



National Library
of Canada

Bibliothèque nationale
du Canada

Acquisitions and
Bibliographic Services Branch

Direction des acquisitions et
des services bibliographiques

395 Wellington Street
Ottawa, Ontario
K1A 0N4

395, rue Wellington
Ottawa (Ontario)
K1A 0N4

Your file - Votre référence

Our file - Notre référence

NOTICE

The quality of this microform is heavily dependent upon the quality of the original thesis submitted for microfilming. Every effort has been made to ensure the highest quality of reproduction possible.

If pages are missing, contact the university which granted the degree.

Some pages may have indistinct print especially if the original pages were typed with a poor typewriter ribbon or if the university sent us an inferior photocopy.

Reproduction in full or in part of this microform is governed by the Canadian Copyright Act, R.S.C. 1970, c. C-30, and subsequent amendments.

AVIS

La qualité de cette microforme dépend grandement de la qualité de la thèse soumise au microfilmage. Nous avons tout fait pour assurer une qualité supérieure de reproduction.

S'il manque des pages, veuillez communiquer avec l'université qui a conféré le grade.

La qualité d'impression de certaines pages peut laisser à désirer, surtout si les pages originales ont été dactylographiées à l'aide d'un ruban usé ou si l'université nous a fait parvenir une photocopie de qualité inférieure.

La reproduction, même partielle, de cette microforme est soumise à la Loi canadienne sur le droit d'auteur, SRC 1970, c. C-30, et ses amendements subséquents.

LIQUOR CONTROL
AND THE NATIVE PEOPLES
OF WESTERN CANADA

by

Nicholas J. S. Simons

B. Soc. Sci., University of Ottawa, 1986

THESIS SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE DEGREE OF
MASTERS OF ARTS
in the School
of
Criminology

© Nicholas Simons 1992

Simon Fraser University

December 1992

All rights reserved. This work may not be
reproduced in whole or in part, by photocopy
or other means, without the permission of the author.



National Library
of Canada

Acquisitions and
Bibliographic Services Branch

395 Wellington Street
Ottawa, Ontario
K1A 0N4

Bibliothèque nationale
du Canada

Direction des acquisitions et
des services bibliographiques

395, rue Wellington
Ottawa (Ontario)
K1A 0N4

Your file *Votre référence*

Our file *Notre référence*

The author has granted an irrevocable non-exclusive licence allowing the National Library of Canada to reproduce, loan, distribute or sell copies of his/her thesis by any means and in any form or format, making this thesis available to interested persons.

L'auteur a accordé une licence irrévocable et non exclusive permettant à la Bibliothèque nationale du Canada de reproduire, prêter, distribuer ou vendre des copies de sa thèse de quelque manière et sous quelque forme que ce soit pour mettre des exemplaires de cette thèse à la disposition des personnes intéressées.

The author retains ownership of the copyright in his/her thesis. Neither the thesis nor substantial extracts from it may be printed or otherwise reproduced without his/her permission.

L'auteur conserve la propriété du droit d'auteur qui protège sa thèse. Ni la thèse ni des extraits substantiels de celle-ci ne doivent être imprimés ou autrement reproduits sans son autorisation.

ISBN 0-315-91063-1

Canada

APPROVAL

Name: Nicholas J.S. Simons

Degree: Master of Arts

Title of Thesis: Liquor Control and the Native Peoples
of Western Canada

Examining Committee:

Chairperson: John Lowman, Ph.D.

Robert M. (Gordon) Ph.D.
Associate Professor
Senior Supervisor

Brian E. Burtch, Ph.D.
Associate Professor

Noel Dyck, Ph.D.
External Examiner
Associate Professor,
Department of Sociology and Anthropology
Simon Fraser University

Date Approved: November 15, 1992

ABSTRACT

The study of alcohol use among Native peoples in North America has been a popular academic pursuit among scholars for the better part of this century. Most have focussed on the variety of drinking styles that exist within the First Nations, often emphasizing the negative effects of alcohol consumption on both individuals and cultural groups in general. Few focus on the liquor control legislation itself and the various ancillary functions it serves (Conn, 1986).

Through an analysis of liquor-related legislation, historical documents, and contemporary studies, this thesis shows the political utility of liquor control legislation. Specifically, how it was used as a tool to control a population which was seen as detrimental to Canada's economic aspirations as encapsulated in the National Policy.

This study examines how liquor control legislation was enacted in various forms by numerous governments during the century leading up to, and just after Confederation. These liquor laws have often been described as necessary forms of legislation designed to reduce social problems which have traditionally been blamed on liquor. However, this study has attempted to show that any causal link between drinking and social problems is both simplistic and detrimental to the pursuit of a clear and rational understanding of issues surrounding the use of alcohol because it ignores the social context of their application. Any focus on drinking among Native groups must be intrinsically tied to the political and

economic conditions of the particular society and examined within its specific historical framework.

After an examination of the fur trade under the Hudson's Bay Company (H.B.C.) rule, this study describes the various strategies used by governments in their attempt to retain a hold on the western hinterland. It outlines the various treaties and coercive laws which were enacted to control the Native population before the arrival of large numbers of immigrants. These treaties and laws, including liquor control legislation, and the development of the North-West Mounted Police were all designed to establish Canadian sovereignty over the west, and to ensure that the Native population would not deter large-scale immigration to the Canadian west and thus impede the goals of the National Policy.

DEDICATION

This thesis is dedicated to my mother and father, brothers and sisters, and their families past, present and future.

QUOTATION

The Savages have never known what it was so solemnly to forbid anything to their people, under any penalty, however slight. It is good to bring them gradually under the control of those whom God has chosen to command them.

Jesuit Relations, vol. 33, (1899).

ACKNOWLEDGEMENTS

This thesis could not have been completed without the support and commitment of the members of my thesis committee, Dr. Robert M. Gordon, Dr. Brian Burtch, and my external examiner, Dr. Noel Dyck of the Department of Sociology and Anthropology, Simon Fraser University. I would also like to thank the numerous former members of my thesis committees whose contributions to my work are genuinely appreciated.

The faculty and staff of the School of Criminology made my task enjoyable and relatively painless and to them go my thanks for their patience, expertise and support.

On a personal level, I would like to thank all my friends across the country who have provided me with so much support.

TABLE OF CONTENTS

Approval	ii
Abstract	iii
Dedication	v
Quotation	vi
Acknowledgements	vii
Table of Contents	viii
Chapter I. INTRODUCTION	1
Chapter II. LIQUOR CONTROL, STATE CONTROL AND WESTERN CANADA: TRADITIONAL AND THEORETICAL PERSPECTIVES.....	11
Contemporary Literature	11
Historical Literature on Natives and Alcohol	17
Theoretical Perspectives	19
Chapter III. LIQUOR LEGISLATION DURING THE REIGN OF THE FUR TRADERS	33
Fur-Trading Rivalries	35
Early Western Settlement	41
Hudson's Bay Company Monopoly	47
Chapter IV. THE BIRTH OF THE NATIONAL POLICY: COLONIAL LIQUOR CONTROL.....	54
Capitalists vs. Monopolists	57
American Expansionism	60
Canadian Confederation	64
Riel Rebellion	67
Chapter V. LEGISLATIVE COERCION	72
Canada's Acquisition of the West: Preparatory Legislation	75
Treaty Negotiations	79

	Control of the North-West	82
	The N.W.M.P. and Liquor Legislation	85
Chapter VI.	LIQUOR CONTROL, NATIVE PEOPLES AND THE STATE	92
	Liquor Control and the Functions of the State	94
	Current Trends in Liquor Prohibition	99
	Future Research	101
Appendix: Methodology		103
Bibliography		107

CHAPTER ONE INTRODUCTION

Historical studies of the consumption of liquor by Native peoples,¹ and the restrictions imposed upon such consumption, have tended to focus on the use and misuse of alcohol by particular minority populations (Condon, 1981; Dozier, 1966; McAndrew & Edgerton, 1969). Some authors (Heath, 1964; May, 1988; Price, 1975; Stewart, 1969; Watts & Wright, 1988) have addressed the issue of prohibition in their discussion of alcohol use by Native people, but for the most part, these discussions are cursory and do little to contribute to a theoretical understanding of prohibition as a legislative tool of government. They accept the premise that social problems result largely from the over-consumption of alcohol, and that in some cases, the control of its sale, if effective, would contribute to the reduction of social problems. Few studies have examined the use of prohibition as a legislative measure to control the overall behaviour of the Native peoples (Conn, 1986).

This thesis will examine the coercive element of liquor control legislation within the historical framework in which it was enacted and applied. Since legislation is the product of numerous social and economic influences of specific periods, these historical factors must be examined.

¹ For the purposes of this thesis, the term "Native" refers to status and non-status Indians of Canada. "'Indian' and 'aboriginal' and 'native,' as adjectives and nouns, are . . . synonymous within [western Canada]; each is commonly used by Indians and others" (Tennant, 1990, p. xi).

It is often assumed in conventional historical writings which deal with the development of the western Canada that the comparative lack of violence which was so central to United States expansionism can be attributed to fair and even-handed methods used by successive authorities in their dealings with the Indian inhabitants. While this view is being challenged (Berger, 1991), it often allows Euro-Canadians to claim that their ancestors adhered more closely to the principles of non-violence and humanitarianism than their neighbours to the south.

Euro-Canadian settlement in the North-West did not involve a legacy of Indian wars or any sustained armed conflict, but to conclude that Canada's policies were humanitarian and fair would be to exaggerate the importance of military weapons as the sole tool of coercion and repression. Canada's legislative and administrative policies have served to control Native peoples where military coercion has been deemed impractical or too expensive.

The control of Native peoples in the North-West was the policy of fur trading companies as well as Imperial, pre-colonial, and colonial governments since the territory which they inhabited was known to contain the valuable resource of furs. However early the repressive policies were introduced to the Native peoples of the North-West, it is beyond the scope of this thesis to trace them since the Hudson's Bay Company's inception in 1670. More important to this thesis are the policies which were enacted in the North-West during

the late 18th and the 19th centuries, specifically, policies relating to the control of liquor. While perhaps only the second trombone in a brass section of coercive policies, their presence has been one of the most consistent in the history of Canada since European arrival.

In examining the coercive policies of the Canadian government, many scholars have examined -within the broader focus of their work- on the reserve system (Tobias, 1976), land policies (Tobias, 1987), forced residential schooling (Barman, et al., 1986; Cardinal, 1969; Surtees, 1988; Tennant, 1990), the attempted banning of cultural and religious ceremonies (Josephy, 1991; O'Bradovich, 1969; Tennant, 1990). Others examine the reserve agricultural program (Dyck, 1991), the denial of treaty rights (Fumoleau, n.d.; Trigger, 1985), the attempted destruction of indigenous political systems (Surtees, 1988), and the erosion of traditional hunting and fishing rights (Cumming & Mickenberg, 1972; Jakeman, 1963) and other assimilationist goals reflected in the various Indian Acts.

The identification of liquor control policies as an important form of coercion have been often over-looked for at least four reasons. First, the policy of total prohibition was seen as a policy of "universal good" -not simply geared toward the Native peoples. General prohibition has consequently been the focus of many scholars, with no particular emphasis on the legislation as it relates to any minority population. In many jurisdictions, such as the

North-West Territories during the larger part of the 19th century, the consumption of alcohol was illegal for Europeans and Indians alike. However, consistently since the 17th century many North American jurisdictions have enacted more stringent liquor legislation against Native peoples than against European settlers.²

Second, many historians ignore liquor control legislation because, as a rule, there was very little opposition to it among the Native groups. The reserve system and forced education were often loudly criticized, but most groups did not object to prohibition and some were pleased with the initiative providing it with a dim aura of legitimacy. As one chief reportedly told Col. McLeod of the North-West Mounted Police (N.W.M.P.), "The Great Mother [the Queen] sent Stamixotokon (Col. McLeod) and the Police to put an end to the traffic in fire-water. I can sleep now safely. . . . The Great Mother sent you to this country, and we hope she will be good to us for many years" (Morris, 1880, p. 270).

Third, many historians conclude that Native people were being destroyed in large part because of their use of alcohol prior to the imposition of controls. The emphasis on liquor

² Indians were prohibited from drinking in many American colonies (Connecticut, Rhode Island, Maryland, New Jersey, Massachusetts) long before prohibition against non-Indians was enacted (Spence, 1919, p. 499-500). In what was New France, prohibition was directed only at the Indians. After the Treaty of Paris, the British prohibited the sale of liquor to Native people in the Province of Quebec, and liquor control legislation aimed at Indians was enacted in Upper Canada after the Constitution Act (1791) (Spence, 1919, p. 29).

as one of the major causes of the demise of the traditional Native lifestyle, although simplistic, has become the staple of even some modern-day historians (see Newman, 1985). The view expressed by the first missionaries and subsequent Europeans that the Native peoples were unable to control themselves while under the influence of alcohol has been perpetuated in large part because historical documents from the missionary and fur-trade era tend to focus on the inferiority of Native races as a means for justifying other equally coercive policies.

Finally, the complexity of liquor control legislation has hindered its examination as it varies from one jurisdiction to the next and from one year to the next. By isolating liquor control legislation from the other coercive legislation, some historians writing on the European history of Canada have left the impression that it has served a legitimate purpose - protecting the Native population. By ignoring its function as a method of social control, many are left with the impression that it was beneficial to Native peoples against whom it was enacted.

Unlike most literature written about Native people and their use of alcohol, this thesis will not focus on the "problem issues" associated with alcohol use. Instead, it will focus on liquor control legislation as it was used to regulate the Native people as a whole. The political, ideological, and, most importantly, economic interests of the Euro-Canadian elite were served by the control of Native

peoples. This control was exercised in various forms, all of which served to transform the western lands inhabited by various Native groups into a land open to the harvest of resources such as fur and wheat to supply markets both domestic and European.

This thesis isolates the legislation which was aimed specifically at controlling the access of Native people to liquor. This serves to elevate liquor control legislation from its previously benign and minor position in historical writings to one of somewhat greater significance. In recent years, a growing sense of indignation has emerged among Native people regarding their treatment since European arrival in North America. Most attention has been paid to other paternalistic policies designed to relegate the Native people to the position of subservience necessary for their exploitation. The purpose of separating liquor control laws from the various other forms of paternalistic legislation is not to exaggerate its importance, but rather to situate it within the broader context of other policies which served to subjugate and control the Native peoples.

The thesis also serves as a clear illustration of the ability of a government to combine coercion and consent to achieve dominance over a minority population without significant costs. The prohibitory law in western Canada provided some of the justifications for the creation of a police agency, and the establishment of political control, which allowed for the settlement of western Canada, and the

creation of a new resource base for the new Confederation. While liquor control legislation was by no means solely responsible for the subjugation and exploitation of the Native peoples of western Canada, the role that it did play should be acknowledged, for ramifications continue to be seen in contemporary Canadian society.

Essential to an understanding of the function of liquor control legislation is a better understanding of the historical context in which it has been enacted and applied. This thesis deals specifically with the time period of just over one hundred years between the creation of the North West Company (a strong rival of the Hudson's Bay Company) in 1783, and the "second" Riel rebellion of 1885.

This period will be divided into two sections, pre and post-1849. 1849 marks the end of the Hudson's Bay Company's (H.B.C.) monopoly on the fur trade in western Canada. The end of the monopoly alerted Canadians to the potential of the western territory for agricultural exploitation and settlement, two activities which were discouraged by the H.B.C. This awakening signalled the beginning of a new set of government policies and objectives which were to be known collectively as the "national policy."

During the H.B.C. fur trade monopoly, liquor control legislation was used mainly to facilitate the work of religious missionaries (Barron, 1983). When the company's

charter expired, the legislation remained as part of the national policy.³

The concept of the national policy is important to this thesis for two fundamental reasons. First, it incorporates the numerous policies aimed at furthering the expansionist ambitions of the Canadian state. Second, the term can be used synonymously with the actual time-period during which it formed the cornerstone of state policies.

The thesis examines the vast amount of literature on the issue of alcohol and Native peoples, providing an overview of the various perspectives taken by scholars within different disciplines.

In Chapter 2, contemporary studies of Native peoples and alcohol consumption are shown to deal less with the control of alcohol than with patterns of alcohol use. A major goal has been to describe cultural behaviour as it was observed, rather than to analyse the legislation which precipitated the consumption patterns and the social conditions which often led to differing drinking styles.

Historical accounts of liquor control aimed at Native people are scarce. Most accounts which address liquor do so

³ The term "national policy" has been used generically to describe a number of policies of both the Province of Canada (Canada East and Canada West) before confederation, as well as the policies of the Dominion of Canada after confederation (Fowke, 1957). Such policies included "defence, transportation, control of trade, economic expansion, or any one of a hundred other items" (Fowke, 1957, p. 4). The term "national policy" as used here is not synonymous with John A. Macdonald's National Policy of 1879.

within the context of analyses directed at other historical topics such as the fur trade, missionary activity or the creation of the North-West Mounted Police. However, this vast body of literature provides the historical context from which an analysis of liquor legislation can be undertaken. The chapter concludes with an overview of how state theory can be used to effectively analyse legislation designed to control Native peoples.

Chapter 3 provides an overview of the forms of legislation that were enacted soon after the arrival of European missionaries and traders in North America. The American Colonies were the first jurisdictions to enact such laws, with New France and the Canadian provinces soon following suit. This chapter will detail the content of this early legislation as well as provide the historical context in which it was enacted. The early legislation of New France and the colonies to the south provided the model for later legislation in Canada.

Chapters 4 and 5 examine the periods of 1783-1849 and 1849-1885. The various forms of legislation will be the dominant theme of both chapters, with political and economic circumstances providing the context in which the various laws were enacted. A general overview of some factors which influenced the Canadian legislative agenda will also be discussed, including the decline of the fur trade, United States expansionism, American population growth, the construction of an American railway system, the desire for

continental, rather than national agricultural commerce, the economic decline of the Province of Canada, and the emergence of the national policy.

The sixth and concluding chapter attempts to explain the origins of liquor control legislation and its shifting interpretation throughout Canadian history. It will challenge the benign image of liquor legislation, using a modified structuralist form of state theory. By delving into an often ignored area of Canadian legislative history, we can become more sensitive to the present day governmental strategies to deal with the aboriginal peoples. It may provide present day legislators, Native and non-Native, with a deeper understanding of the origins of the debate over Native access to liquor. It may also convince some that over 300 years of liquor restriction has done nothing to resolve social problems, and will continue to be ineffective from the standpoint of the Native people. More importantly, it may reveal that the interest of the government is served by the simple existence of liquor control legislation, as it deflects attention away from the structural inequalities to a highly visible symptom of historical oppression.

CHAPTER TWO
LIQUOR CONTROL, STATE CONTROL AND WESTERN CANADA:
TRADITIONAL AND THEORETICAL PERSPECTIVES

Numerous approaches exist within the extensive body of literature which has been produced on the topic of alcohol consumption by native North Americans. Nevertheless, very little has been written specifically on the topic of liquor legislation. What has been written tends to be descriptive and evaluative in nature. No studies have been undertaken which deal directly with the reasons why the state enacted repressive liquor legislation.

