M.P. Report 1923, pp. 33-34. Peter Freuchen, the great student of the Inuit, found, on the other hand, the sentence to be "utterly fruitless and meaningless". P. Freuchen, Book of the Eskimos (Greenwich, Conn., 1961), p. 137.

the midst of where the Thule Inuit had been hunting musk-oxen, and in 1927 Lake Harbour, on the south coast of Baffin Island. The police began a series of regular patrols to visit every Inuit community in the Eastern Arctic to take the census, report on their condition and provide what meagre aid they could.

In the summer of 1924, by a revision of the Indian Act, the Superintendent of Indian Affairs took over formal responsibility for Inuit affairs as well.¹¹ While this change had no immediate effect on the Inuit, since parsimony was still official policy, it did mean that the government had taken official notice of them and perhaps would eventually do something for them. In the meantime their sole contact with the government consisted of annual or semi-annual visits from the police.

The advent of sovereignty in the Eastern Arctic brought with it a kind of proto-administrative state, in which many of the formalities of government were performed but most of the modern functions of government were neglected. The R.C.M.P. made patrols to virtually every settlement in the Eastern Arctic, so that by 1925 there were likely no Inuit who had not received a visit. During these patrols the police took a census, explained the law to the Inuit in a rudimentary fashion, and noted the state of their health. By the 1920s the health reports were ominous; hardly a

¹¹ Canada, Statutes, 14-15 Geo. V, c. 47.

report from the Eastern Arctic in that decade was without reference to "lung trouble", "pneumonia" or "tuberculosis" among the Native people. Yet the Department of Indian Affairs seems to have ignored these warnings, for the annual reports of the Department contained only bland assurances that all was well with the Inuit. In 1925 it was reported that the Department had "not undertaken any large outlay in regard to medical attention, as we are informed there is suprisingly little sickness throughout the north".¹² But in 1926 the R.C.M.P. officer at Pond Inlet warned that "unless medical assistance is given these people at once, inside ten years the native population of North Baffin Island will be wiped out".¹³ True, the government did send a doctor north once a year on the government supply ship, but the actual help given to the Inuit, by the police, was of a very rough-and-ready nature. For example, at Milne Inlet in 1926 a police constable examined an Inuit woman:

. . . a young married woman . . .
 temperature was around 106 [41.1°C], and
 the natives all told me it was no use
 doing anything for her . . . I treated
 her as I did the others [several were
 ill] . . . hot tea . . . a ration of
 tea and biscuit . . . Dover powders,
 poulticed their chests and gave them a
 laxative . . . in a few days she was
 well and around again . . . illuminating
 what effect a cup of tea, a little

¹² Report of the Superintendent General of Indian Affairs for 1925 (Ottawa, 1926), p. 10.

¹³ Inspector Wilcox's report, R.C.M.P. Report 1926, p. 46.

laxative, coupled with a lot of faith,
would have on the natives.¹⁴

Another police officer in the same region commenting on the efficacy of the medical treatment provided by the police observed "undoubtedly we often cure, or at least relieve, due . . . more to 'faith' on the part of the patient, than to the very simple drugs to which the average policeman confines himself".¹⁵ This sounds cheerful enough, but the vital statistics provided by the police showed a bleaker picture. In the winter of 1925-26, of the three hundred Inuit in the vicinity of Pond Inlet, twelve died, eight of an "unknown disease", while only three children were born, all of whom also died.¹⁶ At Wakeham Bay in 1927-28 there were eight births and thirty-two deaths in an Inuit population of two hundred and eight.¹⁷

There was, in fact a striking contrast all over the Arctic between the plight of the Inuit and what one of the government's severest contemporary critics called the "cloak of pious and deceptive phrases"¹⁸ which were published in the reports of the Department of Indian Affairs. The Inuit population at Coppermine, for example, was stated to be free of contagious disease at a time when a doctor hired by the

¹⁴ Ibid.

¹⁵ R.C.M.P. Report 1928, p. 80.

