

As Long as the Sun Shines and Water Flows

A Reader in Canadian Native Studies



edited by Ian A.L. Getty and Antoine S. Lussier

AS LONG AS THE SUN SHINES AND WATER FLOWS

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Canadian Native Studies

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Foreword

The Nakoda Institute Occasional Papers series is sponsored under the auspices of the Stoney Indian Tribe at Morley, Alberta.

The Nakoda Institute is a learning centre which provides adult and advanced educational opportunities for the local and off-reserve communities. The Institute recognizes the importance of encouraging Indian people to achieve self-determination and to enhance their economic, social, and cultural development. Its philosophy represents an Indian way of life and thinking, and it provides a tangible educational facility for people to use in their learning and spiritual development. The Institute is open to all who share a sincere interest in the advancement of Indian culture and quality of life in Canada.

Acknowledgements

The Institute will, from time to time, publish materials which reflect its goals and aspirations.

Further information regarding the Nakoda Institute and its publications programme may be obtained from the Stoney Tribe, Morley, Alberta, Canada TOL 1N0.

Chief John Snow
Stoney Indian Tribe,
Morley, Alberta

Recognizing the cultural heritage and historical role of native people in Canada, the Nakoda Institute is proud to undertake the publishing of this reader focusing upon Canadian Native Studies. The main body of articles were originally read before a native studies conference hosted by the Native Studies Department, Brandon University; and in addition, grateful acknowledgement is made to the authors and publishers for their kind permission to reprint the following articles:

“Clifford Sifton and Canadian Indian Administration 1896–1905” by David J. Hall. From *Prairie Forum* 2, no. 2 (November 1977). Reprinted by permission of the Canadian Plains Research Center, University of Regina, Regina, Saskatchewan.

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“Protection, Civilization, Assimilation: An Outline History of Canada’s Indian Policy” by John L. Tobias. From *Western Canadian Journal of Anthropology* (now the *Canadian Journal of Anthropology*) 6, no. 2 (1976). Reprinted by permission of the author and the editor.

“The Inuit and the Constitutional Process: 1978–81” by Simon McInnes. From *Journal of Canadian Studies* 16, no. 2. Reprinted by permission of the journal. The opinions and views expressed herein are those of the individual authors and are not necessarily accepted by the Nakoda Institute.

Preface

This collection of essays and articles focuses upon Canadian native history since the passage of the Royal Proclamation of 1763, the original document in which Britain recognized the prior sovereignty of the Indian nations. This reader is comprised of original research papers given at a native studies colloquium hosted by Brandon University in November 1981 and a selection of published articles on aspects of native history. This arrangement is intended to provide a broad overview of the official Canadian Indian Policy, its effect on the Indian, Inuit, and Metis, and their responses to it. The papers demonstrate varied approaches to native studies and reflect a number of the major issues and themes currently under analysis in Indian history — colonial Indian policy, constitutional and legislative developments, Indian treaties, policy and government decision-making, native responses reflecting both persistence and change, and the broad issue of aboriginal and treaty rights. Regrettably there remain many emerging areas of research left untouched in this anthology — Indian philosophy, spirituality and medicine, educational issues, native identity, reserve life, oral tradition and local history, pan-Indian movements, and provincial Indian organizations. Our desire at the Brandon Conference was to encourage and stimulate the growth and awareness of native scholarship across Canada.

The book opens with a broad historical review of Indian-white relations presented as a keynote address by Professor George Stanley at the Brandon conference. By its title, the essay suggests the firm commitment and importance of the historical relationship between native people and the non-native population in Canada. For half a century, Professor Stanley has done a great deal to include the native people in Canadian historiography. In his survey of Indian-white relations from the earliest contact with European explorers to the current parliamentary debates over aboriginal rights in Canada's recently patriated constitution, he touches upon many of the themes in native history which receive detailed scrutiny in the following studies. The challenge to historians, Stanley states, is to understand the values and philosophies of the respective cultures under study. More scholars are now aware of the vital contribution of Indian oral tradition towards a more balanced understanding of the written records.

