Policing Indigenous Peoples on Two Colonial Frontiers: Australia's Mounted Police and Canada's North-West Mounted Police

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This article examines the ways in which colonial policing and punishment of Indigenous peoples evolved as an inherent part of the colonial state-building process on the connected 19th century frontiers of south-central Australia and western Canada. Although there has been some excellent historical scholarship on the relationship between Indigenous people, police and the law in colonial settings, there has been little comparative analysis of the broader, cross-national patterns by which Indigenous peoples were made subject to British law, most especially through colonial policing practices. This article compares the roles, as well as the historical reputations, of Australia's mounted police and Canada's North-West Mounted Police (NWMP) in order to argue that these British colonies, being within the ambit of the law as British subjects did not accord Indigenous peoples the rights of protection that status was intended to impart.

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By the 1840s Indigenous peoples across Australia's colonies were considered British subjects, in theory protected by and subject to the rule of law. Yet as the historical records of 19th century Australia and other parts of the British Empire show, 'being within rather than beyond the pale of English law' did not accord Indigenous peoples the protection their status as British subjects was intended to impart (Evans, 2005, pp. 57–58). The dilemmas of attempting to impose a rule of law upon a people who in a legal sense were, but in a practical sense were not, subject to it were not unique to the Australian frontier, but were faced across the British Empire by colonial administrators who had to facilitate European settlement in regions already occupied by Indigenous peoples. Through a comparative analysis of Australian and Canadian frontiers, this essay will consider how policing and punishment evolved as

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an inherent 'part of the processes of colonial state-building' (Dunstall & Godfrey, 2005, p. 2). Most specifically, it will examine the practical ways in which the rule of law was brought to bear upon Indigenous peoples in order to ask how effectively colonial governments met the principle of providing Indigenous peoples with legal protection as British subjects. Although there has been some excellent Australian and other regional and national historical scholarship that has addressed the relationship between Indigenous people, police and the law across the British Empire and in other jurisdictions,[1] there has been surprisingly little comparative analysis of the processes by which Indigenous peoples were policed on 19th-century colonial frontiers that witnessed the subjugation of Indigenous sovereignty to the authority of the colonial state.[2]

While Canada's North-West Mounted Police (NWMP) was a centrally organised body that marched west, Australia's mounted police forces were regionally organised from colony to colony. In this essay we will concentrate on the policing histories of western Canada's prairies and of the interior corridor of south and central Australia as the two regions that offer most fruitful points of comparison. Aside from their shared origins as British colonies, these regions experienced similar difficulties in the expansion of settlement into the interior, a process that took place in the second half of the 19th century when, unlike in Australia's and Canada's earlier settled colonies, Indigenous peoples were already considered to be within the ambit of colonial law as British subjects.[3] As territories that came under colonial control relatively late in the history of the British Empire, they shared patterns in their demographic evolution and questions concerning the amenability of Indigenous peoples to British law. In both jurisdictions, colonial governments relied upon mounted police forces to facilitate Indigenous people's subjugation to colonial law and aid the establishment of agricultural and early industrial capitalist economies through land acquisition and settlement.

What do the parallels and divergences in these two colonial policing histories tell us about connected processes by which Indigenous peoples were brought within the reach of colonial authority? This question is important not only for examining comparable histories of policing Indigenous peoples, but also, more generally, for examining the ways in which national histories are remembered. In recent decades, both Australia and Canada have witnessed sometimes heated public debates that have challenged their national foundational stories of 'gentle' occupation. In these debates about national origins a key question remains: what roles have early frontier police forces served in social memory and what do their historical reputations tell us about the nature of our national myths about European settlement? In this essay, we will argue that despite enduring narratives in both nations about the relatively benign operation of law and order, mounted police forces were actively required to ensure the submission of Indigenous peoples to colonial rule. In both Australia and Canada, we argue, the responsibility of colonial mounted police to extend the protection of the law to Indigenous peoples was compromised by their requirement to ensure the negation of Indigenous sovereignty, and to implement effective policies of containment and surveillance.

CONCEPTIONS OF 'FRONTIER'

As the instruments of colonial government on the frontiers of European settlement, both Australia's mounted police and Canada's NWMP represented a rule of law that, by definition, would override Indigenous customary law and sovereignty and aid the effective occupation of the colonial state. Both were paramilitary forces that drew on officers from a military background, yet both held the essentially civil role of facilitating a smooth path to colonial settlement and bringing law and order to previously unsettled territories. In representing the apparent sovereignty of the colonial state, both also had a responsibility to carry out, in regions yet to be secured by European settlement, a government policy towards Indigenous subjects broadly conceived of in terms of 'protection'. Informed by the humanitarian rationale of the Colonial Office since the 1830s, the principle of protection was regarded as a first step towards Indigenous people's 'civilisation'. It was a principle firmly embedded in government intentions towards Indigenous peoples at the outset of colonial settlement in both jurisdictions. This was demonstrated in the Proclamation of South Australia as a British colony in 1836, when the first governor declared that all Indigenous peoples 'are to be considered as much under the safeguard of the law as the Colonists themselves, and equally entitled to the privileges of British subjects' (*South Australian Gazette and Colonial Register*, June 3, 1837). The principles of protection, civilisation and assimilation were also embedded in Canada's Indian policy developed through the 1870s (Tobias, 1976).