This chapter is divided into three parts. The first part reviews contemporary literature relating to alcohol consumption by Native peoples. This is followed by an examination of the relevant historical literature, which primarily chronicles significant historical events, and deals only secondarily with liquor legislation. The third part explores the general theoretical framework chosen for this thesis and consists of a review of the various forms of state theory. A modified form of structural-Marxist state theory provides the best explanation for the enactment of liquor control legislation in Canada.

Contemporary Literature

Most of the contemporary literature makes the assumption that alcohol consumption can be studied in its relationship to a specific racial or cultural group, in this case a Native group or community. The principal approach is

to focus on a racially defined group: a tribe, a community, or regional communities.

Contemporary approaches which have been used to describe and explain the causes and effects of alcohol use among minority populations have been classified into three categories; the ethnographic, the social problems approach, and the integrative approaches (May, 1977). Yerbury (1986) makes a further distinction by adding the cross-cultural approach. Ethnographic and cross-cultural studies are approaches which are not primarily concerned with developing solutions to the problems of alcohol misuse.

The cross-cultural approach, defined by Yerbury (1986) has been used by many to compare the use of alcohol between similar as well as dissimilar cultures. This approach emphasizes the importance of developing theoretical frameworks which are relevant in the discussion of drinking patterns of all cultures (Yerbury, 1986).

In one of the first cross-cultural studies on alcohol consumption by native North Americans, Donald Horton (1948) concentrated on the function of alcohol, claiming that "the consumption of alcohol in any society is more adequately explained by its anxiety-reducing functions than by any other function" (Horton, 1948, p. 223). Among his conclusions are that drinking is accompanied by the release of sexual and aggressive impulses and that drinking rates are directly related to the level of anxiety in the society.

The ethnographic and cross-cultural approaches include works which describe the particular drinking styles of Native groups with an emphasis on how drinking patterns have evolved since the introduction of alcohol (Condon, 1981; Hamer & Steinbring, 1980; Heath, 1964; Honigmann & Honigmann, 1965; Horton, 1948; Lemert, 1982; Levy & Kunitz, 1974). These approaches tend to "presume regularity within the species with respect to biological and physiological states, potentials, and mechanisms" setting it apart from other disciplines which often see "'racial' differences as fundamental and causal with respect to many kinds of behavioral and attitudinal variations [which they observe] among human populations" (Heath, 1976, p. 44). Heath (1976) points out the differences between the anthropological approach and the approaches of other disciplines, suggesting that sociology and psychology are primarily concerned with social groups and personality respectively, while the anthropological approach prefers to examine the range of variation within a population (Heath, 1976, p. 45).

In contrast, studies which fall into the category of the "social problems" approach tend to focus on the underlying factors which lead to the so-called misuse of alcohol (Brod, 1975; Dozier, 1966; Escalante, 1980; May, 1975; Price, 1975; Westermeyer, 1974). In an attempt to find a causal explanation for alcohol abuse in Native communities they have focussed on "social pathologies" as well as biological susceptibility and sociocultural

deprivation theories. While studies which base their analyses on racial differences (see Fenna et al., 1971) are often cited as evidence of physiological differences in alcohol consumption patterns between Native peoples and whites, they have largely been dismissed as fundamentally flawed (Fisher, 1987). Furthermore, the category of race has been dismissed, being of little or no taxonomic significance (Lewontin, 1972).

Theorists working from a biological susceptibility perspective have used heritability studies to determine if certain people are more likely to become alcoholic. Using twin studies, adoption studies and family history studies:

They try to winnow out the cultural and behavioural chaff from the kernel of genetic alcoholism. By doing so they leave the popular belief in a "racial" basis of alcoholism or alcohol abuse unchallenged. (Fisher, 1987, p. 89)

Like the racial explanations, the heritability studies attempt to separate environment from genetic factors, reducing the question "to a few variables [which tends to] destroy the complex phenomena they are attempting to explain" (Fisher, 1987, p. 88).

Integrative studies examine the topic from a slightly more theoretical base, but are often preoccupied with determining possible practical solutions to the various "social problems." They are defined as "eclectic in method . . . aimed at a further understanding of the problem within a larger theoretical framework of applicable history, anthropology, sociology, psychology and medicine" (May,

1977, p. 224) and include works by numerous authors (Brody, 1977; Levy & Kunitz, 1981; Lurie, 1974; MacAndrew & Edgerton, 1969; Stewart, 1964; Watts & Wright, 1988). They attempt to expand the scope of study beyond descriptive and simplistic analyses by introducing a more comprehensive, multivariate approach (May, 1977, p. 224).

What is evident in these categorizations is their focus on "Native North Americans" as an identifiable group which fits easily into a precise racial/cultural/ethnic framework and which simplifies analysis. Cross-cultural analyses, descriptive ethnographic studies, the social problems approach and the integrative studies stress an analysis of the problems which cause or result from alcohol abuse, in essence attributing the cause and/or effect of social problems to alcohol. Shkilnyk (1985) delves deeper into the issue of alcohol use among the Ojibwa of Grassy Narrows, examining the historical foundations of social problems in general. While Shkilnyk does not postulate a direct causal link between alcohol and social problems, acknowledging that "excessive alcohol use is not the original cause of the trouble in the community," implicit in her work is the suggestion that there exists a genealogy of social problems, with contemporary problems such as child abuse, family violence, unemployment, and poor levels of education being the descendants of alcohol.

Many writers attempt to establish a direct causal link between alcohol and high arrest rates, violent death rates,

school drop-out rates, and poverty rates, among other things (Condon, 1981; Dozier, 1966). Others simply identify and describe alcohol abuse, seeing it as one of the myriad of parallel social problems which exist in disproportionately high numbers in Native communities (Brod, 1975; Brody, 1977; Stewart, 1964). While the former group of writers attribute one problem to another while ignoring a third or a number of other variables, those who simply identify and describe, attribute social problems to more obscure dysfunctional characteristics of either the individual Indian or of the Indian community as a whole. What is rarely discussed or examined to any degree is the *structural inequality* between the target group studied and the norm to which it is compared. In the case of Native North Americans, any examination of "problem drinking" is incomplete without a clear acknowledgement of the economic, political and historical injustices perpetrated against them since the arrival of Europeans. With few exceptions (Brody, 1977), analyses that are problem-oriented or culture-oriented often disregard the importance of these injustices.

Since the first legislation was enacted in New France in the 17th century, the idea of a racial explanation (one that associates a problem with a racially defined group) for "problem drinking" has flourished: "Early records are filled with descriptions of the crime and violence resulting from the Indians' inordinate passion for liquor" (Spence, 1919, p. 20).

Many studies succumb to the fallacy of misplaced emphasis in that by identifying what they consider causal factors, their focus remains on those variables which are at first apparent. Their examination limits itself to the rigid structure of their specific paradigm (Richards, 1983, p. 61), limiting the scope of their task "to uncover facts which are 'significant' in terms of the paradigm, which conform to its theoretical predictions" (Richards, 1983, p. 62). Consequently, many studies do not address the original process of evolution of subservient socio-economic populations. While these factors are not always completely ignored, they are often simply acknowledged as contributing components to the underlying causes and effects of alcohol misuse, and are not considered the dominant factors. By acknowledging the tendency of Western liberal democracies to exploitation and subjugate native North Americans (Dyck, 1985, p. 6-7), researchers and practitioners who seek solutions to the social problems which exist in many Native communities will be able to focus on the actual problems themselves rather than on their symptoms. By accentuating and studying the symptoms of economic destitution, the important economic inequalities underlying them all will continue to be ignored.

Historical Literature on Natives and Alcohol

While contemporary historians are now beginning to examine the history of Native peoples prior to the arrival

of Europeans, they have traditionally been marginalized in Canadian history: "Historians still tend to study native peoples only in terms of their relations with Europeans during the early periods of European settlement" (Trigger, 1985, p. 48). Most historical sources which address Native peoples and liquor do so within the context of other analyses; that is, the early explorers, the missionaries (Dailey, 1968), the fur trade (Jacobs, 1950; Phillips, 1961; Rich, 1967), the specific histories of Native groups (Fumoleau, No Date; Honigmann & Honigmann, 1965, Jenness, 1932), the early settlers, the establishment of the North-West Mounted Police (N.W.M.P.) (Horrall, 1973-1974; Jennings 1979; Morrison, 1985; Steele, 1935), general prohibition (Levine, 1985; Spence, 1919; Wooley & Johnson, 1903), and the general history of the Canadian North-West (Begg, 1894; Cumming & Mickenberg 1972; Morris, 1880; Morton, 1938; Oliver, 1914; Stanley, 1961; Thomas, 1970).

Historians who examine these specific events or issues within an historical period often deal in an incidental way with the issue of liquor consumption by Native peoples. Their references to alcohol are often superficial, reflecting more their personal biases towards both alcohol and Native peoples, rather than entering into any systematic analysis of the issue. Many N.W.M.P. historians are former members of the force and simply extoll its virtues (Constantine, 1958; Deane, 1916; Denny, 1939; Donkin, 1889; Douthwaite, 1939; Kemp, 1964; Dyker, n.d.; Fitzpatrick,

1921). Bias is further reflected by Ruth Spence, a prominent prohibitionist historian who wrote that those working for the cause of prohibition were faced with considerable opposition, but persevered: "Their labors bore fruit . . . for the Indians were the first people of Canada to receive protection by law from the ravages of the liquor traffic" (Spence, 1919, p. 19).

Theoretical Perspectives

A third body of literature provides a framework for an understanding of the social structural changes which were occurring during the early development of the Canadian state. This literature allows for a more comprehensive, rigorous and critical examination of the historical evolution of the western prairies, which all too often is simply seen as a "natural" result of territorial and population expansion. State theory (Knuttila, 1987; Milliband, 1973) rejects simplistic and "evolutionary" historical accounts, and allows for the examination and contextualization of political and economic structures underlying the expansion of Canadian territory, and the dramatic changes in the Native peoples' way of life on the prairies.

Because the various contemporary approaches to Native drinking fall short of explaining the reasons for the enactment of repressive laws governing liquor use by Native peoples, one alternative is to assume a neo-Marxist state

theory approach which addresses the important underlying political and economic factors often ignored by conventional observers. Neo-Marxist state theories allow for an understanding of complex social issues because they provide an approach which incorporates political and economic factors into their analysis and because they usually view legislation as a force in the service of dominant social groups or classes (McMullan & Ratner, 1982, p. 5). In the case of western Canada, it will be seen that the state enacted laws governing all aspects of the lives of the Native peoples in order to further its economic and political aspirations.

While there are several forms of neo-Marxist state theories, they each view capitalist societies as class-based, and see political influence as being restricted (to varying degrees, depending on the particular neo-Marxist trajectory) by the economically powerful class. As a consequence, they contend that the political agenda is determined to a large degree by economic influences. Contrary to the pluralist approach which views the state as an "impartial arbiter" which acts neutrally and in the interest of all of society (Ratner et al., 1987, p. 90), neo-Marxist theorists view the state as acting through ideology and repression to protect the long-term interests of capitalism.

Four perspectives exist under the heading of neo-Marxist state theory: the instrumentalist; structuralist;

class-conflict; and capital-logic approaches. These are examined by Ratner, McMullan, and Burtch (1987) who discuss the structuralist concept of relative autonomy -the degree of independence of the state from the dominant economic class- and the state's relation to the development of criminal justice policy. They question Poulantzas's (1974) assertion that there is cohesion within the repressive apparatus of the state, arguing instead that the various agencies working within this apparatus exercise their own degree of autonomy. The authors assert that relative autonomy also exists at various levels and in numerous component agencies which make up the state. According to Poulantzas (1974), the degree of autonomy enjoyed by the state is important but is dependent on, and can only be determined in "an analysis of a specific social formation" [italics added] (Knuttila, 1987, p. 114).

While all fit under the heading of state theory, their varying perspectives on the degree of autonomy of the state from capitalist interests and on the role of the law in capitalist societies illustrate their key differences.

The instrumentalist perspective of neo-Marxist state theory argues that the state acts at the bidding of the ruling class due to the "overt similarities in class background, interests, and worldview between those who control the economy and the personnel of the state" as well as because of their "shared ideological perspectives" (Ratner et al., 1987, p. 91). This claim suggests a

complete homogeneity of the ruling class (Ratner et al., 1987, p. 92), and that the state operates without autonomy at the behest of the ruling class (Caputo et al., 1989, p. 7). According to Quinney (1980), because the state exercises no autonomy from the dominant class, all the components of the state, including its legal apparatus, are "tools of class domination" (cited in Ratner et al., 1987, p. 91).

The instrumentalist view has been criticized for its simplicity and its reductionist views. Evidence which is put forward in an attempt to demonstrate how members of the capitalist class manipulate the law and judiciary "are almost always put in terms of individuals or interest groups who staff the state justice apparatus, rather than on classes defined by their relationship to each other" (Ratner et al., 1987, p. 92). Further, "it often fails to take into account the fact that there can be intra-class and intra-elite conflict" (Caputo et al., 1989, p. 9) implying further that the capitalist class is consistently cohesive. While Ralph Miliband (1977), acknowledged the power of the dominant economic class, he noted that "the pressure which business is able to apply upon the state is not in itself sufficient to explain the latter's actions and policies" (cited in Knuttila, 1987, p. 117).

The second perspective is the class conflict, or neo-Gramscian version of state theory. This perspective holds that simple economic dominance is not the only foundation of

capitalist class power, but that ideological legitimation (hegemony) is equally essential for the existence and for the perpetuation of its power. Carnoy (1984) defines hegemony as "the ideological predominance of bourgeois values and norms over the subordinate classes" (Carnoy, 1984, p. 66). According to Gordon (1988), class conflict theorists present the following view of the role of the state:

The state is a class force with a vital role in: the organization of class domination; securing the long term interests and cohesion of the capitalist class; and, facilitating concessions from the subordinate classes. Most importantly, the state must secure the active consent of the governed. The state is an integrated form composed of "political society" (government and its apparatus) and "civil society," the latter being the seat of popular consensus where social relations and institutions serve to sustain and challenge hegemony. (Gordon, 1988, p. 214)

Regarding the class conflict position and the role of the law, Gramsci saw "law and justice as 'positive civilizing activities,' sanctioning, but as well, educating, moralizing, and rewarding conduct which bolsters the ethical principles and directions of the entire society" (Ratner et al., p. 95).

The third perspective is the capital-logic approach which argues that "politics, ideology, and culture must be seen as more directly connected to the process of capital development" (Ratner et al., 1987, p. 95). Gordon (1988) further notes that in this perspective "since the state is an integral part of the process of capital accumulation it

reflects and reproduces both the basic 'laws' (or logic) and the contradictions of capitalism" (Gordon, 1988, p. 214).

According to Ratner et al., it is possible to delineate three historical phases of the state. These authors argue that in the most primitive capitalist society the state plays an almost instrumentalist role in ensuring capital accumulation, and that it enjoys little autonomy from the capitalist class. Autonomy only begins to emerge as the society becomes more economically developed, until the phase of monopoly capitalism requires the state to act with complete autonomy and assumes the role of facilitating the economic aspirations of the dominant class (Ratner et al., p. 97). According to Ratner et al. (1987), "the ideological character of law and the state derives from the 'logic' of the economic relations of capitalism" (Ratner et al., 1987, p. 96), and this character changes over the three phases of capitalism (Ratner et al., 1987, p. 97). This ideological role of the law and the state cannot be understood solely within "the specificity of the political but as the direct product of the economic relations of capitalism and their logic" (Ratner and McMullan, 1989, p. 100).

The state, according to the structuralist perspective has three essential roles: First, it must ensure a continuation of the conditions necessary for capital accumulation; second, it must legitimate the unequal social relations that are inherent in a capitalist economic order (O'Connor, 1973, p. 6). Leo Panitch (1977) suggests that

the maintenance of order through coercion is a third important role of the state, thereby distinguishing the state's coercive function from its legitimating function.

Before discussing these three functions of the state, it is important to examine the relationship between the state and the capitalist class. The structuralist version of neo-Marxist state theory views the state as supportive of capitalism, but not as a direct instrument of the capitalist class (Caputo et al., 1989, p. 7). The relationship between the state and the relations of production is not subjective and instrumental, but objective:

It is not a specific network of institutions but a functional inter-relationship, a hidden reality which organizes the power co-ordinates of class domination and conflict as a whole. (Ratner et al., 1987, p. 93)

The dominant classes are seen as factionalized, with little cohesion or unity; so as the "guarantor of the long-term interests of the dominant class as a whole" (Ratner et al., 1987, p. 94), the state must mediate the "internal differences within the dominant class in such a manner as to ensure the continued existence of capitalist relations of production" (Knuttila, 1987, p. 119). The state acts with relative autonomy from any particular capitalist class, but always in a way which will serve the long-term interests of the capitalist class as a whole. Just as the state acts with relatively autonomy from the capitalist class, so does the law. Rather than a direct instrument of the state, it

is seen as the place where legitimation for specific policies is centred:

The state has the major role in atomizing the labouring class, disintegrating its real or political coherence by transforming workers into individualized citizens, while simultaneously presenting itself as promoting the universal interest of the entire society. (Ratner et al., p. 93)

Panitch (1977) outlines four strategies used by the state to promote capital accumulation:

It has provided a favourable fiscal and monetary climate for economic growth via private enterprise. It has underwritten the private risks of production and public expense through grants, subsidies, fast write-off depreciation allowances, etc. Confederation itself was produced by the desire to facilitate capital accumulation by guaranteeing loans from London to build the railways. It has played a crucial role, via control of land policy and immigration policy, in creating a capitalist labour market. . . . And it has directly provided the technical infrastructure for capitalist development when this was too risky or costly for private capital to undertake itself. (Panitch, 1977, p. 14)

The second component of the structuralist approach is the importance it places on the legitimation function of the state. If the state is successful in convincing its citizens that it equally represents the interests of all, then a necessary condition for hegemony exists. The relatively autonomous position of the state provides the appearance of equality: "the government is democratically elected and we can all vote. . . . If we feel unjustly treated, we have the right to our day in court" (Caputo et al., 1989, p. 10). As a result,

it allows us to attribute the inequality among individuals as due to the relative efforts of individuals with different talents and characteristics rather than to class position and opportunities. (Caputo et al., 1989, p. 10)

Rather than perceiving inequality as the result of economic disparity between relations of production, it is individualized, thereby frustrating the development of class-consciousness.

Panitch (1977) claims that compared to its capital accumulation function, the state's legitimation function in Canada is "relatively underdeveloped" (Panitch, 1977, p. 19). This is a significant observation that begs for clarification regarding the distinction between the legitimation function of the state, and its third function, coercion.