Stanley offers a critical look at some of the turning points in Indian history — notably the Royal Proclamation of 1763. Following the procedure outlined in the Proclamation, the creation of Upper Canada in 1791 led to a series of land

purchases. After 1818 the practice of paying for Indian lands with annuities was adopted and has continued to the present. Stanley traces how Indian policy evolved through successive phases of imperial management to Canadian control at mid-nineteenth century, until Confederation placed the Indians under the exclusive jurisdiction of the federal government under Section 91 (24) of the British North America Act. The treaties were signed and set the stage for the current debate on the recognition and entrenchment of "existing" aboriginal and treaty rights in the Canadian constitution.

Section I concerns the evolution of British Indian policy and Canadian Indian administration since the Royal Proclamation of 7 October 1763. The papers in this section suggest collectively that over time there has been a notable continuity in British Indian policy and later Canadian legislation which originates from the philosophy first articulated in that document. The Proclamation unequivocally recognizes aboriginal title and declares that unceded lands can be surrendered only to the Crown in a prescribed manner, that is, through negotiated agreements or treaties. Consequently, it is regarded as a key document by the courts in defining aboriginal rights and by historians in tracing the roots of Indian sovereignty and nationhood. As a legal document and a statement of policy, the Proclamation spells out several provisions to ensure crown sovereignty and to regulate relationships between Indian Nations and the Crown. The Proclamation recognized the sovereign rights and special status of Indian Nations and imposed strict constraints on Indian-white relations. It remains to be decided whether the Proclamation applies throughout Canada or only in those territories designated in 1763. Moreover, is the concept of crown sovereignty mutually compatible with the concept of Indian nationhood based upon self-government and self-determination?

In the following essays, it is generally agreed that British colonial policy in the early nineteenth century set the tone and style for Canadian policy in the latter half of the century. The fundamental issue was land ownership. Once this was initially resolved through peace treaties and surrenders as set forth in the Royal Proclamation of 1763, the discussion of the best means to "civilize" and to "Christianize" the indigenous population began.

John Tobias, who was research director with the Federation of Saskatchewan Indians (1972–75) and is currently an instructor of history, Red Deer College, Alberta, provides a succinct analysis of Canada's Indian policy and the various pieces of legislation designed to "protect, civilize, and assimilate" native people. While the general goal was clear, often-times the policies and legislation were apparently contradictory, a dilemma elaborated upon in the succeeding papers of this section.

The first paper on early nineteenth-century British North America Indian policy looks at "Indian Land Cessions in Upper Canada" from 1815 to 1830. Robert Surtees, the author of *The Original People* (1971) and presently teaching at

Nipissing College, documents how the War of 1812 between British North America and the United States prompted several changes in British colonial Indian policy. A deep schism was created between Indian tribes living north and south of the Great Lakes (notably the Six Nations or the Iroquois Confederacy which had originally split in the American War of Independence). After the War of 1812, new settlement patterns prompted a series of peace treaties and land cessions covering much of present-day southern Ontario. Concomitantly, the military and political influence of the Indians decreased just as the Indian population of Upper Canada was steadily decreasing in proportion to the settler population, which demanded more and more agricultural land. Once their homeland was reduced, the Indian population came under successive schemes by church and state to "christianize" and "civilize" them, a policy sanctioned and officially implemented in 1830.

David McNab's analysis of "Herman Merivale and Colonial Office Indian Policy in the Mid-Nineteenth Century" indicates that British Indian policy was not uniform. Rather, there gradually evolved a series of regional Indian policies centred on the Atlantic colonies, central British North America, Rupert's Land under Hudson's Bay Company control, and Vancouver Island (before its union with British Columbia). A key imperial policy maker was Herman Merivale, permanent under-secretary of state at the Colonial Office from 1847 to 1860, who brought new ideas to Indian policy. On the two coasts, the prevailing objective was to "insulate" the Indians from white settlement until they were ready for assimilation. In central Canada and the northwest, the goal was to "amalgamate" the Indian quickly through education and assimilation. In the Atlantic region, Indian-white relations went through all these phases until a concerted attempt was made to assimilate the native population.