Despite these common origins, some critical differences between these two colonial settings profoundly affected the capacity of the mounted police to implement a rule of law on the frontiers of settlement, and contributed to the evolution of different perceptions of what the role of police should be. But firstly, we need to consider variations in what the 'frontier' is taken to mean. In colonial Australia, the frontier figured not dissimilarly to the United States, as that phase and place of contact when Europeans first intruded into Indigenous country. But unlike the United States and some other of Britain's colonies like New Zealand or South Africa, Australia does not have a history of openly acknowledged land wars, or an accompanying 'romance of heroes and campaigns' as Tim Griffiths has put it. Rather, frontier conflict occurred with a significantly covert face; Australia's was a case 'not of public violence against a respected foe, but more frequently a [private] drama of … fear and disdain' (Griffiths, 1994, p. 11). Despite the often covert nature of frontier conflict, the historical record demonstrates that the process of Australian settlement was characterised by Indigenous resistance to intrusion, which typically took the form of attacks on settlers, their stock and their property (Reynolds, 1982). Indigenous resistance was met, in turn, by an assertion of European force, either sanctioned by the state through mounted police forces, or unsanctioned in the form of private settler violence, designed to suppress that resistance (Foster et al. 2001; Nettelbeck & Foster, 2007a; Richards, 2008).

In contrast to this shape of the frontier, Canada has always defined its westward expansion in terms of 'managed development' (Loo, 1996, p. 200), determined by the cautious establishment of colonial law, order and administration. Traditionally, historians have argued that the Canadian west never fit the image of the frontier, in the sense formalised for the United States by Frederick Jackson Turner as a line that

separates 'civilised' from unsettled territories and which moves with the pace of European settlement (Turner, 1893). Rather, Canada's Northwest Territories have been conceived in terms of a distinct region — a 'rural hinterland' — separable from eastern Canada by more natural geographical borders (Jameson & Mouat, 2006, pp. 199–200), though more recent historiography on the Canadian and American west has drawn on both the concept of the frontier as a space 'in which geographical and cultural borders were not clearly defined', and the concept of borderlands as 'contested boundaries between colonial domains' (Adelman & Aron, 1999, pp. 815–16; Martin, 2006, pp. 1–4; Wrobel, 2009).

Unlike the interior of Australia, the agricultural settlement of western Canada in the last decades of the 19th century did not evolve in a region of first contact, the fur trade having established exchange between Indigenous peoples and Europeans there from the late 17th century (Smandych & Linden, 1995). From the outset, then, when the NWMP marched west in 1874 under the central authority of Ottawa, it was conceived that '[m]uch of the machinery of justice, including the courts and their officials, procedures, and the law itself, [would be] transferred to the west without significant change' (Macleod, 1975, p. 132). This differs from the Australian context, where mounted police forces were established by regional colonial governments to bring the rule of law to regions of first contact.

Perhaps most significant in shaping different conceptions of the frontier was that in Australia, in contrast to Canada's west, no land treaties were forged for the cession of Indigenous lands. Historians have argued that the land cession treaties established in the Canadian west through the 1870s fell far short of their promise, allowing Indigenous rights within the first decade to give way into 'oppression, land theft and starvation' (Harring, 2005, p. 92). Yet, at least formally, land cession treaties helped to map a process of colonial occupation which, it was presumed, would anticipate Indigenous people's assimilation within a capitalist economy. In Australia, in contrast, European settlement proceeded on an unclear premise that under the protection of British law Indigenous peoples would be 'civilised' in the course of European settlement. The rationale used to justify dispossession was that Indigenous peoples would be integrated as British subjects into the colonial state; thus they would never be regarded in political terms as sovereign peoples with distinctive land rights. By the time the colony of South Australia was being planned in the 1830s, the Colonial Office certainly intended that Indigenous land rights would be protected if they could be shown to exist. In 1835, a year before ships began to take British settlers to the new province, the Secretary of State had made clear to the panel of colonisation commissioners that they must 'shew, by some sufficient evidence, that the land is unoccupied, and that no earlier and preferable Title exists' (Colonial Office Records, CO 13/3, Grey to Torrens, December 15, 1835). Yet in as much as this policy was intended, it had no formal implementation; the *Foundation Act of 1834* had declared all lands of the colony 'waste and unoccupied', and despite its amendment in 1838 to allow the governor to enter into land cession arrangements, this did not occur (cf. Main, 1986). The lack of land cession arrangements across Australia's colonies shaped the way its frontiers would be policed for decades to come. A key characteristic of Australia's frontiers, as Henry Reynolds has argued, was the uncertainty of Britain's effective occupation; if a rule of government extends as far as the

exercise of its administrative machinery, then in Australia British sovereignty was only of 'a qualified and limited order' (Reynolds, 2006; 1996).