¹⁶ R.C.M.P. Report 1926, p. 46.

¹⁷ R.C.M.P. Report 1928, p. 84.

¹⁸ Diamond Jenness, Eskimo Administration, p. 46.

government to report on their health had stated that twenty per cent of them were tubercular. It should be said, though, that by this time some form of medical assistance was being provided in a few centres: a government medical station was opened at Pangnirtung in 1924, and the resident doctor began to accompany the police on some of their patrols. There were two denominational hospitals in Aklavik by 1927 and one at Chesterfield Inlet in 1929.

One of the most telling critiques of the static nature of sovereignty in this period was the calculation made by Diamond Jenness of the amount of money spent by the governments of the United States, Canada and Denmark on their Inuit populations in the year 1939. The sums per capita spent on Inuit were \$44 for the U.S, \$29 for Canada and \$18 for Denmark. But it was the categories of expenditure that infuriated Jenness:

| | Alaska (19,000 Inuit) | Canada (7,000 Inuit) | Greenland (18,000 Inuit) |
|-----------|--------------------------|-------------------------|-----------------------------|
| Education | | | |
| Health | | | |
| Welfare | \$844,000 | 88,000 | 338,000 |
| Police | 8,000 | 119,000 | nil |

This comparison is perhaps unfair, since the settlement patterns in the three countries were so different, and the Canadian Inuit so much less accessible to government. Nonetheless his conclusions were valid. Commenting on these figures, Jenness asked "what should we deduce from this

table? Did the political philosophies of Denmark and the United States differ so greatly from Canada's . . . that the first two countries could select doctors and schoolteachers to be the apostles of western civilization, whereas Canada had to assign that role to the police? Or was Canada, as I believe, negligent?"¹⁹ The word "negligent" implies the moral judgement that the government had a duty to do something for its Inuit citizens other than wave the flag over them, count them for the census, explain the criminal law to them and provide periodic rudimentary medical care for them. The government eventually came to this conclusion too, but not until after the Second World War. Before then, rigid economy of expenditure on anything other than the formal expression of sovereignty through the police was the policy, especially during the great depression of the 1930s.

Apologists for the government sometimes saw hidden virtues in this policy of semi-neglect. True, the only contact with the government was the visit of the police every six or twelve months, but these visits, it was believed, besides providing medical benefits, also prevented outbreaks of violence such as the notorious "Home Bay" murders of 1923. In this case, missionaries had visited the Inuit settlement at Kivitoo, Home Bay, and had whipped up an enthusiasm for the barely-understood principles of Christ-

¹⁹ Op. cit., p. 71.

ianity. Soon a local messiah arose who caused the death of two men and was himself murdered. The police explained the Inuits' error to them but took no further action.²⁰ The patrols, the police believe, "break the current of these unhealthy thoughts" by giving the Inuit something positive to think about--the annual visit of the police. They also instilled "some real respect for the big white man outside whose servants the police are"; the Inuit were beginning to realize that they were answerable to "a wise, unselfish, but very powerful directing authority outside".²¹ But given the policy of the government towards the Northwest Territories before 1940--to spend only what the formalities of sovereignty required--food for thought was the only benefit the Inuit were likely to receive from the authorities.

There is one more issue which has been touched on but must be examined more fully before this study is complete--the official attitudes towards the Native people in the Canadian Arctic. It is a sensitive matter because of the racial biases displayed by the officials who dealt directly with the Native people, but it is an issue which must be faced.

The bringing of sovereignty to the Canadian Arctic, a task which, as this study has shown, was overwhelmingly the

²⁰ R.C.M.P. Report 1923, pp. 36-37.

²¹ R.C.M.P. Report 1928, p. 77.

work of the Mounted Police, was inevitably coloured by the racial attitudes of the members of the force. These attitudes were those of the late-Victorian Anglo-Saxon Protestant middle and lower middle class male, and what is often called the "work ethic" figured largely in them. It is not difficult to discover how these agents of sovereignty viewed the Native people in the Arctic because they wrote prolific reports, and were candid (amazingly so, considering the harshness of some of their opinions) in disclosing their feelings about the Natives.