John Milloy analyses the early Canadian period of Indian policy at mid-nineteenth century. Through his examination of the various pieces of Indian legislation beginning in 1857 (when the Enfranchisement Act was passed), Milloy identifies a shift in policy from that of "civilizing" the Indians to that of "assimilating" them through enfranchisement. The policy was a failure since only one Indian enfranchisement occurred during a nineteen-year period; still, it remained the essential thrust of the Enfranchisement Act of 1869 and the Consolidated Indian Act of 1876. The Canadian government later resorted to coercive legislation when the policy of persuasion followed by the British had failed. The new legislation instituted "a system of wardship, colonization and tutelage" in place of Indian self-government. The legacy of 1857-76 remains the basis of constitutional and legislative goals today — the assimilation of the Indian through the force of the law.

Once in place, the Indian Act was implemented with sternness and aggressiveness by the bureaucrats in the Department of Indian Affairs, established as a separate government branch within the Department of the Interior in 1880. Lawrence Vankoughnet served as deputy superintendent-general of Indian Affairs

from 1874 to 1893. Historian Douglas Leighton regards Vankoughnet as the epitome of the dedicated nineteenth-century bureaucrat, zealously carrying out the government's policies, regardless of the realities on Indian reserves. Vankoughnet's implementation of economy and centralized control during the early 1880's were critical factors in the events leading to the violent confrontation of 1884–85. It was evident that the Indian Affairs Department rated a low priority and consequently received little support, from either senior government officials or other departments. Political partisanship reached the senior ranks when Vankoughnet was forced into early retirement in 1893 to make way for new incoming civil servants, notably the long-serving Duncan Campbell Scott.

Following the 1896 federal election, the new Liberal minister of the interior, Clifford Sifton, introduced a more repressive system since the assimilation of the western Indian population was not proceeding rapidly enough. Professor David Hall, author of a recent biography of Clifford Sifton, summarizes the Liberal government's new Indian policy at the turn of the twentieth century, of favouring land surrenders, assimilation through education, and stricter enforcement of regulations under the revised Indian Act of 1906. The staff reductions and departmental reorganization resulted in centralized control by Ottawa bureaucrats "who were more concerned with ledger books [to reduce expenditures] than difficulties on the reserves." The next major shift in policy directions would not occur until the 1940's, which culminated in the Indian Act revisions of 1951.

The 1870's were a crucial turning point in relations between the government of Canada and the Indian Nations of western Canada where seven treaties covering most of present-day Manitoba, Saskatchewan, and Alberta were signed between 1871 and 1877. David McNab's paper on the "Administration of Treaty No. 3, 1873–1915" discusses the political, cultural and economic implications of one of these numbered treaties. By 1873, when Treaty No. 3 was signed (and coincidentally, when a separate Indian affairs branch was created within the Department of Secretary of State), federal Indian policy was essentially developed, and, clearly, the British attempt to establish a uniform policy from sea to sea had failed. This was in part the result of provincial interests in land and resource ownership. McNab's paper documents the negotiations concerning the demarcation of reserve boundaries from the time the treaty was signed until the federal-provincial agreement of 1915. The protracted negotiations had enormous consequences for the Ojibway people in northwestern Ontario. Today, the Nishnawbe people continue to press the federal and provincial governments to be sensitive to and respectful of their traditional lifestyle, and they seek firm assurances that their land and resource base will not be arbitrarily compromised. The issues discussed in McNab's historical analysis concerning the legal complications and interpretations of the meaning or intent of the treaty terms are shared by many Indian tribes throughout Canada.

In a paper presented at a meeting of the Canadian Political Science Association in 1953, Canada's distinguished anthropologist, Diamond Jenness, described the inferior living conditions of the Canadian Indians as he observed them in the 1920's during his field trips. The government neglected the political and economic welfare of the Indians and failed to provide them with adequate educational facilities. Jenness, born in New Zealand and educated at Oxford, came to Canada in 1913 and spent three years in the Arctic with the Canadian Arctic Expedition. He was appointed chief of the Anthropology Division of the National Museum in Ottawa, and he conducted fieldwork among several tribal groups across Canada as well as undertaking archaeological work in Newfoundland and Alaska. He is best known for his volumes on Eskimo administration and his *Indians of Canada*, first published in 1932, still remains an invaluable, although somewhat outdated, study. What is obvious from Jenness's text, delivered with such frankness, is his sympathy and concern with Canada's native peoples. He clearly wanted Canadians to consider the country's first inhabitants as equal citizens. At the same time, his paper contains the central message of Canadian Indian policy-makers since the mid-nineteenth century — the desire to assimilate the Indian and eventually to terminate their reserves.