THE ROLE OF FRONTIER POLICE

These essential differences affected the ways mounted police could bring a 'rule of law' to the frontiers of south-central Australia and the prairie region of the Canadian west. The nature of their roles was also differently affected by the fact that they were constituted with different levels of legal power. Unlike their Australian counterparts, Canada's NWMP were entrusted with magisterial powers. Because officers served as 'stipendiary magistrates' and ex officio justices of the peace, they could function, even in the absence of regular courts, as a self-contained instrument of colonial law, able not only to apprehend but also to try and sentence offenders. Historians have suggested that, invested with such powers and in a context of isolation, the NWMP were 'virtually a separate government' (Beal & Macleod, 1984, p. 28; Marquis, 2005, p. 198). In Australia, the mounted police held no such powers. They were held instead to a more cumbersome line of authority, which created endless difficulties in policing remote districts according to legal requirements. On the frontiers of European settlement, Indigenous attacks on settlers' stock and property were endemic. Technically, police were required to respond by seeking warrants and making arrests where possible and, if a charge went forward, to take it before a court. In the absence of nearby local courts, police had to capture not only Indigenous suspects but also witnesses, and escort them in chains, possibly hundreds of miles, to the nearest magistrate for committal. The difficulties of capturing Indigenous prisoners in difficult terrain, long after the sheep or cattle had been taken, and then of transporting them hundreds of miles, were exacerbated by lack of police resources in keeping up with the ever-expanding line of settlement. While the NWMP went west as an advance 'buffer' to the cattle ranching industry, in Australia mounted police forces were shaped to keep pace with the expansion of settlement (Sturma, 1987, p. 19). Yet, compelled as they were to patrol large tracts of country in small numbers, mounted police presence lagged consistently behind the incursions of entrepreneurial settlers into un-colonised territories.

Settlers who 'paved the way' complained constantly to the government about lack of police protection against Indigenous attacks on their property. A consequence was that all too often settlers had the facility to 'take the law into their own hands', exacting their own form of frontier justice against Indigenous people beyond the eyes of the law.[4] Indeed, frustrated by the difficulties of the task they faced, police officials themselves would sometimes recommend that settlers do more to defend themselves by taking up arms against Indigenous aggressors. In 1863, struggling to manage the contested pastoral frontier of northern South Australia with limited resources, South Australia's Commissioner of Police, Peter Edgerton Warburton, urged that settlers strengthen their own defence by adequately arming their station hands; even supposing more police were available, he wrote, 'are they to shoot the Natives like dogs? Or are they to be sent there to relieve the Settlers from the necessity of taking care of their lives and property?' (GRG 5/2/1863/306 encl. 1590, SRSA, Police Commissioner to Chief Secretary, October 16, 1863). In his view, the foundational rationale of Indigenous people as British subjects placed mounted police in an inevitably vexed position on those frontiers where effective

occupation of the colonial state was not yet secured. While the task of police was in principle 'to preserve the peace by preventing violence' (Act to Consolidate and Amend the Law relating to the Police in South Australia, 1869–70, Part 2, clause 9), the reality of Indigenous resistance often made this a practical impossibility.

FORCIBLY IMPLEMENTING THE RULE OF LAW

What does this suggest about the mounted police's paramilitary function and the scope they had for use of force? As instruments of colonial governance, both Australia's Mounted Police and Canada's NWMP were enlisted to suppress the independence of Indigenous groups as sovereign peoples and bring them within the reach of colonial authority. According to Canada's foundational narrative, the NWMP 'brought justice to red and white man alike' (Stanley, 1940, p. 109; Walden, 1982). However, over the past three decades the romantic hue of this narrative has slowly begun to be challenged. For instance, in their pioneering but still relatively rare critical history of Canada's early federal police force, Lorne and Caroline Brown (1973, p. 10) argue that in contrast to the enduring story that the NWMP were formed in response to the Cyprus Hills massacre of Assiniboine Indians in 1873, as well as to eradicate the corruptive influence of unscrupulous whiskey traders and 'other white outlaws' from across the U.S. border, 'the primary reason for establishing it was to control the Indian and Métis population of the North West', which collectively threatened to impede the settlement schemes of eastern Canadian 'financiers and politicians'. More recently, Walter Hildebrandt (1994, p. 33) has lamented that 'it is [still] difficult to find a balanced history of the NWMP, largely because of the many previous laudatory accounts that have mythologized their mission.' Hildebrandt (1994, p. 63) paints a much less rosy picture of the relationship between the NWMP and western Canada's First Nations and Métis peoples, pointing to numerous examples of the mistreatment Indigenous peoples endured at the hands of NWMP officers 'who viewed them as inferior', an analysis in keeping with Louis Knafla's (1995, 2005, p. 25) broader argument that both before and following the settlement period, violence was 'part of the human landscape of the Western Canadian frontier' and 'was an integral part of the Prairie historical experience'.