The suggestion that the legitimation function is largely underdeveloped would not be unanimously accepted for significant incidents in Canadian history appear to contradict such a claim. By separating the legitimation function from its coercive function, Panitch (1977) has perhaps over-simplified Canada's policy toward the Indians of western Canada. Most of the legislation aimed at Native peoples should not be considered as *either* coercive *or* legitimating, but as a combination of the two. Indeed, other theorists have argued that law is "the ideal synthesis of consent and coercion" (Fine, 1984, cited in Havemann, 1989, p. 57), and that the two are inseparable (Samuelson, 1985, cited in Havemann, 1989, p. 57). While classifying

the two functions separately may allow for precision in dealing with certain specific incidents (e.g. the state's coercive function in its military suppression of the Riel Rebellion) it inhibits the inclusion of some laws and policies into the coercive category, such as liquor control laws, for such legislation is clearly a hybrid of both. Havemann (1989) concludes that there exists a dialectical relationship between coercion and consent within the subjugating functions of the law. He describes the role of the state in regulating subordinate classes, demonstrating this dialectic:

Social regulation of the working-class majority has been accomplished through social spending legitimating the ensemble of social, political and economic relations structured to facilitate accumulation. In contrast, marginal minority groups have been regulated and contained by coercion. (Havemann, 1989, p. 59)

For Havemann, the role of the state in the controlling of the Native peoples of Canada involved the "naked imposition" of specific legislation such as the "Criminal Code, the Constitution Acts of 1867 and 1982, the Treaties, and the numerous Indian Acts" (Havemann, 1989, p. 55). Havemann's instrumentalist interpretation of the nature of law is tempered by Tobias (1983), whose examination of British and Canadian Indian policy focusses on the overall philosophical underpinnings of the legislation:

It was after 1815 that the British adopted the policy of civilizing the Indian as an integral part of their relationship with the Indians. The policy evolved slowly, as a result of much propaganda in

Britain and North America about the *need to develop the Indian*. (emphasis added. Tobias, 1983, p. 40)

After Confederation, the "civilizing" policy was seen as a "long-term process" and "assimilation was the long-range goal" (Tobias, 1983, p. 43).

Based on an assumption that the law is designed to apply equally to all individuals, questions regarding its application to particular racial groups tend to divert focus onto those *particular* groups. According to Harding (1978), this results in racial or cultural explanations for social problems:

Blatant and subtle racial explanations of community problems . . . have survived because they have a clear ideological function. If social problems are explained by referring to race, there is no need to look at historical and economic conditions. (Harding, 1978, cited in Havemann, 1989, p. 62)

Edari (1984) argues that this ideology of racial superiority has "been essential to the process of pacification" throughout Canadian history (see Havemann, 1989, p. 63). Dyck (1985) states that "the expropriation and settlement of indigenous people's lands in Canada . . . were facilitated by the settlers' notions of their own racial superiority vis-à-vis the natives" (Dyck, 1985, p. 8). Laws controlling the consumption of alcohol by Native peoples are evidence of this ideology which has become part of the predominant ideology, or hegemony of the state.

While a structural Marxist perspective offers a good analytical framework from which to examine the history of liquor control legislation in western Canada, it is limited

by its functionalist conception of the law. Reducing law to a functional necessity, it is

disavowing a place for social actors and in conjuring the state primarily in terms of its functional utilities, the perspective reduces law and the state to a structural necessity and consequently over-emphasizes the functional relationship of the long-term reproduction of capital. (Ratner and McMullan, 1989, p. 233)

In neglecting human agency in its analysis, actors within the state structure are seen as passive, simply reacting to structural demands: "class consciousness and agency is almost entirely removed from their analytic framework" (McMullan and Ratner, 1982, p. 10). As Caputo et al. point out,

while structural conditions provide limits (parameters) to action, they do not predetermine it. . . . People create laws at a particular time to deal with specific issues and problems. (Caputo, et al., 1989, p. 11)

Inherent in the British and Canadian policies towards Indians was the need for protection -as well as civilization and assimilation. The specific problem facing legislators in the Province of Canada in the mid-1800s was the perceived need to protect the Indians from specific dangers of "civilization":

To protect the Indian from being debauched by certain accouterments of civilization, a ban on the sale of liquor to Indians was legislated (Statutes of the Province of Canada, 1839, 1840, 1850). All these protective measures were incorporated into Indian legislation of the Canadian Parliament and were later expanded. (Tobias, 1983, p. 41)

Thus, downplaying the role of human agency and class consciousness, the structuralist perspective cannot explain

how laws are created which benefit the marginal classes in society:

By undervaluing the power of other social classes, advantages won from the state by struggles "from below" (that is, welfare programmes, safety and protection laws, union recognition, and so forth) are difficult to explain within the perspective. (Ratner et al., 1987, p. 94)

Because of the weaknesses in the traditional structuralist perspective, Ratner et al. (1987) argue for a hybrid approach, incorporating class conflict, capital-logic, and structuralism. This would provide "an account of structural constraints and human agency in complex dialectical interplay" (Ratner et al., 1987, p. 118). This modification of the structuralist perspective recognizes the importance of economic factors, yet allows for greater emphasis on human agency, as well as the historical specificity of the capital-logic approach.

The concepts of competitive and monopoly capitalism are critical for an understanding of the role of the state in the pre-Canadian (i.e. colonial) historical context. According to Poulantzas (1974), in competitive capitalism the role of the state was primarily to reproduce "the general conditions of the production of surplus value." In monopoly capitalism, the role of the state changes, it "enters directly into the relation of production -into the valorization of capital" (cited in Carnoy, 1984, p. 110). This evolutionary approach to the state suits an historical analysis which is attempting to explain a cathartic period

in Canadian history: the transformation of a colonial wilderness into a modern political and economic unit or state.

This transformation is examined by Bourgeault (1988) in relation to the fur trade. He recognizes the competitive and monopoly stages as vital in the evolution of Canadian capitalism, but chooses to include mercantilism as a bridge between feudalism and capitalism (Bourgeault, 1988, p. 82). The end of mercantilism, the result of the growth of unequal relations of production, ultimately led to complete European economic domination, "when the Indians could no longer survive on their own without obtaining the necessities of life through exchange" (Bourgeault, 1988, p. 86).

The relevance of the modified structuralist approach to this study lies in its adherence to fundamental structuralist premises, while accommodating factors which allow for examination of the relationship between structural factors and human agency within a specific historical context. In this case, the specific historical context is the early Canadian state during the 19th century, one in the nascent stages of capitalism.

CHAPTER THREE
LIQUOR LEGISLATION DURING
THE REIGN OF THE FUR TRADERS

Repressive liquor control legislation has existed in North America since the arrival of the first European missionaries and explorers. New France was the first jurisdiction to enact such laws, with American colonies and the Canadian provinces soon following suit. This chapter reviews the earliest forms of liquor control legislation in New France. It will then turn to the Hudson's Bay Company (H.B.C.) era between 1670 and 1849. Although this era was characterized by violence between the two companies and questionable trading practices, the H.B.C. and the Imperial government were more concerned with the success of the fur trade than they were with stemming the disorder. Some laws were passed but were unsuccessful in affecting the level of violence.

Seventeenth century liquor control legislation throughout eastern North America emphasised prohibition as the solution to social evils plaguing the Native culture. In the American colonies, laws were established forbidding the sale or trade of liquor to the Indians on penalty of fines. The King of France, Louis XIV issued the following edict for New France:

Since the founding of this colony the trading of intoxicating liquors to the Indians has always been prohibited and forbidden under penalty of discretionary fine because of the rage in which these peoples find themselves when intoxicated; and that it is established that they desire to drink only to become intoxicated; and that notwithstanding the pursuit and punishment of offenders this disorder had come to such a state that it had come to the attention of His Majesty. . . . In contempt of the

said prohibitions as well as censures made by the Church this wretched commerce has continued; and notably in these last two years many have taken the liberty of vying with one another due to the relaxation of bringing delinquents to punishment; and seeing the growing disorder which has resulted, and that the Indians were inclined towards drunkenness, despising the laws of Christianity and giving themselves to all sorts of vices and abandoning the hunt, by which this colony has subsisted to the present time; it is required that a suitable remedy be produced, and further having taken the advice of the Reverend Jesuit Fathers, missionaries to the said Indians, summoned for this purpose, and everything having been considered.

The prohibitions and interdictions are reiterated to all persons of whatever rank or station, neither to deal nor give directly or indirectly to the Indians any intoxicating liquors for whatever reason or under whatever pretext, not even one drink, under penalty of 300 pounds . . . and in the case of repeated offence flogging or banishment depending on the particulars of the case. (Smith, 1975, p. 26)

This edict illustrates the obvious influence of the missionaries in its reference to the laws of Christianity. The Jesuit missionaries saw the sale of liquor as a direct impediment to their spiritual work: "Is it permitted to a Christian to sell to a Savage what makes him like a beast, changes him into a Lion, and prevents him from receiving the Faith of Jesus Christ?" (Jesuit Relations, 1899, Vol.22, p. 243). The proclamation can also be read as an attempt not only to create social order in New France, but to protect the interests of capital, in particular the interests of the fur traders. The interests of the traders, however, soon gained strength when in 1666, restrictions on the provision of liquor to Indians were to apply only to Indians in the woods, and not those in the Habitations (Spence, 1919, p. 25). Thus, the Native hunters and fur-trappers in the woods would be free of

liquor, thereby placating the missionaries, and upon their return to the Habitations, their alliances would be strengthened by legally supplied liquor.

The new law was clearly directed at *drinking* by Native peoples, yet it served a greater purpose; namely, controlling the Native peoples themselves. This use of legislation was not lost on the Jesuit missionaries. They saw liquor control legislation as one of many methods by which the domination of the Native people could be achieved: "The Savages have never known what it was so solemnly to forbid anything to their people, under any penalty, however slight. It is good to bring them gradually under the control of those whom God has chosen to command them" (Jesuit Relations, vol.33, p. 51).

The exercise of control over the Native people was more important than the particular form which the control was to take. The gradual destruction of the sovereignty of the Native peoples allowed for the increase of control by the Euro-Canadian powers. This was to become the method used by governments in the North-West to control the Indians of the prairies when their usefulness to traders as hunters diminished and their presence became a hindrance to the economic development of the territory.

Fur-Trading Rivalries

In 1670, King Charles II granted a charter to the Governor and Company of Adventurers Trading into Hudson Bay (Hudson's Bay Company or H.B.C.). With the charter, the

uncolonized hinterland of what is now western and northern Canada became subject to the laws of England (Oliver, 1914, p. 130). "Its charter granted it exclusive trade and wide powers of government throughout a vast region" (Phillips 1961, vol. 1, p. 431), including the power to enact laws "necessary for the good government of the Company, and for the advancement and continuance of trade" (Cumming & Mickenberg, 1972, p. 141).

The French challenged the authority of the H.B.C. charter claiming that the English had no right to assume control over the territory. They engaged their foes in violent altercations, capturing H.B.C. trading posts, seizing ships and cargo, and establishing posts of their own on Hudson Bay (Phillips 1961, vol. 1, p. 280). When the Treaty of Utrecht (1713) finally established H.B.C. rights to the Bay, the French traders had already seriously damaged the Company's profits (Phillips 1961, vol. 1, p. 284). The company was granted exclusive rights to the fur trade in the basin of Hudson Bay, also known as Rupert's Land, and given a mandate to find a water route to the Pacific Ocean (Phillips, 1961, vol.1, p. 269).

During the 1770s the fur trading situation in the Hudson Bay region was chaotic. Independent fur traders from Montreal, often referred to as the "Pedlars", but known to the H.B.C. as the "Interlopers" (Rich, 1967, p. 130) were competing with the established H.B.C. These maverick traders were unable to compete effectively against the H.B.C. In

1783, they joined to form the North West Company (N.W.C.) (Phillips, 1961, vol. 1, p. 634). This new competitor caused the H.B.C. to lose its trade monopoly to independent fur traders and the Métis of Red River. The years between 1783 and 1821 saw violent rivalry between the two companies. Their policies during this era have been described as unscrupulous and immoral (Phillips, 1961). This is often blamed on the lack of a central authority and the predominant concern for immediate profit at the expense of sustained management of resources. There existed a total disregard for any legal authority for, apart from the employees of the two larger companies, there was no method of enforcement. Further, since neither the N.W.C. nor the H.B.C. was prepared to enforce laws which hindered their commerce, the only forums to resolve conflicts were vigilantism and other forms of terror. Liquor control legislation throughout North America was weak and, for the most part, not enforced (Phillips, 1961, vol. 2, pp. 127, 228, 381, 387).

After the War of American Independence (1775-1783), the borders between the United States and British North America were determined. To the consternation of many Canadians, the Northwest, including Oregon, was to be annexed to the United States. After an initial refusal to abandon fur-trading posts in the area, and after much threat of war, Jay's Treaty was ratified in 1796. This Treaty provided for Britain's surrender of the Northwest posts to the Americans (Phillips, 1961, vol. 2, p. 35). In anticipation of the transfer, the

Montreal-based N.W.C. sought "to exhaust the pelts of the American Northwest before the trade of that region should pass into American hands" (Phillips, 1961, vol. 2, p. 108).

A serious decline in the price of furs during the two decades after the American revolution caused many Canadian companies to disappear. Although the N.W.C. survived the initial drop in price, many partners were disaffected with its "no expansion" policy and, in 1798, formed a competing company, known as the "XY Company" (Phillips, 1961, vol. 2, p. 110). This new, bitter rivalry led to an increased use of liquor in the fur trade.

In a futile attempt to stem the disorder in the fur-trade domain, the British Government passed the Canada Jurisdiction Act (43 Geo. III, chap. 138). "It provided that offences committed within any of the 'Indian Territories,' which appeared to include Rupert's Land, should be tried in the same manner as if committed within the Provinces of Lower or Upper Canada" (Williams, 1962, p. 126). This legislation enabled the Governor or Lieutenant-Governor of Lower Canada to appoint Justices of the Peace who could arrest and detain any person who was alleged to have committed an offence and send them to Montreal for trial (Phillips, 1961, vol. 2, p. 194). The appointed Justices reflected his ignorance of the situation in the west, for each appointee was a member of the N.W.C., "the masterminds of the violence against the Hudson's Bay Company and of the debauchery of the Indians" (Jennings, 1979, p. 34).

In practice, it is evident that this Act had no effect on the control of liquor. However, it is doubtful if liquor control was indeed one of its objectives. If this law was designed to make offences of Upper and Lower Canada equal offences in the "Indian Territories" there exists some ambiguity. In Upper Canada, legislation existed which severely restricted the sale, barter or exchange of liquor with Indians. In one district, where missionaries had considerable influence, the liquor trade with Native peoples was *prohibited* (Spence, 1919, p. 29). In Lower Canada, general laws *restricted* the manufacture and sale of liquor in general (Spence, 1919, p. 29). The disorder which the law was intended to reduce, did not diminish, as is evidenced (below) in an overview of the events leading up to the 1821 merger of the two companies.

What was entailed by "Indian Lands" would soon be a matter of debate between the H.B.C. and the N.W.C., which absorbed the XY Company in 1804. The charter granted to the H.B.C. was challenged from the date of its declaration. Independent fur traders, as well as rival companies, defied the larger company's claims to the territory and regularly encroached on the land encompassing the basin of Hudson Bay. Control over the lands became an issue in the early 1800s.

There has been a consensus, implicit in the writings of many historians, which associates the violent rivalry between the fur-trading companies with their use of liquor: "Disease and alcohol demoralized and destroyed the Indians just when

they needed all their energy and courage to cope with the new conditions that suddenly came into existence around them" (Jenness, 1932, p. 254). This focus should not be dismissed nor should the use of liquor in the fur trade be minimized. However, what has resulted from this focus has been the isolation of liquor as the major culprit in the period of violent rivalry, resulting in a complete dismissal of the context in which alcohol was used. While it could be said that the casualties of the war between the two rival fur trading companies were the Indians, this is not because of their use of alcohol, but because the use of alcohol was symptomatic of the overall attitude of the companies toward the Native providers of the furs.

Various Indian groups allied themselves with competing traders which resulted in increased hostility between the various tribes. Exacerbating this increase in hostility was the widespread use of rifles and shotguns. It is within this context of rivalry between companies and rivalry between Indian groups over scarce resources, that the notion of "liquor wreaking havoc" raises doubts. If anything wreaked havoc, it was the ruthlessness of the traders and their single-minded obsession with profit. The pages of western Canadian history are filled with references to murders, arson, threats and massacres. Most of these episodes are described without an explicit reference to liquor:

In the summer of 1804, six Nor'Westers were killed during an Indian attack on Fond du Lac, a small fort near the eastern tip of Lake Athabasca, and four

others were ambushed while hunting near Fort Chipewyan. Armed hostility on the prairies had begun as early as 1780 in the Eagle Hills of present-day Saskatchewan when an irresponsible Montrealer put an extra dose of opium into some trading rum. In the ensuing rumble there were serious casualties on both sides. (Newman, 1985, p. 158)

The emphasis on liquor simply reflects the common consensus that Indian people became violent under its influence, neglecting the more rational association between their violence in the face of dwindling autonomy, scarce resources, encroachment on their land, and increased dependence on increasingly ruthless traders.

In two years the quantity of spirits taken into the Indian country was more than doubled, from 10,098 gallons in 1800 to 16,299 gallons taken in by the North West Company and over 5,000 gallons taken in by the XY Company in 1803. The Indians were not only spoiled and debauched, they were bullied and abused as well. But trade declined. Disputes over furs and over Indian loyalties at times led to murder. (Rich, 1967, p. 194)

Early Western Settlement

In the early 1800s, the 5th Earl of Selkirk considered the possibility of colonization of lands belonging to the H.B.C. Alexander Mackenzie, prominent in the N.W.C. was also considering a merger with the larger, more established H.B.C. Mackenzie was also encouraging his associates to buy shares in the H.B.C. The relationship between these two developments is that both hinged on the legality of the monopoly held by the H.B.C. over the Hudson Bay basin. Selkirk received legal opinions which assured him that the H.B.C. had legal title to the land and consequently could sell to whomever it wished.

The ambiguous statute which allowed for the courts of Upper and Lower Canada to deal with cases from "Indian Lands" was deemed inapplicable to the Company's territory (Phillips, 1961, vol. 2, p. 316).

To ensure that he would obtain land from the H.B.C., Selkirk inconspicuously bought up shares in the company.

After Mackenzie had encouraged Selkirk and other wealthy men to buy shares in the company, he became fearful of the Earl's plans for two reasons: first, any settlement would intersect the N.W.C.'s route to the Pacific Ocean, and second, "Selkirk's settlement might easily become a base of supply for the Hudson's Bay Company and thus encourage it to strike for the western trade" (Phillips, 1961, vol. 2, p. 318).

Mackenzie sought a legal opinion (Phillips, 1961, vol. 2, p. 317) and was assured that the charter of 1670 "did not grant a monopoly of trade in the western territories" (Phillips, 1961, vol. 2, p. 318). Lord Selkirk quelled Mackenzie's hopes of a merger: "By the use of his own great wealth and that of his family connections, he bought up a controlling interest in the company, . . . had himself made president and then practically forced his fellow directors to sell him a tract of land comprising 116,000 square miles" (Sutherland, n.d., p. 12).

The granting of the territory to Selkirk permitted the H.B.C. to concentrate on the more profitable northwest (Oliver, 1914, p. 31). This proved difficult as both companies suffered from the intense competition. What followed the establishment of the small but significant

settlement catapulted the competitive nature of the fur trade to prominence both in England and Canada.