The concluding chapter in this section is an abridgement from the first comprehensive scientific survey of the social, political, economic, and educational needs and policies of the contemporary Indian scene. The Hawthorn Report, commissioned in 1958, has become the benchmark for contemporary studies on Canada's Indian population. The report notes the growing involvement of provincial governments in delivery of services traditionally provided by the federal government to Indian people. The study provides the context for understanding why the federal government formulated its infamous termination policy presented in the White Paper of 1969.

Section II focuses on native responses as they came in confrontation with Euro-Canadian society.

In the opening paper, Professor Laurie Barron examines alcohol use among the Indians living on missions in Upper Canada during the early decades of the nineteenth century. The temperance movement which swept North America in the 1820's prompted a concerted effort to ban the sale of liquor to Indians (before the idea of government intervention was acceptable to control sobriety in the wider society). Ironically, the governing legislation passed in 1835 "strictly prohibited the sale, barter, exchange or gift — of any distilled spirituous liquors to any Indian man, woman or child," but no corresponding law was passed to make the actual consumption by an Indian punishable by law. This paternalistic legislation treated the Indian "as a child-like ward of the state [who] was not required to assume any responsibility for his actions." Inevitably, the law proved unenforceable. The alien standards imposed by the temperance movement — the ideas of thrift,

punctuality, industry, and discipline which reflected middle class norms — probably had more to do with accentuating the drinking problems than with ameliorating the social consequences of drunkenness.

In an essay reprinted from the Canadian Plains Research Center's *Man and Nature on the Prairies*, Irene M. Spry documents the social and economic upheaval that resulted among the Indian tribes and the Metis people during "the great transformation" following 1870. The decisive changes occurred during the 1870's with the signing of the treaties, soon followed by the disappearance of the buffalo which had been the mainstay of both Indian and Metis. Now dependent upon government assistance, the demoralized, starving tribes had no alternative but to accept their reserves. Their effective removal as a political or military factor in the West opened the way for the white man's concept of exclusive ownership of formerly commonly held property and resources. Now private ownership controlled access to land, water, grass, wood, and shelter which had formerly been freely shared and utilized. Wide open access to hunting and trapping territories was replaced by the confined requirements of agriculture. The Indian reserves set aside under treaty were operated more along the lines of confinement camps to protect the surrounding private interests. The legacy of bitterness and resentment toward the dominant white society remains at the root of much of the conflict in race relations today.

Robert Allen focuses upon the infamous Cypress Hills Massacre of 1873 to portray the differences in attitude between American and Canadian authorities towards the Indian people of the great plains. He suggests that the Canadian officials were earnest and sincere in their efforts to demonstrate that the "medicine line" along the 49th Parallel made a real difference. The first challenge in gaining the confidence of the native residents was to apply the principles of justice equally to all inhabitants in the Queen's territory. Allen's thorough sifting of the conflicting evidence given at the American hearings and during the Winnipeg trial demonstrates the difficult task historians face not only in reconstructing the actual events, but also in delineating the different perceptions of American frontiersmen and Canadian settlers towards the Indian people. The symbolic gestures of British justice, upheld by the North West Mounted Police and Canadian officials, were instrumental in convincing the western tribes to sign peace agreements with the treaty commissioners in 1876 (Treaty 6) and in 1877 (Treaty 7).

The following three articles deal with specific aspects of Metis history and its most significant figure, Louis Riel. In "Louis Riel and Aboriginal Rights," Tom Flanagan, chairman of the Political Science department at the University of Calgary, presents a dimension of Riel's capacity to politicize an issue to which few people in western Canada had given any thought — the issue of compensation for Metis lands not from a position of aboriginal rights but from the perspective of *international law*. Those who believe in Riel's prophetic abilities will probably agree with Flanagan that "Riel's theory of aboriginal rights is an intermediate