While Canada's western settlement may have been more fraught than is typically reported in mythologising histories of Canada's mounted police force, the records of the NWMP seem to reveal little in the way of use of deadly force that would tarnish their reputation for a relatively nonviolent establishment of Canadian sovereignty in the west (Jennings, 1998, p. 41). One important reason for this was that the magisterial and other discretionary powers invested in the NWMP gave them the capacity to carry out government Indian policy with an aura of 'benevolent despotism' (Macleod, 1976, p. 22). Yet in Australia, the historical record shows that the mounted police were frequently called upon to use firearms in suppressing Indigenous people's resistance on the frontiers of settlement and bringing them forcibly within control of the law (see, for instance, Choo & Owen, 2003; Nettelbeck & Foster, 2007b). This implied something more than police occasionally 'suspending' the law as need demanded. As Julie Evans (2005, p. 59) describes, it entailed a deeper paradox in which contravening the law (through use of force) could be understood 'as actually producing the rule of law it simultaneously abrogat[ed]'.

The nature and degree of state-sanctioned violence against Indigenous peoples in Australia that went beyond the rule of law needs to be more closely interrogated in order to explain apparent Australian and Canadian differences in the policing of Indigenous peoples on the two frontiers. Although instructions on the use of weapons by mounted police in South Australia varied somewhat over time, it was broadly the case that weapons should be used only in self-defence, in apprehending a suspect resisting or escaping arrest, or in cases when armed resistance interfered in 'the execution of duty' (see, for instance, GRG5/28, SRSA, copies of General Orders 1840–1881, December 16, 1843 and November 25, 1844). Although, in principle, regulations about use of firearms were among the most clarified aspects of frontier policing, in practice they could be the most ambiguously interpreted. In a General Order issued in 1844 on the use of firearms, Commissioner of Police Travis Boyle Finniss reminded police, 'the Mounted Police especially', that although they were to use arms only in cases of 'extremity', they were still 'armed to enable them successfully to overcome opposition to lawful arrests, and to enable them to protect themselves against armed interference in the execution of their duty' (GRG 5/28, SRSA, General Order no. 25 of 1844). In principle, all fatalities were to be reported but, posted as they were in ones and twos in remote locations, this depended upon the word of individual officers. In 1884, the Protector of Aborigines asked for more information on a mounted constable's report from the central Australian frontier that recorded the fatal shooting of three Indigenous men. In his reply, the Sub-Inspector of Police acknowledged that because the shootings had 'occurred a long way beyond the boundary of any district', it was 'impossible' to obtain information from any other source than the mounted constable (South Australian Police Historical Society, 000319, Loc 2–2/43, Besley to Hamilton, December 22, 1884). As a newspaper correspondent wrote in 1891: 'Suppose the officer … should be tempted in an indiscreet moment to tumble a few native evildoers "heels over head", who need be any the wiser?' (*Port Augusta Dispatch*, July 31, 1891).

On critical occasions when Indigenous attacks in remote areas threatened colonial security — and there were a number of such occasions between 1840 and the early 20th century on South and Central Australia's pastoral frontiers (see, for instance, Foster et al., 2001; Nettelbeck & Foster, 2007a) — use of force was not only dependent on the discretion of individual officers but was more openly sanctioned by the colonial state, involving the police in punitive actions against Indigenous peoples which, as Michael Sturma (1987, p. 26) puts it, 'at times amounted to official massacres'. Indigenous threats to colonial security posed the most difficult problems for successive colonial governments in reconciling a gap between the putative status of Indigenous peoples as British subjects and their actual status as sovereign groups who existed beyond the scope of British law. These occasions produced official reactions of what Evans (2005, p. 69) calls 'murky legality', in which 'we see Aborigines drawn as both enemies and criminals, susceptible both to warfare and punishment'. Wherever settlers' security was threatened, it was considered important from the earliest years of the colony that punitive action, to be effective, had to be swift and severe. This was the message expressed by the colony's first Commissioner of Police, Major Thomas O'Halloran, in 1841 when he noted, in response to Indigenous threats against colonists and their stock on the Murray river, that 'the punishment ought to be severe to prove to them our power'

(GRG 5/81, SRSA, Diary of Thomas O'Halloran, April 27, 1841). A similar reaction still held more than three decades later as the frontier of European settlement moved inexorably outwards into central Australia. In 1874, for instance, the same year that the NWMP marched west, the Barrow Creek telegraph station in remote central Australia was attacked by an Indigenous party. In their response, police were expected to use force to impart the lesson that Indigenous people 'cannot attack the whites with impunity'. On this occasion, the Commissioner of Police, William Peterswald, urged that during the punitive expeditions the Mounted Police undertook, 'a too close adherence to legal forms should not be insisted upon' (GRG 5/2/1874/261, SRSA, Commissioner of Police to the Chief Secretary, February 24, 1874).