The intense rivalry between the H.B.C. and the N.W.C. was felt by the Native inhabitants of the territory: "Besides fragmenting bands and setting up conflicting loyalties, this period of rivalry was characterized by a steady increase in the use of liquor, which added to social instability" (Yerbury, 1986, p. 69). The bitter struggle, and their use of alcohol in the trade, has been described as "one of history's more malevolent crimes against humanity" (Newman, 1985, p. 145), implying that the Indians of the territory were victims of circumstances beyond their control. York (1989) views alcohol as "disastrous" to the Native peoples of Canada (York, 1989, p. 189) citing accounts of Jesuit missionaries and fur traders. While the use of liquor may have exacerbated a disastrous situation, to blame liquor for the instability is inaccurate.

This type of pious indignation is common in the journals of many fur traders and missionaries. Although understandable in the writings of the period, the perception that liquor caused the downfall of the Indian peoples was merely the reflection of an ideology of racial superiority and of the belief that Indians were an inferior race. The trader Duncan McGillivray reflects this attitude: "They take very little pains to conceal their amours, especially when heated with liquor" or when drinking "they expose themselves in the most indecent positions, leaving uncovered those parts which nature

requires to be concealed" (Newman, 1985, p. 151). These beliefs are not so understandable when repeated in contemporary literature. Just as the Jesuits used tales of bloodshed and mayhem to gain financial support from France (Dailey, 1968, p. 52, Jaenen, 1977, p. 7), the fur traders of the west used their equally startling accounts of disorder caused by alcohol to discredit their rivals.

These accounts mistakenly attribute social problems to a substance, rather than social and economic factors. They also deflect attention away from violent actions of some Euro-Canadian settlers. Many historians (Phillips, 1961; Rich, 1967; Stanley, 1961) postulate that Indians became violent and promiscuous *because* of the liquor which was given to them by the white traders, and the devastation which ensued was the *result* of this alcohol-induced promiscuity and violence. Furthermore, since the traders were the providers of liquor, they, and the liquor are solely to be blamed: "The disastrous effects of alcohol swept across the continent, bringing death and devastation to the Indians" (York, 1989, p. 189). York (1989) suggests that the Blackfoot of the southern plains "were decimated by whiskey and epidemics of smallpox" (York, 1989, p. 191) by the late 1800s neglecting to mention one important ancilliary fact; their main food and clothing staple, the buffalo, had almost become extinct.

The common thread uniting conventional historical accounts of the meeting of the European and Native cultures is that they ignore the repressive and systematic subjugation of

the Native people by the Europeans, and they mistake "social distress and change for social and cultural collapse" (Abele & Stasiulis, cited in Clement, 1977, p. 247). The social distress and change were not the result of liquor or any other vice associated with the early white settlers as many would like to believe. Rather, it was the result of historical circumstances as well as policies of systematic suppression and subjugation perpetrated under numerous guises, first by monopolistic companies and then Imperial and Colonial governments to enhance the wealth and sphere of domination of the dominant class.

The culmination of violence between the two companies came in the form of a mass slaughter of Selkirk settlers in 1816. The incident, although complicated by numerous factors, can be summarized as follows:¹

Miles Macdonnell, the Governor of the Red River Colony (Assiniboia), was conscious of hostility from both the Métis and the North West Company. The Métis were hostile because Selkirk's land claim included much of their traditional land. The N.W.C. was displeased with the colony's governor for issuing the "Pemmican Proclamation" in 1814 which effectively prevented the exportation from the settlement of any food. This would seriously hamper the N.W.C. and H.B.C. fur-traders, for pemmican was an easily transported, non-perishable commodity. The N.W.C. illegally produced its own pemmican

¹ From Rich, E. E. (1967) The Fur Trade and the Northwest to 1857. Toronto: McLelland and Stewart. pp. 209-235.

which was promptly seized by H.B.C. employees under the direction of the governor. Macdonnell further alienated himself from the H.B.C. and settlers, by arranging that the seized pemmican could be returned to the N.W.C. in return for oatmeal brought in from outside the territory. Meanwhile, the settlers and the H.B.C. had only oatmeal. Governor Macdonnell then turned himself in to the N.W.C. in an attempt to reduce the tensions. Two thirds of the settlers also left, indicating the fierceness of the trade rivalry. The 60 remaining settlers became victims of a N.W.C. raid in which their crops and houses were destroyed. Soon after the raid, a new group of settlers arrived with Robert Semple their new governor.

In 1816, the tentative nature of the settlement succumbed to aggressiveness, when Colin Robertson, an H.B.C. official ransacked the N.W.C. headquarters. In the attack, he found letters which indicated an imminent attack on the settlement, so he left the colony under the charge of Semple, who not having experienced the first raid, both failed to heed his warnings, and failed to accept help from the Saulteaux Indians who were aware of the possibility of violence. Semple left his fort with 26 volunteers, some unarmed, to meet a group of N.W.C. employees at Seven Oaks. In trying to exert his influence, Semple grabbed the barrel of one of the N.W.C. guns. Its discharge resulted in general mayhem. The governor and 21 of his settlers were killed.

Hudson's Bay Company Monopoly

The period of violent rivalry between the H.B.C. and the N.W.C. came to an end when the leader of each died in 1820. Their successors immediately engaged in discussions toward the amalgamation of the two companies. Through the amalgamation of 1821 and the resulting monopoly granted by the Imperial government, many Indians were "forced into dependence on the company and became in effect 'serfs' in the fur trade economy" (Thatcher, 1986, p. 276). This monopoly was established through an 1821 Act "For regulating the Fur Trade and establishing a Criminal and Civil Jurisdiction within certain parts of North America" (I and II, Geo. IV, chap. 66). This legislation was created in England after the Colonial Office was apprised of the chaotic situation in the "Indian Territories." The Act was designed to eliminate competition in the fur trade, and to establish an effective system of law enforcement in the territory (Rich, 1967, p. 239).

The Act enabled the Crown to grant exclusive trading rights in parts of the "Indian Territories" (other than Rupert's Land which was still the property of the H.B.C.). The result was that many Natives "came to depend almost wholly upon the H.B.C. for trade and supplies of equipment, and the company was able to develop a rigid hierarchy of authority and income groups within the social structure of the trade" (Thatcher, 1986, pp. 276-277). The H.B.C. was given the authority over the administration of criminal proceedings and was charged with limiting the use of liquor in its territory

(Phillips, 1961, vol. 2, p. 347) although there is no evidence of any attempt to do so, for the Company had no desire to exercise its power of legal jurisdiction in situations which did not affect its own interests (Jennings, 1979, p. 41).

Although there was a monopoly on the fur trade in Canadian territory, many fur-bearing animals disregarded the official boundary along the 49th parallel, enticing the H.B.C. to venture south into American territory. There, the company "made lavish use of alcohol" (Phillips, 1961, vol. 2, p. 380) without contravening its own custom-crafted regulations, for although the liquor trade was prohibited generally, an exception was made "where the fur trade was exposed to competition with American spirit dealers" (Oliver, 1914, p. 634).

The liquor trade provided "a significant buttress to the profiteering fur trade" (Myers, 1972, cited in Thatcher, 1986, p. 277). With American and H.B.C. traders operating on either side of the international boundary, the task of restricting liquor was complicated. In 1822, the American government forbade the use of liquor in the fur trade in regions where the H.B.C. was known to operate, indicating their attempt to restrict H.B.C. traders through its own prohibition of liquor. However, the American governor of the territory suspended the law "at all points along the border and west of Lake Superior where Hudson's Bay Company posts were located" (Phillips, 1961, vol. 2, p. 381). The American government formally requested the H.B.C. to stop their use of liquor in the fur

trade. The company, annoyed that some American traders ventured north of the boundary, replied that it would do so only if the American traders decided to do the same, but "not until these ventures into Canada were voluntarily curtailed did the British show signs of bridling their whisky peddlers" (Phillips, 1961, vol. 2, p. 387).

In 1836, the Council of Assiniboia as well as the H.B.C. passed resolutions which prohibited the sale or supply of liquors to the Indians. The Company's Northern Council -which had supremacy over the department's other smaller councils (Oliver, 1914, p. 633)- passed a regulation which encapsulated its policies:

Resolved 39. That the Indians be treated with kindness and indulgence, and mild and conciliatory means resorted to in order to encourage industry, repress vice and inculcate morality; that the use of spirituous Liquors be gradually discontinued in the few Districts in which it is yet indispensable; and that the Indians be liberally supplied with requisite necessaries, particularly with articles of ammunition, whether they have the means of paying for it or not; and that no Gentlemen in charge of Districts or Posts be at liberty to alter or vary the Standard or usual mode of trade with the Indians except by special permission of Council.

In order gradually to wean the Indians all over the Country from the use of spirituous Liquors to which they are so much addicted, it is Resolved 40. That none of that article either for Trade Sales or gratuitous indulgence to Servants or for allowances to Officers be imported into English River, Athabasca or McKenzie River Districts; and that such deficiency on the Outfit be made up by a proportionate increase in the supplies of ammunition and Tobacco. (Oliver, 1914, p. 754.)

The Council of Assiniboia feared that:

The public tranquility of the settlement was so greatly endangered by the sale of traffic of liquor

to the Indians that in 1836 [they] resolved to prohibit entirely this trade and to inflict a fine of 20 shillings for every infringement of this regulation. (Oliver, 1914, p. 83)

It is significant that between the 1811 grant of land to Selkirk and its return to H.B.C. hands in early 1836 (Begg, 1894, vol. 1, p. 234), no liquor legislation was enacted in the Red River Colony. This is likely due in part to the general comportment of the H.B.C. during this period which, after 1825 maintained complete control over the colony (Rich, 1967, p. 257). During the post-merger years, the Company enraged many colonists through its restrictive policies and strong-armed trading practices. It upset the small businessmen by competing with them at lower prices, angered the Métis by temporarily refusing their goods, abolished the credit-payment system (causing distress to those with less money), and imposing import duties on goods from the United States while restricting exports (Begg, 1894, vol. 1, pp. 231, 233).

The most egregious of the Company's paternalistic policies was the entry of colonists' dwellings without warning, armed with muskets to search for evidence of illegal (i.e. non-Company) fur trading. When evidence was found, a dwelling could be summarily destroyed by H.B.C. employees, and the offender could be imprisoned (Begg, 1894, vol. 1, p. 229). The Company made clauses in some settlers' leases which set out its authority over the control of the fur trade (Rich, 1967, p. 260). These measures dramatized the overwhelming

control by the Company over the Red River settlers in the District of Assiniboia.

Since the legislative authority of the Hudson's Bay Company was paramount over that of the Council of Assiniboia, the regulations pertaining to the supply of liquor to the Indians did not apply to H.B.C. officials. This was reflected in subsequent regulations enacted by the Council of Assiniboia, which explicitly exempted ordained clergymen, licensed physicians, surgeons, apothecaries and representatives of the H.B.C. from their legislation.²

It was within this atmosphere that Selkirk's settlers traded with the Indians and traders from Minnesota, against the strict specifications of the H.B.C. (Fowke, 1957, p. 88). In 1832, the H.B.C. sought to enforce its charter rights; this led to disturbances in the settlement. The Métis around the Assiniboine and Red rivers due to their proximity to the buffalo herds were being prohibited from trading in furs. The H.B.C. secured an extension of its exclusive right over the fur trade in 1839 on the promise that competition in the trade would not "debauch" the Indians (Rich, 1967, p. 261). The following decade marked the beginning of the demise of the H.B.C.'s monopoly.

The H.B.C. under Governor Simpson continued to resist any policy change which would diminish the authority of the fur

² The rules of the H.B.C. remained in effect in the territory beyond the District of Assiniboia until it was transferred to the Dominion government through the Rupert's Land Act (1868).

trade. This was reflected in the Company's attitude towards both agricultural and Indian policy. "Agricultural settlement . . . must be achieved under the aegis of the fur trade" and as was reported by Francis Bond Head regarding the Indian land policy in Upper Canada:

1st. That an attempt to make farmers of the red men has been generally speaking a complete failure. 2nd. That congregating them for the purpose of civilization has implanted many more vices than it has eradicated; and, consequently, 3rd. That the greatest kindness we can perform towards these intelligent, simple-minded people, is to remove and fortify them as much as possible from all communications with the whites. (Bond Head, 1939, cited in Rich, 1967, p. 252)

Further, "weaning the Indians from their nomadic way of life was, on the contrary, to be accepted only when it could not be evaded" (Rich, 1967, p. 255).

The unfettered control of the H.B.C. over the western territories began to erode when tales of disaffection from its population began to reach England in 1847. Among the complaints were charges that the Company was being obstructionist in its policies towards colonization -it was not encouraging agricultural settlement, and the Company's responsibility to improve the spiritual and physical condition of the Native population was being disregarded (Galbraith, 1949a, p. 323). The Colonial Secretary in London, Earl Grey, along with Lord Elgin, the Governor of Canada, instituted an investigation which examined the practices of the company. Although the 1849 report confirmed the H.B.C.'s exclusive rights to the trade, it raised serious doubts as to the

desirability of the monopoly (Rich, 1967, p. 265). In London the Governor of Canada and the Colonial Secretary were considering the future of the H.B.C. monopoly, while in the Red River area, a challenge to the Company was about to take place which would provide the catalyst for immediate change in its rights to exclusive trade.

CHAPTER FOUR
THE BIRTH OF THE NATIONAL POLICY;
COLONIAL LIQUOR CONTROL

In 1849, three Métis were charged with selling furs illegally to non-H.B.C. officials. At their trial were hundreds of armed supporters of the accused. Perhaps swayed by the outpouring of support, the judge convicted the three but suspended sentence, leading the traders to declare that the H.B.C. monopoly in the settlement was no longer valid and that free trade was in effect (Fowke 1957, p. 89). Along with a hunger for land from the Canadian provinces (Galbraith, 1949a, p. 322), and a growing humanitarian movement in Britain ("champions of backward peoples" (Galbraith, 1949a, p. 322)) which was uncomfortable with the H.B.C.'s treatment of the Indians, the Métis trial in effect changed the way the western territories were viewed by the politicians of the Province of Canada. Suddenly it no longer viewed the H.B.C.'s monopoly as a sacred trust, clearing the way for politicians to re-assess the function of the Company's monopoly and sparking debate over the future use of the territory. It was perhaps the most significant event leading to the development of the national policy as it marked the beginning of the transition from Company rule to colonial rule.

The trial which resulted in the belief that "free trade" existed in the Red River Settlement, and that the authority of the H.B.C. was no longer exclusive, marked the beginning of open defiance towards the company. However, rumblings of discontent over the company's management of its territory had

already begun to surface in London. For the most part this disenchantment with the company centered around its treatment of the Indian inhabitants and its unwillingness to promote settlement in the territory. These criticisms were expressed in 1847 by Alexander Isbister, a former employee of the H.B.C., to Earl Grey, the Secretary of State for the colonies. Based on information from missionaries in the H.B.C. territories, Isbister charged that the Native peoples were mistreated by the Company (Galbraith, 1949a, p. 323). He said that they were:

Constantly in the Company's debt, besotted by Company liquor, malnourished because of the slaughter of fur-bearing animals, their women employed as harlots by the Company's servants, [and] condemned to a hopeless existence unless the baneful influence of private commercial monopoly was destroyed. (Galbraith, 1949a, p. 323)

The status of the Native people was undergoing massive change during this period. Once the mainstay of the fur trade industry, their usefulness to the industry was diminishing with the fur stock. Buffalo were scarce in the Red River area (Hornaday, n.d., p. 489), resulting in famine and increased reliance on the Company for food.

At this same time, a petition was received in London, ostensibly from Indians and Half-Breeds of the Red River settlement but written by a priest, which demanded an end to Company rule. Earl Grey asked Lord Elgin, the governor of Canada, to investigate the complaints. The findings refuted Isbister's claims. Lord Elgin "castigated the complainants for their lack of realism and their over-zealousness to

elevate a race of inferior culture without sufficient realization of the obstacles" [italics added] (Galbraith, 1949a, p. 323). While Isbister's complaints were ultimately refuted by the Imperial government, the criticisms levelled at the company foreshadowed its imminent demise. It was perhaps the last time that the Hudson's Bay Company would find allies in either the colonial or Canadian governments.

In the 1850s a clear shift in the colonial attitude toward the Hudson's Bay territory became evident. When concerns similar to those raised by Isbister were raised again regarding the management of the H.B.C., the reaction of the colonial and Canadian governments reflected this marked change.

Only ten years after the claims of Isbister had been rejected because they were seen as simple idealism, the British House of Commons as well as the Canadian Legislature decided to set up select committees to undertake exhaustive examinations of the policies and deeds of the H.B.C. to determine the efficacy of the Company's continued monopoly (Fowke, 1957, p. 27). The stated rationale for this was that the H.B.C.'s right to exclusive trade was due to expire two years later; more likely, it was an opportunistic move on the part of the Colonial Office to pressure the Company to acquiesce to the demands of the government, chief among which was the relinquishing of the "fertile belt" of southern Rupert's Land to the colonial government for colonization. This change in attitude can be attributed to the emergence of

the national policy, an umbrella term used to describe a host of pre- and post-confederation Canadian government policies ranging from economic and regional expansion to defence. Allowing the continuance of the H.B.C. monopoly rights over the western territories was no longer in the government's best interest.

Capitalists vs. Monopolists

The establishment of the select committees signalled the "approaching end of the hegemony of the fur trader" (Galbraith, 1949b, p. 458). The committee's final reports "heralded the end of the fur-trading monopoly in the 'fertile belt'" (Galbraith, 1949a, p. 329). The British House of Commons committee heard from Isbister, who again accused the company of debauching the Indians with liquor and inhibiting settlement, contrary to the 1821 amalgamation agreement between the H.B.C. and the N.W.C. (Galbraith, 1949a, 328). The long-time governor of the Company, George Simpson, challenged the claim that alcohol use had increased since 1821. His arguments were bolstered by so-called "disinterested sources" and even sources "avowedly antagonistic" to the company (Galbraith, 1949a, p. 328). While the controversy over the Company's use of liquor dissipated, its inhibition of settlement became the key issue.

The special committees recommended that the H.B.C.'s monopoly, which still existed in law -if not in practice- would "have to be liquidated if any economic or political

development of the western territories was to be contemplated" (Fowke, 1957, p. 89).¹ The reports launched a series of quarrels between the Company, the Colonial Office, and the Province of Canada. Most of the controversy centered around the exact boundaries of the H.B.C. territory. In 1858 an offer was made to the Company which would have allowed it to continue its exclusive trading rights provided in part, that it cede certain territory for settlement (Galbraith, 1949a, p. 330). Because of a change in colonial government, this deal was never consummated. The new colonial government made additional demands after the H.B.C. had accepted the original offer. The legal wrangling continued, with the Company continuing to refuse to succumb to the demands of the Canadian and Colonial governments that land be opened up for settlement. The interests of capital were clearly the dominant issue in the discussions over the continuance of the H.B.C. monopoly, with issues concerning the rights of the Native peoples being secondary.