In examining these official attitudes--or perhaps it would be fairer to say the attitudes of officials, which is not the same thing--it must be reiterated that this was an era when ethnocentrism was more widespread than it is now, that minority rights were defined differently, that multiculturalism was not official policy, and that members of the Mounted Police received no training in the values of cultural relativism. In short, the culture of Native people was measured according to European standards. Where it seemed to conform, as in the trading practices of the Inuit, it was approved; where it varied from the norms of the Edwardian world, it was condemned.

As far as the Indians in the northern Northwest Territories are concerned, the official record is full of condemnation. In the Territories the police dealt largely with the Indians who lived in the settlements (it will be remembered that this was true of Yukon as well), and the

word which is used again and again to describe them is "lazy". At Fort McPherson at the end of 1906 "there are about thirty [Indians] . . . around the post this winter . . . they all complain of game being scarce, but the most of them are too lazy to hunt".²² There may have been other reasons why the Indians did not hunt: perhaps they were sick, perhaps the hunting was as bad as they claimed, perhaps they were what sociologists call "alienated" by the changes in their culture. But to the authorities they were simply lazy. A year later at the same place it was reported that

These Indians are to blame themselves for a good deal of the shortness now prevailing, as they can easily put up enough fish to last them over the winter, but they are too lazy to do it, and the more you do for them, the more you may.²³

What the Indians needed, it was generally thought, was a touch of real hardship to buck them up and force them to work. In 1909, when there was talk of a treaty at Fort McPherson the police advised against it, saying that the Indians would squander the payments. What they needed was a spell of adversity: "the traders . . . all informed me that during the past two years when the traders were

²² Cpl. Haylow's report, 31 December 1906, R.C.M.P. Papers, CC, v. 353.

²³ Insp. D.M. Howard's report, R.N.W.M.P. Report 1907, K, p. 115.

compelled to curtail the large advances usually given against fur, that the Indians had never worked so hard and so well".²⁴ During the first World War, when the fur trade collapsed, one officer of the police saw a benefit for the Indians in the privation that ensued: "The Indians are not a provident race and possibly the inexorable terms under which they are obliged to trade now, 'nothing for nothing', may teach them the value of laying by for a rainy day".²⁵

The reaction of some Indians to such opinions was a sullen suspicion of the police and of government representatives in general. An example of Indian attitudes is what happened at Churchill in the winter of 1917-1918. The police had gone there to give the Indians their annual treaty payments,²⁶ an event that was generally well-attended. On this occasion, however, the police on arriving at Churchill found that the Indians had not waited for them, but had gone inland to their hunting grounds. It was discovered that they had in fact fled from the police after hearing a rumour that they were all going to be conscripted into the army and sent to France.²⁷ That they would believe

²⁴ Insp. G.L. Jennings' report, 1 August 1909, R.C.M.P. Papers, CC, v. 383.

²⁵ Supt. A. McDonnell's report, 1 October 1915, R.N.W.M.P. Report 1915, G, p. 146. This report came from Athabasca Landing, but the sentiment was universal.

²⁶ Treaty 5 had been extended to Northern Manitoba in 1908.

²⁷ Insp. W.J. Beyts' report, 2 January 1918, R.C.M.P. Papers, CC, v. 527.

such a story shows what they thought of the government and its agents.