At the same time, in both colonial Australia and Canada, Indigenous peoples themselves were either employed by or enticed to cooperate with the Mounted Police. Across the Australian colonies and in western Canada, Indigenous people (and Métis in Canada) aided police as guides, interpreters and trackers. In Canada the most famous of these was the Métis 'scout' Jerry Potts, also known by his Blackfoot name 'Bear Child', who, from 1874 and off and on for more than the next 20 years, played an indispensable role in helping the NWMP mediate with various Indigenous bands and extend the 'Queen's law' over the Canadian west (Foster, 1994; Touchie, 2005). Jerry Potts was only one of many who served as Métis and Indian 'scouts' between 1874 and the early 20th century (Beahen & Horrall, 1998; Dempsey, 1998), and who, in doing so, undoubtedly also played a key role in serving as cultural intermediaries.

However, unlike Canada, from the 1840s a number of the Australian colonies also employed armed, paramilitary forces of 'Native Police', Indigenous troopers who patrolled frontier districts under the supervision of white officers. The absence of such forces in the Canadian west, as well as the potential of Indian scouts to act as cultural intermediaries, may partly explain the lesser extent of violence in the Canadian west, and the relative ease for the NWMP in introducing a legal system based on the rule of law. While there is evidence suggestive of this argument in the extant early correspondence and records of the NWMP (National Archives of Canada, Government of Canada, Royal Canadian Mounted Police Records, RG 18, 1874–1905), to date Canadian legal and police historians have given little attention to scrutinising this type of evidence (for an exception to this see Gavigan, 2008).

Through its practice of more commonly enlisting force against Indigenous peoples, South Australia's colonial government was more repeatedly troubled than was the case in western Canada by the ambiguities of Indigenous people's legal status as British subjects. After the North-West Rebellion in 1885, Indians involved alongside the Métis in the uprising were charged with treason–felony, a charge that assumed they owed allegiance to Canadian sovereignty, in spite of the evidence that they did not (Harring, 2005, pp. 98–99). In contrast, after the Milmenrura people killed 26 of South Australia's colonists on the south-east coastline in 1840, the governor proceeded according to martial law, sending a paramilitary police party to capture and execute two Milmenrura men on the spot (Foster et al., 2001). Although the governor was subsequently rebuked by the Colonial Office for his technically illegal suspension of ordinary law, his Executive Council defended the action as being appropriate in cases where Indigenous peoples, having not 'acknowledged

subjugation to any power', could be regarded 'not as that of individual British Subjects, but … a nation at enmity with Her Majesty's subjects' (Advocate-General, Minute to the Executive Council, *South Australian Register*, September 19, 1840).

Subsequent governors avoided voicing any such view so at odds with the proclaimed status of Indigenous people as British subjects, but the practical problems of dealing with recalcitrant Indigenous peoples on the fringes of the colony did not go away. In 1863, a decade before the NWMP marched west, the South Australian Commissioner of Police pressed the governor to recognise that in remote districts of sparse European settlement, the 'legal punishment' of Indigenous offenders was 'next to impossible', because Indigenous people, although British subjects in principle, would 'not yield to the covenants of the Law whilst they have the least power of resistance' (GRG 5/2/1863/306 encl. 1262, SRSA, Police Commissioner to Chief Secretary, August 7, 1863). The role of frontier police in suppressing Indigenous unrest in remote parts of the colony continued well after the frontier era might be considered past. As late as 1928, a series of punitive expeditions under Mounted Constable George Murray against the Warlpiri people in Central Australia resulted in the official deaths of 31 people but other reports suggest fatalities to be as high as 70 or more; this is known as the 'Coniston massacre' (for instance Wilson & O'Brien, 2003). During the court hearing for two Indigenous men who were taken prisoner, Mounted Constable Murray commented that his party 'shot to kill', for 'what was the use of a wounded black-fellow hundreds of miles from civilization?'(*Northern Territory Times*, November 9, 1928). His comment was telling about the workings of an unofficial culture that underpinned official violence on the Australian frontier.

POLICING AND SURVEILLANCE

Clearly, there were some key differences shaping Australian and Canadian frontiers in the late 19th century that might suggest divergences in the nature of their policing were more significant than their parallels. Yet beneath these divergences was the common task of establishing effective colonial occupation of lands previously held by sovereign Indigenous peoples; in this both police forces shared the goal, characteristic of Britain's colonies, of what Mark Finnane (2005, p. 54) calls 'disciplined dispossession'. This, of course, involved more than the disciplining of recalcitrant Indigenous peoples through physical force and the coercive use of law. Indeed, it clearly entailed a much broader matrix of 'disciplinary' and 'governmental' regimes.[5]

The reports of NWMP commissioners from its earliest years suggest that the efficiency of the NWMP in minimising violent conflict in the west had less to do with the force's mythic role of peaceful mediation than with the institution of an effective system of surveillance and curtailment of Indian mobility.[6] As access to their traditional means of living began to decline through the second half of the 1870s, Indigenous people were faced with little choice but to place themselves under the protection of the Queen's law, a protection offered only on the condition of their submission to Canadian legal authority. In 1876, Sub-Inspector Cecil Denny reported the words of Blackoot chief Crowfoot:

> We all see that the day is coming when the buffalo will all be killed, and we shall have nothing more to live on … We are getting shut in, the Crees are coming in to