The British-owned Grand Trunk Railway, which ran between Montreal and Sarnia, was experiencing financial difficulties when the debate over the future of the H.B.C. was taking place. The owners of the Grand Trunk Railway garnered the assistance of a British Member of Parliament, Mr. Watkin, to

¹ The Select Committee of the British House of Commons presented its 547 page report on the Hudson's Bay Company. It was to be the final battle between the fur traders' interests and those favouring settlement. In effect, it "made clear that settlement was to be the key-note of the new era" (Morton, 1938, p. 216).

salvage the company's profits. The influence of Mr. Watkin was instrumental in promoting the union of the British colonies, which in itself was predicated on the assumption that the H.B.C. would relinquish its control over the western territories. "Since the Hudson's Bay Company still held the heart of the continent and might block the plans for a Pacific railway, Watkin organized a group in London [the International Financial Society] to buy control of the Company from its shareholders" (Fowke, 1957, p. 31) thereby guaranteeing the future role of the western territories for agricultural settlement.

The H.B.C., now under the control of pro-settlement shareholders guaranteed the demise of the fur trade in the western territories and signalled the beginning of a new agricultural policy which was to become essential to the goals of the national policy:

The Company had not been forced to surrender by attacks on its maladministration or its corruption of the Indians, neither of which were proved to the satisfaction of disinterested parties. Rather, it was required to accept a kind of "manifest destiny," that the agrarian frontier must move into all territories suitable for cultivation that the rights of the fur trader must be subordinate to those of the farmer. (Galbraith, 1949a, p. 335)

While the sale of the H.B.C. appeared to be a surrender of the fur trading company to the interests of the farmer, it was in fact, a victory for the business interests in Britain who would benefit most from the opening up of the west.

The International Financial Society offered shares in the company promising "lucrative returns from land sales"

(Galbraith, 1949b, p. 459) based on the assumption that a railway would soon be built and mass immigration to the west would occur. Indeed, the prospect of large scale western settlement appeared to be close to fruition after the 1863 sale of the H.B.C. However, the expansion of the agrarian frontier, the so-called "manifest destiny" which the Company seemed to expect, was delayed another six years because of an eruption in hostilities between the re-organized, pro-settlement Company and the Colonial government. The acquisition of the western lands, an important element of the national policy, was yet to be realized.

American Expansionism

The struggle over the H.B.C. lands, which had begun in 1847 gradually acquired a timbre of urgency in the mid-1860s, for it was by no means certain that the territory in question would not simply be taken over by the Americans. British experience with American land grabbing had almost resulted in war in 1845 during the Oregon boundary dispute.² Furthermore, the fact that the Americans were not on friendly terms with Britain added to the speculation that the H.B.C. land may not necessarily revert to British rule (Galbraith, 1949b, p. 459).

² The British government had stood firm on principle that all the land above the 49th parallel belonged to Britain. Primarily interested in the area's furs, referring to the land itself as "miles of pine swamp", Britain and the United States began a dispute which almost led to war. Many Americans rallied around the slogan "fifty-four, forty or fight" referring to the northern latitude which they felt acceptable to leave to the British. For more information on the Oregon boundary dispute, see McCabe, (1960).

These strained relations for the most part emerged during and after the American Civil War, which had erupted in 1861. The British were seen by the Unionists as pro-Confederate, although Britain had officially declared itself neutral (Cook, 1975, p. 17). Two diplomatic crises, the "Trent" and "Alabama" affairs,³ as well as the continuing threat of the Fenians,⁴ added to the existing tension between the two countries. A newspaper in St. Paul, Minnesota even suggested that the North-West be handed over to the United States as settlement of the "Alabama" claims.

Besides the international disputes between Britain and the United States, the government of the Province of Canada was equally concerned about the annexationists in the United States. The area immediately to the south of the Red River settlement had experienced an immense influx of immigrants:

³ In December 1861, months after the war began, two Confederate diplomats aboard the British vessel "Trent" were taken prisoner by the North. On the brink of war, Britain protested and the two were released. The "Trent" affair, as it came to be known, was followed by the "Alabama" affair which involved what the Americans called "unneutral acts" perpetrated by Britain on behalf of the Confederate side (Cook, p. 9). Five warships, including the "Alabama" were bought by the Confederacy in Britain. Because they were outfitted for war beyond the British realm, Britain claimed that it was not contravening its neutrality proclamation. The five ships caused mass destruction of the Union navy. When the war ended in 1865, the United States demanded reparations from Britain. For a complete discussion of the Alabama claims and post-civil war British-American relations see Cook, (1975) For information on the "Trent" affair, see Ferris, (1977), and Warren, (1981).

⁴ For more information on the effects of Fenian threats to Canada, see Jenkins, (1969), Neidhart, (1975), or Senior, (1978).

"The population of Minnesota increased from 6,000 to 172,000 in the years between 1850 and 1860 and the territory became a state of the Union in 1858" (Fowke, 1957, p. 43). The number of immigrants being attracted to Quebec was approximately one seventh the number arriving in New York, "instead of proving a land of opportunity for scores of thousands of new settlers each year, Canada was, in fact, unable to retain her Native sons" (Fowke, 1957, p. 24).

The insecurity of the colonial government was based on the possibility that the Red River settlement would be so overwhelmed by the population to the south that it would be annexed by the United States. The economic relationship between the Red River settlers and Minnesota was already closer than it was to the British colonies to the east (Gluek, 1955, p. 200).

While the political interests of the British and Colonial governments were significant in the development of the national policy, economic factors were of particular importance. The economies of the British North American colonies had always been centred around the circulation of natural resources such as fur and timber to markets in the industrialized regions of the United States and Britain (Clement, 1977, p. 15). The national policy was geared towards transforming the British colonies from their role as extractors and exporters, to a role which would see them controlling the means of production. Unlike the United States, where the shift from a "commercial and agrarian

society to one based on industry and finance was remarkably swift" (Clement, 1977, p. 45),

the transition between mercantile and industrial capital in Canada was not smooth. Merchant capitalists remained locked into the sphere of circulation [buying and selling of commodities] because of both external pressure and the safe and lucrative nature of the territory. (Clement, 1977, p. 16)

As Naylor (1975) points out:

As a colony, . . . Canada was a staple-extracting hinterland servicing British markets, and its banking system took a form appropriate to facilitating the movement of staples from Canada to external markets rather than promoting secondary processing industries. (Naylor, 1975, cited in Clement, 1977, p. 43)

Canada thus lagged behind the United States in the diversification and industrialization of the economic system (Clement, 1977, p. 33). Compounding the economic stagnation in the colonies were two factors; first, the British government no longer based its trade policy on Imperial preference, which "ended any hope of the immediate extension of Imperial integration" (Fowke, 1957, p. 5); second, the United States was unwilling to renew the Reciprocity Treaty, which precluded any hopes for continental integration.

The survival of the British possessions in North America required economic and territorial expansion, but "any attempt to develop western prospects would be a task so great as to be far beyond the capabilities of any one of the British American colonies or provinces as currently constituted" (Fowke, 1957, p. 29). Confederation, which was recognized as an "indispensable instrument" of the national policy emerged as a

solution to stimulate the development of a nationally integrated economy (Fowke, 1957, p. 5), one which would eventually be linked by rail from the Atlantic to the Pacific and based on traditional staple production (Clement, 1977, p. 43).

Canadian Confederation

In 1867 the British North America (B.N.A.) Act brought the colonies together and set out the terms on which the annexation of the western territories could be accomplished.⁵ Section 91 (24) of the B.N.A. Act (1867) had given jurisdiction over Indians and their lands to the federal government (30 Vic., chapter 3). Section 146 of the B.N.A. Act also provided the mechanics for Canada's eventual acquisition of Rupert's Land and the North-Western Territory, both of which were still under the legal control of the H.B.Co:

The central idea was that Canada would acquire a western hinterland, one that would be settled by white immigrant farmers, and ultimately, one that would be exploited and developed for the benefit of the eastern provinces. (Barron, n.d., p. 28)

A serious threat to this goal of the national policy was the expansionist United States, which saw as its "manifest destiny" the acquisition of all British North America, including the new confederation as well as the territories west to British Columbia. This, in part, made the new

⁵ For a complete discussion of the American annexationist movement, see Warner, (1960).

confederation wary of lengthy delays in the acquisition of the west.

Canada prepared for this acquisition by enacting legislation which would facilitate the territory's regulation. Of primary importance was the regulation of the Indians and the organization of their lands. As the territory was to become an agricultural frontier, the idea that the Indians -as well as the Métis- claimed ownership to much of the territory presented an obstacle to the government. In 1868, the Imperial government, likely wishing to distance itself from possible complications arising out of the transfer of land, consolidated all its laws concerning Indians and established the Department of the Secretary of State under the federal government, which was to deal exclusively with the Indians and their lands.⁶ This signalled a change in the administrative policies of Indian affairs in Canada as the Secretary of State, who was also the Superintendent-General of Indian Affairs, assumed control over Indian affairs from the Imperial government. While the control over Indian affairs changed hands, the policies towards the Indians remained in the pre-Confederation mode as seen in section 12 of the Act which stated that "No person shall sell, barter, exchange or give to any Indian, man woman or child in Canada, any kind of spirituous liquors, in any manner or way." The establishment

⁶ 31 Vic., Cap. XLII, 22 May, 1868., An Act providing for the organisation of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands.

of the Secretary of State began the process of controlling the Native peoples who had not yet been placated by the Canadian government, namely those residing beyond the borders of the established provinces.⁷

In the next session of Parliament, the Rupert's Land Act (31-32 Vic., chapter 105)⁸ was passed, which stipulated that an Order in Council could declare Rupert's Land a part of the Dominion of Canada. The acquisition of the territory was to be orderly. The Canadian government had chosen this "legislative" option over the American *laissez-faire* approach which resulted in mass conflicts between settlers and Indians.

The Canadian view of the lawlessness and violence that accompanied American westward expansion was doubtless exaggerated, but the hard fact remained that in the 1860's wars with the Plains Indians were costing the United States vast amounts of money. Similar wars in the North West Territories would bankrupt the Canadian government in short order. (Macleod, 1978, p. 3)

The Canadian government had neither had the will nor the finances to acquire the territory from the Indians by force (Macleod, 1978, p. 4).

Another important piece of "preparatory" legislation was passed ostensibly to ensure an orderly transition between the

⁷ For an in-depth analysis of the various forms of control used by Canadian officials over the Indians, including the reserve system, residential schooling and agriculturalization, see Dyck, (1991).

⁸ An Act for enabling Her Majesty to accept a Surrender upon Terms of the Lands, Privileges, and Rights of "The Governor and Company of Adventurers of England trading into Hudson's Bay" and for admitting the same into the Dominion of Canada (31-32 Vic., Cap. 105, 31 July, 1868).

H.B.C. and the Canadian government, An Act for the temporary Government of Rupert's Land and the North-Western Territory when united with Canada (32-33 Vic., chapter 3).⁹ With this Act, the laws existing in the territories were to continue to be in effect until the establishment of a new legislative body.¹⁰ Finally, the Canadian government went so far as to allow for the formation of a police force to be recruited once the establishment of Canadian sovereignty of the West had been achieved. Even with all the preparatory legislation, the government's attempt at avoiding trouble and confrontation failed. Joseph Howe, the first Secretary of State for the provinces and Superintendent of Indian Affairs (and former Nova Scotia anti-confederation politician (Warner, 1960, p. 76)), warned that trouble was unavoidable and that "the only thing we can do now is minimize the extent of the mischief" (Thomas, 1956, p. 34). The Canadian government neglected to consider the "human beings already living there when elevating rhetoric inspired Canadian sentiments to embrace a destiny" (Cooper, 1988, p. 245).

Riel Rebellion

⁹ 32-33 Vic., Cap. 3, 22 June, 1869.

¹⁰ If it were not for the minor technicality that the Provisional Government of Assiniboia was never recognized by the government of Canada, the laws in effect there would have continued to be in effect throughout the North-West, for the Council of Assiniboia had assumed jurisdiction over all of the territory which would have included the new province of Manitoba as well as beyond.

This "Canadian destiny", the acquisition of the territory, was due to be accomplished on December 1, 1869. When the newly appointed governor, William McDougall, arrived in the Red River area to prepare for the transfer of the territory to Canada, he was accompanied by Captain D.R. Cameron who had instructions to set up a police force once Canadian control had been established (Macleod, 1978, p. 4). Sir John A. Macdonald considered a mounted police force vital for the protection of settlers against an Indian war (Horrall, 1972, p. 184). Such "protection" would take longer than anticipated, for the Canadian envoys were halted by news of a road block on the bridge crossing the Rivière Sale (Begg, 1894, vol. 1, p. 380) and greeted by a warning carried by a resident of the settlement which ordered them not to proceed without their permission:

Monsieur -Le Comité National des Métis de la Rivière Rouge intime a Monsieur McDougall l'ordre de ne pas entrer sur le Territoire du Nord-Ouest sans une permission spéciale de ce Comité.
Par ordre du president.
John Bruce
Louis Riel, Secrétaire.
(Stanley, 1961, p. 43)

This marked the beginning of the Red River Rebellion, the catalyst for which was the Canadian and Imperial governments' complete lack of consultation with the inhabitants of the area which was to be transferred to Canada; "they had not been treated fairly in the negotiations for the transfer, in not having been consulted, . . . they had been sold as mere chattels in the bargain" (Begg, 1894, vol.1, p. 401).

Bourgeault (1988) views the Red River defiance as the beginning of a bourgeois democratic revolution rather than a simple rebellion. Canada could not have pursued its economic policies if the independence of Manitoba was recognized. Such a political formation "was a threat to capital and the formation of Canada as a nation-state" (Bourgeault, 1988, p. 111).

The transfer of the territories was not as straightforward as the Canadian government had hoped. It became clear to the Canadian government that the Native peoples of the west had to be reckoned with if the goals of the national policy were to be achieved.

While the provisional government of Louis Riel was preventing the transfer of Rupert's Land and the North West Territories to Canada, it was widely believed that any Métis uprising would be supported by the Indians of the Red River area. Joseph Howe elicited the support of Grand Vicar Thibault to negotiate with the Métis for an end to the uprising for the government was anxious to finalize the acquisition of the territory. An excerpt from a letter to Thibault from Howe illustrates the attitude of the Canadian government towards the Métis and Indians:

So far as you may have intercourse with the Indian chiefs and people, you will be good enough to remind them that while bloody and costly Indian wars have raged often for long periods in different sections of the United States, there has been no war with the Indians in any of the Provinces of British America since the conquest. For more than a century the Micmacs of Nova Scotia have lived in peace; while the rights of the Milicetes of New Brunswick have been

respected. Everywhere within the Canadas, the progress of settlement, while it furnished new employments to the Indians, was rendered practicable by treaties and arrangements mutually satisfactory, that have formed the secure basis of the sympathy and co-operation which have distinguished the Canadians and Indians, not only since the Treaty of Paris, but from the earliest exploration of the country. (Begg, 1894, volume 1, p. 431)

Howe also encouraged Thibault to remind them that:

In the four provinces of this Dominion, men of all origins, creeds and complexions stand upon one broad footing of perfect equality in the eye of the government and the law; and that no administration could confront the enlightened public sentiment of this country which attempted to act in the North-West upon principles more restricted and less liberal than those which are firmly established here. (Begg, 1894, vol. 1, p. 431)

This is contradicted by the existing legislation. The Red River rebellion may have contributed to the shaping of subsequent and more coercive legislation and policies towards the Indians and Métis of western Canada just as the second Riel rebellion in 1885

became a source of justification for the imposition of restrictive sanctions upon the Plains Cree people, which had the effect of solidifying European control over and exploitation of the Indians and the resources they once controlled. (O'Bradovich, 1969, p. 21)

Ultimately, Ottawa was able to "undermine Manitoba as a state and recreate it as a province" (Bourgeault, 1988, p. 111), which was established in 1870 by the Manitoba Act.¹¹

¹¹ 33 Vic., Cap. 3, 12 May, 1870. An Act to amend and continue the Act 32 and 33 Victoria, chapter 3; and to establish and provide for the Government of the Province of Manitoba. It is of importance to note that prior to the passing of the Manitoba Act by the Canadian legislature, and according the provisional government's own "List of Rights", Riel's Council of Assiniboia presumed to govern all of the North-West and Rupert's Land, not just the small 11,000 square miles which was to be set aside for the new province (Stanley, 1961, p.

In 1870, the Riel Rebellion ended, Manitoba was created, and the H.B.C. territory was finally transferred to Canada. This quashed the hopes of the Minnesota annexationists who expected the Rebellion to spur the Red River settlement into political union with their state (Cook, 1975, p. 125). Instead, they realized that their over-zealousness and reliance on subversive propaganda did little but distance the inhabitants of the settlement from themselves (Gluek, 1955, p. 205).

With the acquisition of the H.B.C. territory, and the only concession made by Canada being the creation of the tiny province of Manitoba, a major component of the national policy had been realized. Others such as massive immigration, the construction of a transcontinental railway and the establishment of a wheat economy followed shortly. With the threat of the Riel "insurrection" over, the Canadian government began its task of designing legislation that would ensure that those parties which threatened either Canadian sovereignty or the national policy would be quelled. The Native population of the west soon became the target of such legislation.

119). The effect of the Manitoba Act was to confine the effects of the uprising to a very small area.

CHAPTER FIVE LEGISLATIVE COERCION

In order to exploit the western hinterland resources, as well as create an agricultural economy (both vital elements of the national policy), the Canadian government had to contend with the resistance from indigenous residents. A *laissez-faire* attitude similar to that of the United States could lead to costly "Indian wars" (Thomas, 1956, p. 45) so legislation and related enforcement policies were created by the Canadian government to control Indians, to promote the influx of immigrants, and establish an agricultural economy.

To back up this legislation, the Canadian government, under Sir John A. Macdonald, created the North-West Mounted Police (N.W.M.P.) with sweeping powers. The force had the power to arrest, prosecute, and carry out sentences. They were "the sole legal authority in the Territory" (Jennings, 1979, p. 6). According to Dyck (1991),

once Euro-Canadian occupation or intensive economic development of a territory commences, the aboriginal people who stand in its way quickly become the objects of government Indian administration and the hostages of officially sanctioned programs of coercive tutelage. (Dyck, 1991, p. 7)

Indeed, through various forms of legislation and the negotiation of treaties, as well as the creation of a police force, the Canadian government established a network of almost complete coercion over the Native inhabitants of the west.

According to Kellough (1980), the first phase of European-Indian relations was ending; one in which "Indians held the initiative for the social, political, and economic

aspects of their life" (Kellough, 1980, p. 343) and one in which the fur traders were dependent on Indian skills (Kellough, 1980, p. 344). As the fur trade declined, and settlement became a priority of the Canadian government, the second phase began and "Indians became a hindrance to western development" (Kellough, 1980, p. 344). At this same time,

the buffalo were rapidly disappearing from the prairies, taking away the cornerstone of the Indian way of life. The buffalo had been the basic unit of their economic system, and even their political and social customs were formed around the buffalo hunt. (Kellough, 1980, p. 344)

In Canada, the Native people were dependent on the existence of game for fur trading and subsistence.¹ With the decline of the fur trade and the over-hunting of fur-bearing animals, the economic condition of the Indians became tenuous. Whether or not there was any deliberate inaction on the part of the Imperial government which may have allowed for the decimation of game and the virtual extinction of the buffalo is a subject worthy of investigation. Whatever the case, the government was clearly in an advantageous position when dealing with the Native population.