The official attitude towards the Inuit was startlingly different. The police might have been expected to put Inuit and Indians in the same category of "Natives" and treat the two races in a similar manner. Such was not the case. The police found that the Inuit conformed more closely to their expectations of what Native people ought to be like, and they thus approved of them. As one man put it, "the more you get acquainted with them, the better you like them".²⁸ The reason for this approving attitude was that the Inuit seemed to have the qualities which the police found lacking in the Indians, and they were "quickly learning the lessons of thriftiness, cleanliness, and morality" from the missionaries.²⁹

What particularly startled the newcomers to the Arctic was the perceived contrast between Inuit and Indians. Insp. F.J. Fitzgerald, arriving at Fort McPherson in 1910, said of the Inuit "it was a pleasure to see their pleasant faces, after the sulky looks of the Indians. All the Eskimos had good clean clothes and looked far superior to the Indians in their dirty rags."³⁰ Another officer commented in the same

²⁸ Cpl. J. Somers' report, Fort McPherson, 7 July 1911, R.C.M.P. Papers, CC, v. 411.

²⁹ Ibid.

³⁰ Insp. Fitzgerald's report, 14 December 1910, R.C.M.P. Papers, CC, v. 383. It will be remembered that Fitzgerald had an Inuit wife.

year that "the Eskimo as a race are the most interesting of any I have seen. They are quick to learn, good manual workers, hospitable in the extreme, and are in almost every way the direct opposite of an Indian".³¹ Insp. A.M. Jarvis, writing in 1908, compared the Indians and Inuit of the Mackenzie:

The Indians here, they are too lazy to hunt or trap and live all the year on fish . . . any money or debt they can procure goes on their backs, and then their stomach is thought of. Different [sic] with the Esquimaux; one need only go 100 miles [165 km] down the Mackenzie River, and he will find the men either out trapping, or fishing through the ice. The women are either making skin boots or clothing, or smoking cigarettes [sic] and laughing . . . They are not improvident like the Indians. They very seldom take debt, [but if they do] . . . the first thing they do is to come³² in with the furs to pay what they owe.

This difference in attitude may be explained partly by the fact that the Inuit culture had taken much less buffeting than that of the Indians, and they were thus more secure in their ways. Some of the things that non-Natives like about Inuit--their hospitality to strangers, for example--were simply integral parts of their culture. But the main reason seems to be that Inuit commercial and acquisitive values were much closer to those of European middle class society

³¹ Insp. G.L. Jennings' report, 16 February 1910, R.N.W.M.P. Report 1910, K, p. 152.

³² Insp. Jarvis' report, 12 February 1908, R.C.M.P. Papers, CC, v. 383.