> our country from the north, and the White men from the south and east, and they are all destroying our means of living. (Commissioner Reports, December 30, 1876)

Under such circumstances, the NWMP were able to successfully enlist Indian support in the policing of their own people, not only in turning members of their own bands over to police but also in gathering information about the movements of other bands (August 18, 1876, Commissioner reports 1876). As Inspector James Walsh reported in 1877,

> I explained to them the law and told them they must be careful and obey it; that if one act was committed against it I would take the person or persons out of camp prisoners; that I would hold the Chief responsible for the good behaviour of the camp. (Walsh to Commissioner MacLeod, March 15, 1877; Commissioner Reports 1877)

He concluded, 'There is in every camp young men who are hard to manage and no doubt many among [them] will have to be watched; [but] I think the chiefs and old men will do their utmost to keep them in their proper place'.

From its early days in the west, the NWMP were absorbed with the need to police Indian movement along the border between the Canadian north and the United States south, as Indian bands escaping U.S. troops sought refuge in Canadian territory. When Commissioner James MacLeod learnt that a large band of Sioux had crossed the border and camped at Wood Mountain, he arranged with James Walsh for additional NWMP detachments to be posted to Wood Mountain and Cypress Hills which 'thus stationed would keep him continually informed of [their] movements', and for police to take possession of all firearms and ammunition (March 27, 1877, Commissioner James MacLeod to Secretary of State, Commissioner reports 1877).

The story of the Sioux being given sanctuary in Canada from U.S. troops, and of Sitting Bull's subsequent friendship with James Walsh, is a familiar part of NWMP iconography. But from the moment the Sioux arrived in Canadian territory, the NWMP were engaged with the task of getting them back across the border. Given that 'it would be impossible for the police to keep them in check over such an extended frontier', and appreciating the political repercussions of a diplomatic embarrassment with the United States, the Commissioner of the NWMP put every effort in persuading the Sioux:

> that they cannot be recognised as British Indians; that no reserves will be set apart for them, and no provisions made for their maintenance by our Government; that by remaining on our side they will forfeit any claim they have on the United States, and that after a few years their only resource of support—the buffalo—will have failed, and they will find themselves in a much worse position than they are at present. (MacLeod to Secretary of State, May 30, 1877: Commissioner reports 1877)

When Sitting Bull and the Sioux were finally induced by lack of choice to surrender to United States authorities in July 1881, with the promise of Canadian aid only on the terms that they would leave, Commissioner A.G. Irvine was able to report, as 'a matter of utmost congratulation', that over the four years during which the Sioux remained refugees on Canadian soil, the NWMP had monitored their '[e]very movement' and successfully maintained 'supervision and control' (February 1, 1882, Commissioner reports 1882). Throughout this period the NWMP held up their

purportedly firm but fair application of Canadian law to the American Sioux as a moral example to the ostensibly more fortunate Indigenous peoples who resided as legitimate British subjects north of the 49th parallel. However, with the demise of the buffalo in the late 1870s, the remaining Indigenous peoples of the Canadian west also had reason to question how well they were treated by the NWMP, despite the force's benevolent rhetoric of providing legal protection.

By 1880, as the era of starvation hardened for Indigenous peoples in the west, Irvine recommended that the NWMP force be increased by 200 men to take account of the changing environment. The 'intricacies and dangers of the Indian question', he argued, were not over and were increasing with the rise of want among the Indian population and the influx of settlers from the east. A starving Indian population, he warned, was 'a dangerous class requiring power, as well as care, in handling'. That a 'spirit of unrest' would show itself was certain, he felt, and 'if not suppressed in time, will result in periodical raids on the cattle and horses of settlers' (December 29, 1880, Commissioner reports 1880).

Recent Canadian historiography has begun to address how this suppression of potential unrest was affected through the criminalisation of Indigenous activities. In their evaluation of Indian crime and punishment in the North-West Territories between 1878 and 1885, Macleod and Rollason (1997) find that the NWMP came down hard on livestock theft as something that threatened colonial authority. Sidney Harring (2005, p. 96) also notes that while cattle theft was not initially policed, in accordance with a NWMP policy of establishing goodwill with Indigenous peoples, the policing of cattle theft in the era of Indian starvation 'became standard policing procedure'.

Historians have also argued that it was not just cattle theft but horse stealing in particular that the NWMP 'clamped down' hard upon as an activity imbued with powerful significance around economic and social standing in the traditional cultural order, and 'an important expression of Native autonomy' (Hubner, 1998, p. 53). Its criminalisation, argues Hubner, enabled the NWMP to 'circumscribe Indian movement and restrict Indian men to their reserves, symbolically crushing their way of life' (Hubner, 1998, p. 57). Sentences for horse stealing were particularly harsh, ranging from two to five years of incarceration with hard labour (Hubner, 1998, p. 62; Macleod & Rollason, 1997).