The federal government had learned an important lesson from the Red River Rebellion that peaceful settlement required careful planning. As long as Indian title remained unextinguished, the danger of a Native uprising remained

¹ In the United States, this independence was dependent on the abundance of buffalo: "It was commonly understood that the U.S. Government was interested in the rapid extinction of the buffalo, the basis on which the independent existence of the Plains Indians depended" (Garretson, 1934, p. 37).

strong (Stanley, 1961, p. 204). The national policy required that the Indians become allied with the Dominion government, through the subjugating process of legislating and treaty-making, including extinguishing Indian title.

There were many forms of legislation, all of which served in some way to control the Indians of the North-West territory.

The penetration of Native territory had begun with the 17th century, explorers soon followed by religious missionaries, traders, settlers, and the military. The explorers, while not an immediate threat to the indigenous political and social formations, were harbingers of imminent and profound change. The missionaries were the representatives of ideological penetration, undermining the structure of aboriginal societies on a cultural level and creating a hegemony of passivity which would enable settlement and domination without actual violence. The fur traders ultimately created an economic dependence of Native peoples by establishing a new economic order through the commercial penetration of the territory. The settlers' cultivation of land traditionally used as buffalo hunting grounds accelerated the destabilization of Native society. Finally, the imposition of law served to legitimate the inequality between aboriginal and Euro-Canadians which began to become apparent in the mid-19th century. Subjugation, assimilation, and the imposition of Euro-Canadian law served the goals of the national policy.

Canada's Acquisition of the West: Preparatory Legislation

In 1857, prior to the transfer of western territory from the H.B.C. to Canada, the province of Canada passed an important statute, An Act to encourage the gradual Civilization of the Indian Tribes in this Province, and to amend the Laws respecting Indians was passed (20 Vic., Chapter 26). The preamble read:

Whereas it is desirable to encourage the progress of Civilization among the Indian Tribes in this Province, and the gradual removal of all legal distinctions between them and her Majesty's other Canadian Subjects, and to facilitate the acquisition of property and of the rights accompanying it, by such individual Members of the said Tribes as shall be found to desire such encouragement and to have deserved it.

According to the Act, an Indian male deserved enfranchisement if he showed himself to be "educated, free from debt, and of good moral character" (Milloy, p. 58). While enfranchisement would provide the Indian with 20 hectares of land, and the formal right "to participate equally with his white neighbour in the political life of the colony" (Milloy, p. 58), the goal of the government was "full civilization . . . marked by the disappearance of [reserves], as individuals were enfranchised and reserves eroded" (Milloy, p. 59).

The stark failure of the Act, due in large part to the refusal of Indian chiefs to endorse it, eroded amicable relations between the Euro-Canadian state and the Indian community. "In the eyes of many chiefs, missionaries and officials of the Indian Department were no longer sympathetic purveyors of the benefits of civilization and staunch

defenders of Native rights but aggressive and disruptive agents of assimilation" (Milloy, p. 60). The relationship between the Euro-Canadian government and the Native peoples "would no longer be a matter of nations dealing with nations, but of tutors dealing with subordinates" (Dyck, 1991, p. 74).

The government sought to . . . persuade Indian people that they were in fact maintaining an inappropriate way of life. They were told that they should feel ashamed of their traditions and values. This message was repeated in the schools and churches, and was disseminated by Indian agents. (Morse, 1989, p. 2)

The failure of this legislation which was aimed at pacifying the Indians and establishing control through ostensibly consensual means led to a move towards more coercive legislation.²

The failure of the Act "inspired a general missionary and agent campaign against traditional Native government . . . if the various systems of development were ever to produce the civilized Indian amenable to enfranchisement, then Native self-government had to be abolished" (Milloy, p. 61).

While the abolishment of Native systems of self-government was never entirely achieved, officials and missionaries attempted to encourage enfranchisement through "the coercive power of the law" (Milloy, p. 60). Legislation was proposed to force Indians to attend school until the age of 20, and to give extensive control over on-reserve activities to the government agents, from "the power to

² Only one Indian was enfranchised between 1857 and 1876 (Milloy, p. 61); 250 by 1920 (Tobias, 1977, p. 98).

imprison Indians for drunkenness to that of compelling them to cultivate the land" (Milloy, p. 61).

In 1859, legislation prohibiting the sale of liquor to Indians in Upper Canada was passed in the Canadian legislature (22 Vic., chap. 9). In Lower Canada, "there was much less political involvement in new efforts to civilize the Indian, since the Catholic church had for more than a century been engaged in such work" (Tobias, 1976, p. 15).

The creation of the Department of the Secretary of State³ in 1868 was a significant step in the Canadian government's plan to subjugate the Indians through legislation. This Act placed the control of Indian lands under the jurisdiction of the Secretary of State, who was also Superintendent of Indian Affairs. It also prohibited the giving or selling of liquor to Indians. This Act foreshadowed the enactment of a more repressive Act passed in 1869.

In 1869, the same session of Parliament that saw the passage of An Act for the Temporary Government of Rupert's Land and the North-Western Territory (32-33 Vic., chap. 3), the government passed An Act for the Gradual Enfranchisement of the Indians (32-33 Vic., chap. 6), aimed at the complete repression of Indian self-government and Indian political independence. The former Act stipulated that all laws existing there were to remain in effect until changed by the

³ 31 Vic., Cap. XLII, 22 May, 1868., An Act providing for the organisation of the Department of the Secretary of State of Canada, and for the management of Indian and Ordnance Lands.

Parliament of Canada or by the Lieutenant Governor The latter Act, actually an appendage to the Act of 1868, weakened traditional Native government to such an extent that any opposition to future federal legislation could be stifled by provisions of the Act which allowed for the removal of elected Indian officials "at Her Majesty's pleasure." Similarly, any law which an Indian council chose to enact required the consent of the Governor in Council. That these two statutes were passed in the same session indicates the government's resolve to counter any Indian resistance to the paramount status of white governance.

In 1869, Sir John A. MacDonalld began planning for the establishment of a military-style police force for the soon to be acquired North West Territories. The Canadian government intended to combine legislation and military coercion to control the Indians of the plains. The establishment of a federal, as opposed to locally-controlled police force, was deemed necessary because the population to be controlled was seen as "unschooled in the responsibilities of democratic citizenship" (Macleod, 1978, p. 4).

With the police force and Indian matters under the control of the federal government, Macdonalld prevented the possibility of local interference jeopardizing the National policy (Jennings, 1979, p. 114). It was in "anticipation of possible conflict with the Native peoples" (Horrall, 1972, p. 181) that the force was planned, "charged with the responsibility for maintaining peace between the Indian tribes

and the settlers" (Horrall, 1972, p. 181). The plans for a police force were forestalled by the unrest in the Red River area. When the uprising was resolved by the creation of the "postage-stamp" province of Manitoba, the Canadian government reverted to its assimilationist policies.

Treaty Negotiations

In 1871, W.M. Simpson was appointed as Treaty Commissioner by Joseph Howe, the Secretary of State of Canada. Simpson was charged with making treaties with the Indians of Manitoba and the North West Territories. He was assisted by Adams G. Archibald, the Lieutenant Governor of Manitoba and the North West Territories. The matter of treaty-making was becoming urgent. One missionary suggested that the most opportune time to make treaties with the Indians was when they were in a state of confusion and disarray, when they would "jump at the chance of being put under the protection of the Government" (Jennings, 1979, p. 83).

Another important issue was peaceful immigration and settlement. The Indians of Manitoba were "full of uneasiness, owing to the influx of population, [they had] denied the validity of the Selkirk Treaty, and had in some instances obstructed settlers and surveyors" (Morris, 1880, p. 26). This resulted in the Canadian government being forced to consider the Indian claims seriously, and to begin the treaty-making process (Tobias, 1983, p. 520).

The first order of business undertaken by the Lieutenant-Governor was to prohibit the sale or gift of liquor at treaty negotiations. Simpson was later to remark in a letter to Joseph Howe that due to the precautions, "perfect order and contentment have prevailed up to the present time" (Morris, 1880, p. 36).

In an address to the Saulteaux prior to the negotiation of Treaty #1, the Lieutenant-Governor of Manitoba and the North-West Territories, Alexander Morris, encapsulated the paternalistic aspirations of the government in Ottawa:

Your Great Mother wishes the good of all races under her sway. She wishes her red children to be happy and contented. She wishes them to live in comfort. She would like them to adopt the habits of the whites, to till land and raise food, and store it up against a time of want. She thinks this would be the best thing for her red children to do, that it would make them safer from famine and distress, and make their homes more comfortable (Morris, 1880, p. 28.).

Archibald's opening address was equally telling:

When you have made your treaty you will still be free to hunt over much of the land included in the treaty. Much of it is rocky and unfit for cultivation, much of it that is wooded is beyond the places where the white man will require to go, at all events for some time to come. *Till these lands are needed for use you will be free to hunt over them, and make all the use of them which you have made in the past. But when lands are needed to be tilled or occupied, you must not go on them any more.* There will still be plenty of land that is neither tilled nor occupied where you can go and roam and hunt as you have always done, and, if you wish to farm, you will go to your own reserve where you will find a place ready for you to live on and cultivate (Morris, 1880, p. 29 italics added)

Between 1871 and 1877 the government of Canada negotiated seven treaties with the various Indian groups in western

Canada. They were designed to open the territory to white settlement, and to transform Indians into farmers (Morse, 1989, p. 274).

The treaties themselves essentially served to legitimate the governments' encroachment of Indian land: "Irrespective of whether the treaty offered by the Government was accepted or rejected by the assembled Indians, the territory would be subject to white settlement" (Morris, 1880, p. 34). In fact, white settlement had already begun, and the treaties were made "to legitimate white ownership of the land they were already using" (Kellough, 1980, p. 345).

Ultimately, the control of the Indians was the primary goal of the government's agents. This is evident in the text of the first major treaty made with the Plains Indians:

The undersigned Chiefs do hereby bind and pledge themselves and their people strictly to observe this treaty, and to maintain perpetual peace between themselves and Her Majesty's white subjects, and not to interfere with the property or in any way molest the persons of Her Majesty's white or other subjects. (Smith, 1975, p. 206)

The ideology of racial superiority, essential to the process of subjugation and assimilation, is reinforced in the treaty:

No intoxicating liquor shall be allowed to be introduced or sold, and all laws now in force or hereafter to be enacted to preserve Her Majesty's Indian subjects, inhabiting the reserves or living elsewhere, from the evil influence of the use of intoxicating liquors, shall be strictly enforced. (Smith, 1975, p. 206)

This paternalistic ideology, inherited from previous colonial and provincial governments, was often reiterated in

subsequent treaties and in most federal legislation. By extending its authority over the Plains Indian through the treaty system (Tobias, 1983, p. 43), the Canadian government's policy geared towards "civilizing" and assimilating the Indian population was being maintained.

Control of the North-West

By 1873, three levels of government addressed the control of alcohol. The Indian Act (Enfranchisement Act 1869) prohibited any sale of liquor to the Indians. Treaties prohibited the possession of liquor on the reserves. The Territorial council attempted twice (without success) to implement a form of prohibition. In 1870 it failed because the legislative council which drafted the ordinance was itself unconstitutional. In 1873 the same ordinance failed to receive assent from Ottawa because the federal government had begun the process of enacting its own Dominion Act which dealt with liquor control in the North-West Territories. This Act, entitled An Act to make further provision as to Duties of Customs in Manitoba and the North West Territories (36 Vic., Cap. 39, 23 May, 1873) inaugurated the "permit" system of liquor control. It stipulated that:

Spirits or strong waters, or spirituous liquors of any kind are hereby prohibited to be imported into any part of the North West Territories, under the like penalty and forfeiture as are provided by the Customs laws of Canada, with respect to articles the importation whereof is prohibited; nor shall any such spirits or strong waters or spirituous liquors of any kind be manufactured or made in the said North West Territories, or brought into the same from any Province of Canada, except by special permission of

the Lieutenant Governor of the said Territories. (36 Vic., Cap. 39)

The penalties for contravention were as follows:

The person in whose possession they were found may be condemned to pay a penalty not exceeding one hundred dollars nor less than fifty dollars, and the costs of prosecution; and one-half of such penalty shall belong to the prosecutor, and the other half to Her Majesty for the public uses of the Dominion; and in default of immediate payment the offender shall be committed to the nearest gaol or place of confinement for any time not exceeding six months unless such fine and costs are sooner paid. (36 Vic., Cap. 39)

This law generated concerns among some North West Territory residents, for its purpose was unclear. According to the commissioners of the 1895 Royal Commission examining the liquor trade, the law was "to protect the Indians" (Canada, Sessional Papers #21, p. 184). Prohibitionists argued that the Act applied to all residents. If people did not enjoy the full benefits of prohibition, it was attributed to the perversity of the Lieutenant-Governor in ignoring what they declared was the purpose of the law. Prohibition would be the rule; permission the exception. Permits should be issued only for medicinal and sacramental purposes. Anti-prohibitionists argued that Parliament had no intention of imposing prohibition on the white inhabitants. The Act was simply to protect the Indians against liquor imported into the Territories. (McLeod, 1963, p. 83). Ironically, this law attracted critics among prohibitionists and anti-prohibitionists, and failed to fulfil its legitimation role. Nonetheless, two years later, this law was incorporated into the North-West Territories Act of 1875 (38 Vic., c.49).

While pressure was being exerted on the Conservative government in Ottawa to change the law, to make it stronger, to introduce a licensing system or to transfer jurisdiction over liquor control to the territory, the federal government preferred the *status quo*, unwilling to become the target of ire from either the prohibitionists or anti-prohibitionists (McLeod, 1963, p. 87). The ambiguous policy eventually caused enforcement problems for the newly established North-West Mounted Police (Horrall, 1973, p. 7). According to Colonel J.F. McLeod, once the Commissioner of the N.W.M.P., the original intention of the permit system was to "stop the traffic with the Indians" (Canada, Sessional Papers, #21, p. 186). McLeod told the 1895 Royal Commission studying the liquor traffic that prior to the arrival of the N.W.M.P. he believed that the Indians had engaged in "a good deal of drinking" (Canada, Sessional Papers, #21, p. 186). However, these problems would have less to do with the ambiguity of the legislation than with the mass influx of immigrants not disposed towards temperance.

The coercive legislation was initially enacted to ensure the control of the Indians who were considered a marginal minority population. As noted earlier, the law lost its legitimacy after criticism from white, European settlers who considered themselves the victims of an inappropriate law: "these settlers had been accustomed, speaking generally, to use alcoholic beverages in their former homes, either in

Europe or in the older provinces of Canada" (Canada, Sessional Papers, #21, p. 188).

Because the coercive powers vested in the N.W.M.P. were sweeping, prohibition was considered remarkably effective at least up until 1876 (Horrall, 1973, p. 6). This control of the liquor traffic in the early years after the arrival of the N.W.M.P. is also attributed to the efficiency of the force whose "mere presence effectively ended the liquor trade to the Indians" (Jennings, 1979, p. 85). Another explanation for the demise of the whiskey trade points to the disappearance of the buffalo, a valued trade commodity: "The Indians, very soon after the arrival of the Police, had practically nothing to offer the traders in return for whiskey" (Jennings, 1979, p. 86).

The N.W.M.P. and Liquor Legislation

Enforcement of liquor laws across the board became more difficult with the influx of white settlers. Prohibition became the bane of the N.W.M.P. Inability to enforce the law led to more stringent penalties against those who chose to violate it. The fines against violators under the North-West Territory Acts (36 Vic., c.39; 37 Vic., c.7; 38 Vic., c.49) were raised from a maximum of \$100 to \$200. The punishment for supplying liquor to Indians under the Indian Acts was \$500. Critical to the N.W.M.P. were the powers it had through both territorial and Indian Acts. Police were permitted to enter into dwellings without warrants and to search and

destroy liquor "without the necessity of any intervention or process of law" (37 Vic., Cap. 22). The law also permitted any constable "without process of law, to arrest any Indian whom he may find in a state of intoxication, and to convey him to any common gaol, house of correction, . . . there to be kept until he shall have become sober." The punishment for being both intoxicated as well as being an Indian was imprisonment for up to one month. Fourteen days could be added to the sentence if the accused was not forthcoming with regards to the source of the liquor he consumed (37 Vic., Cap. 21).

There are two common contemporary explanations for the enactment of liquor control legislation. The first is that Native people required protection from themselves: "Liquor reduced the Indian to a violent and unmanageable savage who had to be protected from his own predilection for alcohol" (Horrall, 1973, p. 5) The second was that the legislation protected Indians from whiskey traders: "the primary intent of this legislation . . . was not to dictate the drinking habits of the white settlers but rather to protect the Indian population from the nefarious activities of the whiskey traders" (Horrall, 1973, p. 5).

These familiar explanations fare poorly when scrutinized. Why would the government of Canada want to pass a law to "protect" the Indians in an area which the government did not even have the inclination to enforce the criminal law? Did the whiskey trade worry politicians in Ottawa before the

prospect of settlement was raised? Was there evidence to support the contention that the Indians posed a threat to settlement because of alcohol?

In fact, the laws were enacted to reinforce the goals of the National policy by clearing the way for settlement and protecting settlers from possible Indian retaliation: "Even the rigorous enforcement of the prohibition of the sale of liquor to Indians was more than anything an attempt to ensure that they continued to be no threat" to settlers (Morrison, 1985, p. 60). The original ordinance drafted by the Northwest Territories in 1870 but which was superceded by Canadian legislation began with a preamble which stated that "the giving, selling or bartering to Indians of spirituous liquors is subversive of public order and dangerous to the public peace" (Canada, Sessional Papers #21 Report of the Royal Commission on the Liquor Traffic in Canada, p. 176). There is no clear historical evidence of Indian drinking being any threat to public order.

Plans had been in place for the creation of a military-style police force to be established in the Northwest Territories since 1869. These plans were shelved, because of the disturbances at Red River, and because Sir John A. Macdonald, the architect of the police force, fell ill. Contrary to conventional historical accounts that the force was created to protect Natives from American whiskey traders, the force was created in large part to prevent the Indians

from resisting the imminent settlement of European farmers on their land. As Macleod (1976) points out:

Long before Canada acquired the former domain of the Hudson's Bay Company, Sir John A. Macdonald had decided that the logic of the national policy would require some means of exercising direct federal control in the area of law enforcement. (Macleod, 1976, p. 102)

According to Brown and Brown (1973) it is not simply coincidental that the force was established in 1873, just as large-scale settlement west of Manitoba began:

The N.W.M.P. were established as a semi-military force designed to keep order on the prairies and to facilitate the transfer of most of the territory of the region from the Indian tribes to the federal government with a minimum of expense and bloodshed. (Brown and Brown, 1973, p. 10)

The issue of liquor control provided the Canadian government with a populist excuse and a widely accepted moral justification for the establishment of the force.