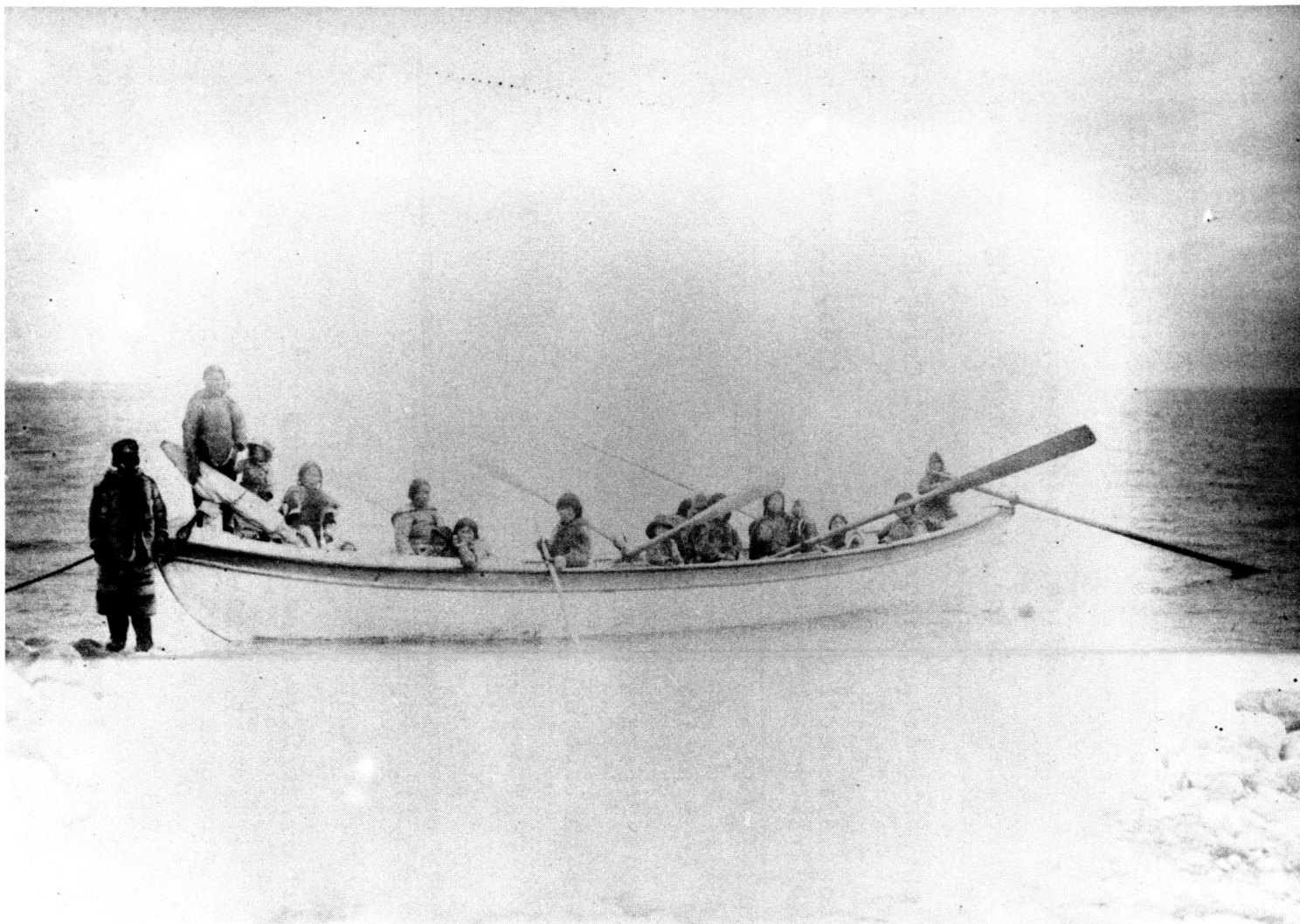
than were those of the Indians. The Inuit, in short, practised the work ethic. It is also significant that non-Natives met Indians and Inuit under different circumstances. Over most of southern Canada by 1900, Indians and non-Natives met on the latter's terms, thus it was not necessary to know the ways of the Indians to survive in most of Canada. But in the country of the Inuit, one lived like an Inuit or died. A policeman crossing the prairies by train, or travelling down the Mackenzie by steamer, might feel superior to an Indian on foot or in a canoe. But it was difficult for anyone, faced with conditions in the Arctic, to feel superior to the Inuit. The Inuit were well adapted to their environment. They had invented the igloo and the sled, the two essentials of Arctic travel. If non-Natives wished to travel from their settlements and live to return, they had to adopt the Inuit method of travel. Not until well after 1920, when the aeroplane came to the Arctic, could non-Natives boast of anything better.

Over the years the official attitude towards the Inuit did change. At first there was an attitude of considerable tolerance towards Inuit customs. "All superstitions have to be handled gently" wrote Inspector Moodie in reference to a murder at Hudson Bay, "and it is worse than useless to attempt to upset old customs in a day. It is a matter of time to change these, and it can only be done by first

obtaining the confidence and goodwill of the natives".³³ But after the murders of non-Natives described earlier, the occasional derogatory reference to Inuit begins to appear: they were "born thieves and liars . . . any one of them would sell his soul to possess a rifle".³⁴ The murder of Cpl. Doak predictably aroused a flood of adverse comment. This is not to say that there was now a negative view of the Inuit, but simply a more realistic one--they were no longer idealized primarily as lovable children, but seen as human beings, with bad as well as good in their character.

³³ R.N.W.M.P. Report 1904, IV, p. 8.

³⁴ Insp. F.H. French to Commissioner Perry, n.d. (probably 1919), R.C.M.P. Papers, Commissioner's Files, v. 60.



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