Recent historiography on the NWMP's role in containing Indigenous autonomy also traces the wider application of disciplinary measures they undertook in cooperation with the Department of Indian Affairs, as well as with the United States military over the border. These included use of the vagrancy law 'to remove undesirable Indians from wherever the authorities did not want them' (Hubner, 1998, p. 69); upholding the ration policy, which worked to further contain peoples on reserves; and enforcing the pass system that was initiated in 1885 as a temporary measure following the North-West Rebellion, but that continued after lobbying from the cattle ranching industry (Mayfield, 1979). The pass law required Indians to have a pass signed by an Indian agent in order to leave their reserve, at the risk of having rations withheld. The NWMP 'cooperated with the Indian Department in enforcing it as a matter of mutual convenience' (Macleod, 1976, p. 146), despite repeated anxieties that it had no legal validity and was in violation of the signed treaties of the 1870s that promised

that Indian groups subject to the treaties would continue to have freedom of movement over their former lands (Carter, 1990, pp. 150–151).

Through a regime of containment — via restriction on reserves, regulation of land use, and criminalisation of livestock theft — the goal of the NWMP was to turn Indian peoples of the Northwest Territories to the 'new order' of industrial capitalism (Graybill, 2007; Hubner, 1998, p. 67; Loo, 1996, p. 107). Macleod (1998, p. 120) has argued that from 1885 — following the North-West Rebellion, the accelerated changes brought about by the Canadian Pacific Railway, and into the era of starvation — the relationship between the NWMP and Indian peoples changed to demonstrate 'less emphasis on persuasion and cooperation and more on coercion'. In stronger terms, Harring (2005, p. 117) identifies such coercive strategies as a structured and institutionalised form of 'official lawlessness'. Police capacity for managing the Northwest Territories was strengthened in practical ways by the expansion after 1885 of a system of patrolling and police outposts in the Northwest Territories (Hubner, 1998, p. 65). While in early years NWMP postings had been determined by the locations of Indian hunting grounds and encampments (Stan, 1978, p. 91), expanded outposts were now placed close to major ranching operations and became 'important in protecting ranchers from the Indians' (Hubner, 1998, pp. 65–66). The expansion of such systems of surveillance, historians have argued, meant that from the mid-1880s the NWMP could no longer appear 'as an even-handed dispenser of justice' (Morton, 1998, p. 13); indeed 'for reserve populations the NWMP remained the ultimate coercive threat' (Marquis, 2005, p. 199).

In Australia, too, police patrols on the frontiers of settlement were integrally tied to the protection of sheep and cattle stations as part of a primary goal to protect developing economic interests. As the South Australian pastoral frontier moved north in the 1850s, the Commissioner of Police was keen to ensure that isolated stations would come within police patrols, even to the point of posting individual troopers on private stations if resources allowed; he noted to the government that as 'the welfare of the Province is so closely connected with the prosperity' of the setters who constantly pushed beyond the lines of police protection, it would be wise to expand police resources to bring them within the embrace of patrolling range (GRG 5/2/1856/239, SRSA, Commissioner of Police to Chief Secretary, April 14, 1856). In both Canada and Australia, the advent of telegraph communications contributed to the process of bringing vast territories within colonial surveillance. Near the Canadian border, the telegraph enabled the NWMP to work closely with the United States military in clamping down on Indian horse stealing through the relay of information 'before the culprits had even crossed the border' (Hubner, 1998, p. 66). In Australia, the overland telegraph line — erected across the entire continent between 1870 and 1872 — not only provided impetus for the expansion of European settlement into the centre, but enabled police officials from the distance of Adelaide headquarters to manage police responses to Indigenous aggressions in the remote centre (Nettelbeck & Foster, 2007a).

Brian Hubner (1998, p. 54) has written that the NWMP served to facilitate a process whereby 'Indians [were] moved off valuable land to allow for European settlement, and then concentrated on reserves to provide the arriving settlers with a ready pool of low-wage labour'. In Australia, it was only once the frontier era had passed — and with it the 'murky legalities' of suppressing Indigenous resistance to

European settlement — that the process of assimilating Indigenous people as a labour force into the pastoral sector really took place. This was a gradual development that perhaps had less to do with police as a direct instrument of governance than with the growing security of pastoral settlement, and with it, the increasing dependence of dispossessed Indigenous people on the colonial economy.

This process can be seen in the evolution of the system of ration distribution to Indigenous people, which had been systematised in South Australia as early as the 1840s. Initially, rations were distributed to Indigenous people from police stations as a 'form of compensation' for the loss of traditional means of subsistence but also, as the Protector of Aborigines put it in 1852, as 'a means of keeping them quiet' (Foster, 1989, pp. 4–5). A system of distributing rations from police stations helped the government to keep an eye on Indigenous populations. Yet as demand for Indigenous labour in the pastoral industry grew, police-managed ration depots diminished to become 'privatized' on pastoral stations (Foster, 2000, pp. 10–11). With the advent of the gold rush in the 1850s and the exodus of European labour from the pastoral sector, the pastoralists who had been lobbying for greater police protection to remove Indigenous people from their stations were now inviting Indigenous labour. With this aim, pastoralists actively lobbied the government to authorise ration depots on their stations, not only because control over rations provided security against Indigenous people killing their cattle in times of want, but because it also gave them the economic advantage of attracting and subsidising Indigenous labour (Foster, 2000, pp. 14–18).