An event which is often cited as the catalyst for the establishment of the North-West Mounted Police (N.W.M.P.) took place at Cyprus Hills in southern Alberta where over 20 Assiniboine Indians were killed by Americans thought to be whiskey traders from the notorious "Fort Whoop-Up." The killings confirmed the evils of the liquor traffic, according to Alexander Morris, Lieutenant Governor of the N.W.T., who urged Macdonald to send police or soldiers to prevent an Indian war. While the murderers were in fact wolf hunters and not connected to the liquor trade, Macdonald had been warned that such an incident could lead to trouble and decided to err on the side of caution by sending out an expeditionary police

force (Horrall, 1972, p. 195). The Cyprus Hills massacre, while clearly not the reason that the N.W.M.P. was created, did perhaps hasten its organization. Originally scheduled to leave for the N.W.T. in the spring of 1874 (Horrall, 1972, p. 192), a force of 150 officers left in the fall of 1873 (Macleod, 1978, p. 5).

Alexander Morris sought to prevent the Americans from supplying liquor and ammunition to the Indians (Horrall, 1972, p. 197). However, when the first N.W.M.P. arrived at Ft. Whoop-Up, they were put at ease by the amicable nature of the Indians of the area and by accounts from a messenger who "disabused [their] minds concerning the desperate characters of the whiskey traders" of whom there were few (Denny, 1939, p. 38). It was clear that:

The real reason the police went to the west was to clear the path for white settlement; the protection of the Indians was, of course, important, but somewhat incidental to the main purpose of making the west safe for the national policy. (Jennings, 1979, p. 82)

Once legislation and treaties were entrenched, the Canadian government continued to pursue the goals of its national policy. The creation of the N.W.M.P. to enforce various forms of federal legislation was perhaps an indication that the Canadian government was expecting that its encroachment of Indian territory would cause some resentment. However, the government's ability to subvert Indian political autonomy served to defuse political conflicts thereby placating the inhabitants of the N.W.T.

The liquor laws also served as a coercive tool to subjugate the Indians of western Canada. "The essential precondition for effectiveness of law, in its function as ideology, is that it shall display an independence from gross manipulation and appear to be just" (Thompson, 1975, cited in Havemann, 1989, p. 57). When prohibition was enforced against the Native population, the Euro-Canadian population was unaffected. It was irrelevant whether or not all elements of the Native population supported the legislation for their voices were not heard because of their marginal status both economically and politically. While the well-entrenched myth of the Canadian frontier holds that the Canadian government was

paternalistic and far-sighted in offering the Indians a means to become civilized and assimilated into white society by the reserve system, and honest and fair-minded in honouring legal commitments made in the treaties, (Tobias, 1983, p. 519)

it is argued that the policies of the government could be seen as an attempt to force acceptance of Canadian jurisdiction. While this may be considered a somewhat instrumentalist argument, Ratner et al. (1987) suggest that during the primitive stage of capitalism "the state acts primarily at the behest of the ruling class . . . exhibiting little autonomy" (Ratner et al., 1987, p. 97). During the 19th century, the relationship between the Canadian state and its newly acquired western territory would have been considered as reflective of the primitive stage of capitalism. What distinguishes this interpretation of the role of the state from instrumentalism

is that the state could not be considered unified. The state, and law, although acting in the interest of long-term continuation of the capitalist relations of production, did so relatively independently of the dominant class.

CHAPTER SIX
LIQUOR CONTROL, NATIVE PEOPLES AND
THE STATE

Liquor control legislation in 19th century western Canada was an insidious method of social control designed to further subjugate the indigenous population of the region. The ideology of racial superiority was pervasive in the Colonial state apparatus and provided the basis for many of the government's coercive policies. Successive governments enacted legislation which formally regulated the lives of the Native peoples regarding education, religion, agricultural production and political autonomy. Together with liquor prohibition, these laws served to control the Native population both physically as well as spiritually. As the Native peoples were perceived to be intellectually, morally and spiritually inferior to the white population, and as they were seen as a hindrance to economic development, it was deemed important to remove them from the path of advancing settlement.

As the first law geared specifically towards the indigenous population of North America, alcohol prohibition has existed longer than any other coercive European legislation. It is both a product of the ideology of racial superiority as well as an important ingredient in its perpetuation in contemporary society. While in the 18th and 19th centuries the "labelling of human beings as inferior or superior, as advanced or defective, was bolstered by many legal and administrative policies that would today be

dismissed as uncivilized and racist" (Burtch, 1992, p. 109), these legal and administrative policies remain.

As we have seen, this area of inquiry has been overlooked, in large part because scholars have tended to group prohibition against Native alcohol consumption into the studies of prohibition in general. While they are not historically and philosophically unrelated, a distinction can be made with regards to the functions both movements served.

The Anglo-Saxon prohibition movement emerged out of a religious fervor in the early 1800s, steeped in fundamentalist traditions of the white, middle-class Protestants who led it. Their guiding philosophy was that liquor led to "poverty, family breakdown, men's infidelity, and hardship for women and children" and was associated with crime, health problems, the corruption of social habits, and the destruction of social order (Smart & Ogborne, 1986, p. 28).

The fundamental goal of prohibition against Native people in western Canada was to control of the Native population in order to facilitate the pursuit of the national policy objectives including settlement and agricultural expansion.

When the state began to enact legislation in the Canadian west, its goal was to control the indigenous populations physically, economically and culturally:

There has been a systematic undermining of Native peoples' ability to determine the shape of their own lives, a progressive and debilitating draining of their strength by a succession of missionaries, Indian Agents, health care professionals and child care workers, whose work has been informed by a common mandate to bring the benefits of a "civilized"

society to those who are seen to exist at an earlier stage of evolutionary development. (Jackson, Forward, in Speck, 1987, p. 10)

This was accomplished through the machinery of the state under various guises. It becomes clear that the law was not simply a benign set of rules and regulations designed to protect various individual interests, but rather, a coercive tool to diminish any opposition to economic plans of the national policy. Indeed, according to Dyck (1991), Euro-Canadian economic interests from the outset been closely tied to the ideology of racial superiority and the "consequent social purposes -primarily, the 'civilizing' or transformation of Indians into persons who no longer offend western sensibilities" (Dyck, 1991, p. 3).

For numerous economic reasons, the acquisition and development of the territory beyond Manitoba was vital to Canada's survival. The government of Canada enacted various laws designed specifically to prevent the indigenous residents of the area from becoming a hindrance to its political expansionist goals. Liquor control laws contributed to this erosion of Native autonomy, it provided a justification for the establishment of a police force, which in turn facilitated westward agricultural expansion.

Liquor Control and the Functions of the State

By examining the actual legislation and its function in controlling Native peoples of western Canada, this study deviates from the common approaches which have incorrectly viewed liquor laws as existing out of necessity, relatively

free of any state influence. Liquor control legislation served three cardinal functions of the state, identified by structuralist state theorists; legitimation, capital accumulation, and coercion. The Canadian government required the peaceful settlement of the western territories for economic gain. Through the coercive function of the law, the state's capital accumulation objectives were achieved in a seemingly legitimate manner.

In the pre-Confederation, western territories, the state's capital accumulation function is evident in its desire to develop an agriculturally-based economy capable of supplying central Canada with grain and other agricultural products. During the Confederation debates of the 1860s, George Brown, editor of The Globe spoke of the fortunes which lay in store for a United Canada if, and when Canada acquired the western territory:

And if the mind stretches from the western bounds of civilization through those great north-western regions, which we hope ere long will be ours, to the eastern slope of the Rocky Mountains, what vast sources of wealth to the fur trader, the miner, the gold hunter and the agriculturist, lie there ready to be developed. (cited in Fowke, 1957, p. 35)

Brown further demonstrated the need for immigration:

There is hardly a political or financial or social problem suggested by this union [Confederation] that does not find its best solution in a large influx of immigration . . . this question of immigration naturally brings me to the great subject of the North-West territories. The resolutions before us recognize the immediate necessity of those great territories being brought within the Confederation and opened up for settlement. (cited in Fowke, 1957, p. 36)

The national policy goals of the Canadian government were contingent on massive immigration, which would only be feasible if the western territory was perceived to be a safe place, free from the threat of Indian wars, and where there was law and order.

The threat to Native peoples from the whiskey traders which was used in part as the justification for the creation of the force, allowed the state to secure jurisdictional control over the N.W.T. While the actual enforcement of liquor control laws was one of the roles of the N.W.M.P., the force's existence provided the state with a physical presence to regulate the lives of Native peoples in general. The Canadian government realized that even the perception of disorder or violence in the west would hinder the settlement goals of the national policy.

The first Lieutenant Governor of the Territory appointed William Butler to report on the state of the settlements in the Saskatchewan valley. Butler observed "a growing feeling of unrest among the Natives and stated that settlement would remain impossible until this threat to life and property were removed" (Ward, 1966, p. 17). Governor Archibald noted "the current of uneasiness which ran through the western tribes" (Ward, 1966, p. 19). Through the creation of the N.W.M.P., the government was credited with stemming disorder and lawlessness: "They quickly rid the Territories of whiskey traders and other lawless elements. To the force must go the

credit for bringing law and order to the North-West" (Ward, 1966, p. 23).

In the 1880s the N.W.M.P. inherited the role of facilitating the construction of the Canadian Pacific Railway, a project crucial for the success of the national policy. In the 1883 N.W.M.P. report, the force outlined its fears concerning the construction process, revealing its coercive role in facilitating the state's capital accumulation function. Their first concern was "annoyance and possible attack on working parties by Indians." The report concluded that no harm arose because "fortunately, the Indians were so kept in subjection that no opposition of any moment was encountered by them" (N.W.M.P. Annual Report, Sessional Papers, 1883).

The importance of the state's legitimation function is equally clear throughout the history of liquor control legislation. For the state's objectives to be met, in this case massive immigration, the promotion of agriculture and the establishment of a wheat economy, certain laws had to be enacted and new policies had to be developed. The laws had to be seen as beneficial to all segments of society. Being successful in legitimizing its policies, the state has achieved hegemony. The laws were paternalistic, but were described as humanitarian and in the best interests of the Native peoples themselves. Dyck (1991) points out,

the rations distributed to destitute Indians were not merely a form of relief, but were also a mechanism for exercising social control over recalcitrant band

members; similarly, the system of sales permits implemented by the [Indian] Department, ostensibly to protect Indians from unscrupulous non-Indians, also provided its field personnel with a means of making life extremely difficult for Indian farmers. (Dyck, 1991, p. 75)

As such, law reflected "both repressive (coercive), and ideological (consensual) domination" (Hunt, 1982, cited in Havemann, 1989, p. 57). When settlers began to arrive in large numbers, the state had very little need to legitimate laws which were only imposed against the Native population. Whereas Havemann (1989) states that contemporary liberal democracies rely "on the rhetoric of equality: [and that] such labels therefore substitute for overt racism" (Havemann, 1989, p. 63), it is clear that the early Canadian state did not make any pretenses toward equality.

Relying on its overall policy of "protection, guardianship and civilization" the Canadian government, following the lead of the Imperial government, flagrantly reinforced the ideology of racial superiority. The various governments "believed that Indians were incapable of dealing with persons of European ancestry without being exploited" (Tobias, 1976, p. 13) and consequently in need of special protection. This paternalism provided the government with the necessary guise to establish repressive laws designed to subjugate the entire Native population. It was indeed the outcome of "uneven struggles between antithetical class forces, embodying the interests and aspirations of the

dominant group" (McMullan and Ratner, 1982, p. 5) -these being the goals of the national policy.

This thesis has explored the relationship between the state and the Native peoples of western Canada during the century leading up to Confederation and the acquisition of the territory by Canada. It has examined the role of the state in controlling a population to facilitate capital accumulation through various forms of coercion which were seen to be legitimate by the dominant class.

This study has centred around specific legislation as it was enacted against a population which no longer exists in the same social and demographic form. The Native peoples of the west are no longer nomadic, nor do they survive solely off the land or the products of their hunts. The democratic principles imported from Europe which adhere to the "one person-one vote" principle have replaced the consensus orientation of traditional Native government. Whereas the Native peoples of the 19th century were self-reliant and independent, the policies of the Canadian government have created dependence by systematic policies of subjugation.

Current Trends in Liquor Prohibition

While Native peoples are now legally permitted to drink alcohol in most Canadian jurisdictions, there remain numerous Native reserves as well as predominantly Native communities which have been declared "dry" and maintain prohibitory policies. Others allow the importation of alcohol on a

rationed basis which is overseen by a community liquor board. Still others allow alcohol, but only to those who are guests at the hotel, effectively preventing the Native peoples from drinking, but allowing tourists, government officials, and workers from other towns or cities to drink. For the most part, those permitted to drink are non-Native.

The contemporary justifications for these forms of prohibition are those inherited from the 19th century prohibition movement which contended that liquor was the *cause* of various social evils including violence, crime, unemployment, poverty and illness. As long as this rationalization is permitted to go unchallenged, the reinforcement of this ideology will continue and will permit the state to defend inefficient social and economic policies affecting Native peoples by pointing to alcohol as the prime reason for their failures. Contributing to the continued practice of restricting liquor access are the beliefs held by many in the Native community itself.

At the same time that a new economic system, capitalism, was imposed upon Native communities, social problems began to emerge. That these problems emerged at the same time that alcohol was introduced led many to explain resultant problems by pointing to the alcohol, in effect assuming the "disease model" of "alcoholism" which is "woven into a eugenicist genetic predisposition paradigm which is highly functional to the perpetuation of victim-blaming" (Havemann, 1989, p. 62).

Future Research

Historical issues regarding alcohol use and legislation in Canada must be addressed in future studies. In particular, an examination of the period of the thirteen colonies in New England, and French colonial rule in New France, may provide insight into the evolution of the forms of legislation which were enacted. An interesting study would examine the importance of the liquor trade to the economic prosperity of these colonies, and contrast this with the emergence of strict regulations and prohibitions against alcohol distribution to Native peoples. In New France the triumvirate system of government basically consisting of the Bishop representing the Catholic church, the Intendant, representing financial interests, and the Governor, a representative of the King, all struggling for control over policies which affect their particular interests, provides an opportunity for interested scholars to examine the particular roles of each in the formation of liquor control legislation. It is possible that the control of alcohol had little to do with Native alcohol consumption, making this direction of study useful for scholars attempting to challenge the origins of the negative stereotypes of the Native North American.

Because of the emphasis of many scholars on descriptive studies of alcohol use, and on problems which result in alcohol consumption, attention has been deflected away from the issues of economic underdevelopment in Native communities. It could be argued that various provincial and territorial

governments require certain levels of alcohol-related problems to exist in Native communities in order to ensure that economic issues relating to a complete lack of employment opportunities are masked by an illusion of the unemployablility of the workforce.

Other research which is needed concerns the present health of the prohibition movement. While now decided at the municipal level rather than on the federal or provincial/territorial levels of government, prohibition continues to be enacted in Native communities in Canada. A detailed analysis of the architects of prohibition and their rationalizations would be interesting to determine whether or not the factors which led to prohibition against Native peoples in western Canada during the 1800s continue to play a part in its justification.

Future studies must eliminate the spurious correlation between social problems and alcohol, and alcohol and race, so that the issues of social deprivation, systematic subjugation and suppression are connected to structural inadequacies of the economic system and the overriding ideology of racial superiority. "If social problems are explained by referring to race, there is no need to look at historical and economic conditions" (Harding, 1978, 33). Conversely, if historical and economic conditions are examined, the typified racial categories will finally be seen as irrelevant.

APPENDIX: METHODOLOGY

The research conducted for this thesis comprised: i) a review of historical writings; ii) a compilation of relevant legislation and official records; and iii) an analysis of contemporary studies of alcohol.

Historical Research

For the purpose of clarity, the historical literature can be divided into five general categories, none of which are mutually exclusive: a) general European history of Canada; b) early European exploration; c) the fur trade; d) missionary activities; and e) the creation and adventures of the North-West Mounted Police (N.W.M.P.). A sixth area of historical research includes a review of miscellaneous literature including studies on the buffalo population and analyses of the various United States expansionist movements. An examination of these areas provided the historical background necessary for a complete contextual analysis of liquor laws. The general historical literature pointed to significant political events in the European development of western Canada.

Explorers' accounts of their experiences allowed for insight into early contact with the Native population, including their views of Native social customs and political organizations. It also provided valuable insight into the attitudes of the explorers -and European society in general- towards the indigenous population of Canada.

The history of the fur trade in Canada is extensively documented and provides an understanding of the economic dependency among the traders and the Native hunters and trappers. It illustrated the decline of Native independence from white European society, and their gradual and partial assimilation into European society.

Missionaries' documentation of their experiences magnified the European ethnocentricity, as it contrasted Native way of life with that of European society. Focussing on their difficulties in converting the Native population to Christianity, the missionaries often wrote about the evil influences of secular European culture, including alcohol use.

The histories of the N.W.M.P. emphasize the glamour of the force, focussing on winter hardship, loneliness, and loyalty and fairness (Steele, 1935). Nonetheless, they provide glimpses into pre-settlement, Native-European contact.

Other historical studies include the disappearance of the buffalo, once the staple of the indigenous peoples', providing them with food, shelter and medicines. The United States' expansionist movements illustrate the strained relations between the Americans and the British, magnifying the urgency of western expansion and the establishment of sovereignty over the western territories.

Most of the historical literature deals only incidentally with alcohol, reporting often second-hand on incidents involving the Native consumption of alcohol and focussing primarily on their specific and varied areas of inquiry.

Legislation and Official Records

It was important to review the various laws which were enacted during the period covered by this thesis. The Imperial, Colonial and municipal laws, as well as the treaties which were imposed on the Native population, all contain valuable insight into the goals of the various governments. The various Indian Acts under numerous titles, show how the use of alcohol was a primary concern of the legislators throughout the post-European contact history of Canada. Official records, including reports from the Commissioners of the N.W.M.P., and those from the Select Committees of the Canadian and British Parliaments, illustrate the biases and preoccupations of the state.

Contemporary Literature

Research into contemporary studies focussed on three areas: i) theoretical approaches to the study of law and the state, ii) current studies on alcohol use, and iii) an examination of Native rights in general.

The studies of law and the state provided the theoretical basis for an analysis of the role of the state in relation to economic development. The function of law as a coercive and legitimative instrument became the foundation for the analysis of the enactment of liquor control legislation against the Native population.

Current studies on alcohol revealed that the problems associated with Native communities has nothing to do with race

differences and everything to do with economic disparity. They illustrate the fact that contemporary studies have neglected to develop an analytical framework suited for contemporary social research. By applying over-used concepts and stereotypes, much of the current work reveals itself to be simply updated versions of the early studies, employing the same concepts and attempting to mask its underlying ideology, the ideology of racial superiority.

The area of Native rights is important to this thesis, as liquor control legislation is inherently tied to other forms of coercion. Studies on the development of the reserve system, residential schooling, the denial of treaty rights, the banning of cultural expression, and the erosion of traditional rights, are all important contributions to an overall understanding of the history of subjugation.

BIBLIOGRAPHY

- Ajzenstadt, M., & Burtch, B.E. (1990). Medicalization and regulation of alcohol and alcoholism: The professions and disciplinary measures. International Journal of Law and Psychiatry. Vol.18, pp. 20-21.
- Andrews, I. (1975). Indian protest against starvation: The Yellow Calf incident. Saskatchewan History. 28(2), 41-51.
- Barman, J., Hebert, Y., & McCaskill, D. (1986). Indian education in Canada. Volume 1: The legacy. Vancouver: University of British Columbia Press.
- Barron, F. L. (1983). Alcoholism, Indians, and the Anti-Drink Cause in the Protestant Indian Missions of Upper Canada, 1822-1850. In I. Getty, & A. S. Lussier (Eds.), As long as the sun shines and the water flows (pp. 191-201). Vancouver: University of British Columbia Press.
- (n.d.). A summary of federal Indian policy in the Canadian West, 1867-1984. University of Saskatchewan.
- Begg, A. (1894). History of the North-West (Vols. 1-3). Toronto: Hunter, Rose.
- Berger, T. R. (1991). A long and terrible shadow. Vancouver: Douglas & McIntyre.
- Bourgeault, R. (1988). The struggle of class and nation: The Canadian fur trade, 1670's to 1890. Alternate Routes, 8, 74-122.
- Brod, T. M. (1975). Alcoholism as a mental health problem of Native Americans. Archives of General Psychiatry, 32(11), 1385-1391.
- Brody, H. (1977). Alcohol, change and the industrial frontier. Etudes Inuit Studies, 1(2), 31-45.
- Brown, L., & Brown, C. (1973). The unauthorized history of the R.C.M.P. Toronto: James Lorimer.
- Burtch, B. (1992). The sociology of law. Toronto: Harcourt Brace Jovanovich.
- Butler, W. F. (1968). The great lone land. Edmonton: M. G. Hurtig.
- Campbell, R. A. (1991). Demon rum or easy money: Government control of liquor in British Columbia from prohibition to privatization. Ottawa: Carleton University Press.

- Caputo, T. et. al. Introduction. In T. Caputo, M. Kennedy, C. Reasons, & A. Brannigan (Eds.), Law and society: A critical perspective (54-72). Toronto: Harcourt Brace Jovanovich.
- Cardinal, H. (1969). The unjust society: The tragedy of Canada's Indians. Edmonton: M. G. Hurtig.
- Carnoy, M. (1984). The state and political theory. Princeton, NJ: Princeton University Press.
- Clement, W. (1977). Continental corporate power. Toronto: McClelland and Stewart.
- Condon, R. G. (1981). Inuit behavior and seasonal change in the Canadian Arctic. Ann Arbor, MI: Michigan University Press.
- Conn, S. (1986). No need of gold - Alcohol Control laws and the Alaska Native population: From the Russians through the early years of statehood. Alaska Historical Commission Studies in History #226. Alaska: School of Justice, University of Alaska.
- Constantine, C. P. (1958). I Was a Mountie; The Adventures of a trooper of Canada's famed Mounted Police. New York: Exposition Press.
- Cook, A. (1975). The Alabama Claims: American politics and Anglo-American relations, 1865-1872. Ithica, NY: Cornell University Press.
- Cooper, B. (1988). Alexander Kennedy Isbister: A respectable critic of the honourable company. Ottawa: Carleton University Press.
- Culhane Speck, D. (1987). An error in judgement: The politics of medical care in an Indian/White community. Vancouver: Talonbooks.
- Cumming, P. A., & Mickenberg, N. H. (Eds.). (1972). Native rights in Canada. Toronto: General Publishing.
- Dailey, R. C. (1968). The role of alcohol among North American Indian tribes as reported in the Jesuit Relations. Anthropologica, 10(1), 45-59.
- Deane, R. B. (1916). Mounted Police life in Canada: A record of thirty one years' service. New York: Funk and Wagnalls.
- Denny, Sir C. E. (1939). The law marches west. Toronto: J.M. Dent and sons.

- Donkin, J. G. (1889). Trooper and Redskin in the far North-West. London: Sampson Low, Marston, Searle and Rivington.
- Douthwaite, L. C. (1939). The Royal Canadian Mounted Police. London: Blackie and Son.
- Dozier, E. P. (1966). Problem drinking among American Indians: The role of sociocultural deprivation. Quarterly Journal of Studies on Alcohol, 28, 72-87.
- Dyck, N. (1985). Introduction. In N. Dyck, Indigenous peoples and the Nation-State: "Fourth world" politics in Canada, Australia and Norway. Newfoundland: Memorial University Press.
- (1991). What is the Indian "problem"? Tutelage and resistance in Canadian Indian administration. St. John's Institute of Social and Economic Research, Memorial University.
- Dyker, B. (n.d.). Get your man: An autobiography of the North-West Mounted Police. London: Sampson Low, Marston.
- Escalante, F. (1980). Group pressure and excessive drinking among Indians. In J. Waddell & M. Everett (Eds.), Drinking behavior among southwestern Indians (pp.183-204). Tucson, AZ: University of Arizona Press.
- Fenna, D., Mix, L., Schaefer, O., & Gilbert, J. A. (1971). Ethanol metabolism in various racial groups. Canadian Medical Association Journal, 105, 472-5.
- Ferris, N. B. (1977). The Trent affair: A diplomatic crisis. Knoxville, TN: University of Tennessee Press.
- Fisher, A. D. (1987). Alcoholism and race: the misapplication of both concepts to North American Indians. The Canadian Review of Sociology and Anthropology, 24(1), 81-98.
- Fitzpatrick, F. J. (1921). Sergeant 331. New York: Author.
- Fowke, V. (1957). The National Policy and the wheat economy. Toronto: University of Toronto Press.
- Fumoleau, R. (1975). As long as this land shall last: A history of Treaty 8 and Treaty 11, 1870-1939. Toronto: McClelland and Stewart.
- Galbraith, J. S. (1949a). The Hudson's Bay Company under fire. Canadian Historical Review, 30(4), 322-335.
- (1949b). The Hudson's Bay land controversy, 1863-1869. Mississippi Valley Historical Review, 36, 457-478.

- Garretson, M. S. (1934). A short history of the American bison. Freeport, NY: Books for Libraries Press
- Getty, I., & Lussier, A. S. (Eds.). (1983). As long as the sun shines and the water flows. Vancouver: University of British Columbia Press.
- Gordon, R. M. (1988). Mental Disorder, Law, and State: A Sociological Analysis of the Periods of Reform in Canadian Mental Health Law. Unpublished doctoral dissertation, University of British Columbia, Vancouver.
- Gresko, J. (1975). White "rites" and Indian "rites": Indian education and Native responses in the west, 1870-1910. In A. Rasporich (Ed.). Western Canada, Past and Present (pp. 163-182). Calgary: McClelland and Stewart West.
- Hamer, J., & Steinbring, J. (1980). Introduction. In J. Hamer & J. Steinbring (Eds.), Alcohol and Native peoples of the North (pp. 1-29). Washington: University Press of America.
- Harding, J. (1978). Development, underdevelopment and alcohol disabilities in Northern Saskatchewan. Alternatives, 7(4), 30-39.
- Havemann, P. (1989). Law, state, and Canada's indigenous people: Pacification by coercion and consent. In T. Caputo, M. Kennedy, C. Reasons, & A. Brannigan (Eds.), Law and society: A critical perspective (54-72). Toronto: Harcourt Brace Jovanovich.
- Heath, D. B. (1964). Prohibition and post-repeal drinking patterns among the Navaho. Quarterly Journal of Studies on Alcohol, 25, 119-135.
- (1976). A decade of development in the anthropological study of alcohol use: 1970-1980. In M. Douglas (Ed.). Constructive drinking: perspectives on drinking from anthropology (pp. 16-69). Cambridge: Cambridge University Press.
- Honigmann, J., & Honigmann, I. (1965). Eskimo townsmen. Ottawa: Canadian Research Centre for Anthropology.
- Hornaday, W. T. (n.d.). The Extermination of the American bison.
- Horrall, S. W. (1972). Sir John A. Macdonald and the mounted police force for the Northwest Territories. Canadian Historical Review, 53(2), 179-200.

- (1973-1974). A policeman's lot is not a happy one: The mounted police and prohibition in the North-West Territories, 1874-1891. Transactions of the Historical and Scientific Society of Manitoba, 3(30), 5-16.
- Horton, D. (1948). The functions of alcohol in primitive societies: A cross-cultural study. Quarterly Journal of Studies on Alcohol. 4, 199-320.
- Jacobs, W. R. (1950). Wilderness politics and Indian gifts: The northern colonial frontier, 1748-1763. Lincoln, NE: University of Nebraska Press.
- Jaenen, C. J. (1977). Missionary approaches to Native peoples. In D.A. Muise (Ed.), Approaches to Native history in Canada: Papers of a conference held at the National Museum of Man, October 1975 (pp. 5-10). Ottawa: National Museums of Canada.
- Jakeman, A. H. (1963). Indian rights to hunt for food. Canadian Bar Journal, 6, (223-227, 241)
- Jenkins, B. (1969). Fenians and Anglo-American relations during reconstruction. Ithica, NY: Cornell University Press.
- Jeness, D. (1932). Indians of Canada. Toronto: University of Toronto Press.
- Jennings, J. (1979). The North West Mounted Police and Indian policy after the 1885 rebellion. Unpublished master's thesis, University of Toronto, Toronto.
- Jesuit relations and allied documents. (1899). (Vols. 22, 33).
- Joseph, A. M. Jr. (1991). The Indian heritage of America. Boston, MA: Houghton Mifflin.
- Kellough, G. (1980). From colonialism to economic imperialism: The experience of the Canadian Indian. In J. Harp, J. Hofley (Eds.), Structured Inequality in Canada (343-377). Scarborough: Prentice Hall.
- Kemp, A. M. (1964). Scarlet and stetson. Toronto: Ryerson Press.
- Knuttila, M. (1987). State theories. Toronto: Garamond Press.
- Larmour, J. (1980). Edgar Dewdney, Indian Commissioner in the transition period of Indian settlement, 1879-1884. Saskatchewan History, 23(1), 13-24.

- Leland, J. (1976). Firewater myths: North American Indian drinking and alcohol addiction. New Brunswick, NJ: Journal of Studies on Alcohol.
- Lemert, E. M. (1982). Drinking among American Indians. In E. Gomberg, H. White, & J. A. Carpenter (Eds.), Alcohol, Science and Society Revisited (pp. 80-95). Ann Arbor, MI: University of Michigan Press.
- Levine, H. G. (1985). The birth of American alcohol control: Prohibition, the power elite, and the problem of lawlessness. Contemporary Drug Problems, 12(1), 63-117.
- Levy, J. E., & Kunitz, S. J. (1974). Indian drinking: Navajo practices and Anglo-American theories. New York: John Wiley and Sons.
- (1981). Economic and political factors inhibiting the use of basic research findings in Indian alcoholism programs. Journal of Studies on Alcohol, (Suppl. 9), 60-71.
- Lewontin, R. C. (1972). The Apportionment of human diversity. Evolutionary Biology, 6, 381-396.
- Lurie, N. O. (1974). The world's oldest on-going protest demonstration: North American Indian drinking patterns. In N. Hundley (Ed.), The American Indian. Santa Barbara, CA: Clio Press.
- MacAndrew, C. & Edgerton, R. B. (1969). Drunken comportment: A social explanation. Chicago, IL: Aldine Publishing Company.
- MacKay, D. (1949). The honourable company: A history of the Hudson's Bay Company. Toronto: McClelland and Stewart.
- Macleod, R. C. (1976). Canadianizing the West: The North-West Mounted Police as agents of the National Policy, 1873-1905. In L. Thomas (Ed.), Essays on Western History (pp. 99-110). Edmonton: University of Alberta Press.
- (1978). The North West Mounted Police, 1873-1919. Ottawa, Ont: Canadian Historical Association.
- Macoun, J. (1882). Manitoba and the great North-West. Guelph: World Publishing.
- Mail, P. D. (1982). Indian drinking behavior: possible causes and solutions. Indian Record, 46, 21-22.
- May, P. A. (1975). Arrests, alcohol legalization among an American Indian tribe. Plains Anthropologist, 20, 129-134.

- (1977). Explanations of Native American drinking: A literature review. Plains Anthropologist, 22(77), 223-232
- McCabe, J. O. (1960). Arbitration and the Oregon question. Canadian Historical Review, 41(4), 308-327.
- McLeod, D. M. (1963). Liquor control in the North-West Territories: The permit system, 1870-1891. Saskatchewan History, 16(3), 81-89.
- McMullen, J. L., & Ratner, R. S. (1982). State, labour, and justice in British Columbia. In Deviant Designations: Crime, Law and Deviance in Canada (pp.5-36).
- Milliband, R. (1973). The State in Capitalist Society. London: Quartet.
- Milloy, J. S. (1983). The early Indian Acts: Developmental strategy and constitutional change. In As long as the sun shines and the water flows (pp.56-64).
- Morris, A. (1880). The Treaties of Canada with the Indians of Manitoba and the North-West Territories. Toronto: Hunter, Rose.
- Morrison, W. R. (1985). Showing the flag: The Mounted Police and Canadian sovereignty in the North, 1894-1925. Vancouver: University of British Columbia Press.
- Morton, A. S. (1938). History of prairie settlement and Dominion lands policy. Toronto: MacMillan.
- Naylor, R. T. (1975). The history of Canadian business, 1867-1914. (Vols. 2,3). Toronto: James Lorimer.
- Neidhardt, W. S. (1975). Fenianism in North America. University Park, PA: Pennsylvania State University Press.
- Newman, P. C. (1987). Caesars of the wilderness: Company of adventurers. (Vol. 2). Markham, Ontario: Penguin.
- O'Bradovich, L. S. (1969). Plains Cree acculturation in the nineteenth century: A study of injustice. Na'pao, 2(1), 2-23.
- Oliver, E. H. (Ed.). (1914). The Canadian North-West: Its early development and legislative records. Ottawa: Government Printing Bureau.
- Panitch, L. (Ed.). (1977). The Canadian State: Political Economy and Political Power. Toronto: University of Toronto Press.

- Phillips, P. C. (1961). The Fur Trade (Vols. 1-2). Norman, OK: University of Oklahoma Press.
- Price, J. A. (1975). An applied analysis of North American Indian drinking patterns. Human Organization, Journal of the Society for Applied Anthropology, 34(1), 17-24.
- Ratner, R. S., McMullan, J. L., & Burtch, B. E. (1987). The problem of relative autonomy and criminal justice in the Canadian state. In R. S. Ratner & J. L. McMullan (Eds.). State Control: Criminal Justice Politics in Canada (pp. 85-125). Vancouver: University of British Columbia Press.
- Rich, E. E. (1967). Hudson's Bay Company: 1670-1870 (Vols. 1-3). New York, NY: MacMillan.
- Richards, S. (1983). Philosophy and Sociology of Science: An Introduction. Oxford, England: Basil Blackwell.
- Senior, H. (1978). The Fenians and Canada. Toronto: MacMillan of Canada.
- Shkilnyk, A. (1985). A Poison Stronger than Love. New Haven, CT: Yale University Press.
- Smart, R. & Ogborne, A. (1986). Northern Spirits: Drinking in Canada Then and Now. Toronto: Addiction Research Foundation.
- Smith, D. G. (Ed.). (1975). Canadian Indians and the Law: Selected documents, 1663-1972. Toronto: McClelland and Stewart.
- Southesk, The Earl. (1969). Saskatchewan and the Rocky Mountains. Edmonton: M. G. Hurtig.
- Spence, R. E. (1919). Prohibition in Canada. Toronto: Dominion Alliance.
- Stanley, G. F. G. (1961). The Birth of Western Canada: A History of the Riel Rebellions. Toronto: University of Toronto Press.
- (1983). As long as the sun shines and the water flows. In I. Getty, & A. S. Lussier (Eds.), As Long as the Sun Shines and the Water Flows (pp. 191-201). Vancouver: University of British Columbia Press.
- Steele, H. (1935). Policing the Arctic: The story of the conquest of the Arctic by the Royal Canadian (Formerly North-West) Mounted Police. Toronto: Ryerson Press.

- Stewart, O. (1964). Questions regarding American Indian criminality. Human Organization, 25(7).
- Surtees, R. J. (1988). Canadian Indian policies. In W. Sturtevant (Ed.), Handbook of North American Indians (pp.81-95). Washington: Smithsonian Institution.
- Tennant, P. (1990). Aboriginal Peoples and Politics: The Indian Land Question in British Columbia, 1849-1989, Vancouver: University of British Columbia Press.
- Thatcher, R. (1986). The functions of minority group disrepute: The case of native peoples in Canada. In B. McLean (Ed.), The Political Economy of Crime: Readings for a Critical Criminology, (pp. 272-294). Scarborough, Ontario: Prentice-Hall.
- Thomas, L. H. (1970). The Northwest Territories, 1870-1905. Ottawa: Canadian Historical Association.
- (1978). The Struggle for Responsible Government in the North-West Territories, 1870-1897, Toronto: University of Toronto Press.
- Tobias, J. L. (1976). Protection, civilization, assimilation: An outline history of Canada's Indian policy. The Western Canadian Journal of Anthropology, 6(2), 13-30.
- (1977). Indian reserves in Western Canada: Indian homelands or devices for assimilation. In D.A. Muise (Ed.), Approaches to Native History in Canada: Papers of a Conference held at the National Museum of Man, October 1975 (pp. 89-103). Ottawa: National Museums of Canada.
- (1983). Canada's subjugation of the plains Cree, 1879-1885. Canadian Historical Review, 64(4), 519-548.
- (1987). Indian reserves in Western Canada: Indian homelands or devices for assimilation? In B. Cox (Ed.), Native People, Native Lands: Canadian Indians, Inuit and Métis (pp. 148-160). Ottawa: Carleton University Press.
- Trigger, B. G. (1985). Natives and Newcomers; Canada's "Heroic Age" Reconsidered. Montreal: McGill-Queen's University Press.
- Upton, L. F. (1973). The origins of Canadian Indian policy. Journal of Canadian Studies 8, 51-61.
- Ward, W. P. (1966). The Administration of Justice in the North-West Territories, 1870-1887. Unpublished master's thesis, University of Alberta, Edmonton.

- Warner, D. F. (1960). The Idea of Continental Union: Agitation for the Annexation of Canada to the United States, 1849-1893. Kentucky: University of Kentucky Press.
- Warren, G.H. (1981). Fountain of Discontent: The Trent Affair and Freedom of the Seas. Boston MA: Northeastern University Press.
- Watts, T. D., & Wright, R., Jr., (1988). Alcoholism in Minority Populations. Springfield, NY: Charles C. Thomas.
- Westermeyer, J. (1972). Options regarding alcohol use among the Chippewa. American Journal of Orthopsychiatry, 42(3), 398-403.
- Williams, C. (1962). The dawn of law on the prairies. Saskatchewan Bar Review, 27(4), 126-133.
- Wooley, J. G. & Johnson, W. E. (1903). Temperance Progress in the Century. London, England: Linscott Publishing.
- Yerbury, J. C. (1986). The Subarctic Indians and the Fur Trade: 1680-1860. Vancouver: University of British Columbia Press.
- York, G. (1989). The Dispossessed: Life and Death in Native Canada. Toronto: Lester & Orpen Dennys.