By contrast, in western Canada the provision of rations was directly tied to the implementation of federal government Indian policy. The ration system was managed by Indian agents working under instructions for the Department of Indian Affairs and the NWMP played an assisting role throughout the period of its use as a technique of governmental control over Indigenous peoples. This difference suggests that while in Canada Indian policy was more globally directed towards eradicating traditional ways of life and making Indigenous people enter the colonial economy (Hogeveen, 1999), in Australia, where Indigenous labour was conceived as a support force rather than a potential economic force in itself, cultural traditions and lifestyles could be maintained, as long as they did not interfere with the working of pastoral stations (Foster, 2000, pp. 19–20).

THE MOUNTED POLICE IN HISTORICAL MEMORY

How do these colonial police forces figure in public historical memory, and what do their reputations tell us about the shape of our national mythologies? One of the most powerful founding myths of the Canadian nation-state, writes Ken Coates (1999, p. 141), is that unlike the 'omnipresent image of the USA so readily at hand — with its legacy of wars and armed occupations of Indian lands — Canada has treated the First Nations people fairly'. The centrepiece of this foundational story is the image of the NWMP. As Daniel Francis (1997, p. 64) describes it, this narrative regards the arrival of the NWMP in the western territories as the moment at which over 30,000 Indians, at war with one another and hostile to White invasion, are transformed into a peaceful community. This distilled memory of the NWMP as a mediating and peace-keeping force in managing the development of the west, and in demonstrating 'how law-abiding a frontier could be' (Francis, 1997, p. 30), remains powerfully in place in Canada, in

spite of recent historiography that challenges that reputation. Across south-western Canada, historic sites commemorating the path of the NWMP as they marched west sustain this foundational story. In regional museums, memorials, monuments and murals, the refrain that the NWMP provided protection to Indigenous peoples and brought law and order to the west is made true by its repetition.

In contrast to the NWMP, Australia's mounted police have had little historical reputation in the public domain. Mark Finnane (1987, pp. 4–5) has noted how through much of the 20th century, 'general histories of Australia have been largely indifferent to questions of law and authority', but this in itself has left relatively unchallenged an assumption that colonial police forces were the inevitable 'accompaniment of the transition to a stable social order'. This is perhaps best explained by the fact that Australia's narrative of foundation has, until recent decades, avoided the cultural-political history of its own land wars and accompanying state-sanctioned campaigns of Indigenous dispossession. Rather, for much of the 20th century, Australia's foundational narrative in the public historical sphere has been shaped around a 'pioneer legend'; at the heart of this foundational narrative is the figure of the settler who faces the hardships of a difficult new land through qualities of endurance and stoicism (cf. Curthoys, 1999; Hirst, 1978; Ward, 1958). In so far as Indigenous peoples have figured in this national story, they have done so as one of a number of natural adversaries faced by pioneers thrown up by a harsh and unyielding landscape, more akin to bushfire or drought than to political opponents over land. Within the context of the pioneer legend, there has been little place for the history of the mounted police as a state-sanctioned force that supported the expansion of European settlement through the active repression of Indigenous sovereignty. But this is not to say that no mythology surrounds the mounted police. Where a popular reputation exists, it tends to figure in benign terms whereby police administered the law and provided protection to Indigenous peoples against 'unscrupulous' settlers — that is, 'bad' settlers who are not seen as representative of the pioneer legend (Hopkins, 2005; Schmaal, 1999).

The reputation of 'regular' mounted police on Australia's frontiers of settlement should be distinguished from that of Native Police forces, which were established in a number of Australia's colonies as armed and mobile units of Indigenous troopers commanded by European officers. Native Police forces emerged specifically in response to the circumstances of the frontier, and operated as a specialised 'subset' of the mounted forces enlisted on Australia's frontiers (Finnane, 1994, p. 20). A body of historical work on Australia's Native Police forces has emphasised their particular operational requirements in carrying out the task of Indigenous subjugation — a task for which Queensland's Native Police earned a particularly notorious reputation for violence (cf. Fels, 1988; Nettelbeck & Foster 2007a; Richards, 2008; Roberts, 2005; Rosser, 1990). Even so, influential as these histories of Native Police forces have been in developing the contemporary historiography of frontier policing, they tend to examine the actions of the Native Police as discrete organisations within their own regional contexts and do not claim to deal with the degree to which the roles and powers of Native Police forces overlapped with those of regular mounted police.

The dearth of an historical reputation for Australia's colonial police has altered somewhat in the past two decades with a rise in historical work examining the

criminalisation of Indigenous resistance to European settlement, and the role of police and systems of law in suppressing that resistance.[7] Yet this historiographical trend has met with resistance. The heated debates in Australia over the past decade about the character of the nation's colonial past — the so-called 'history wars' — can be seen as a symptom of reluctance in many quarters to relinquish the familiar traditional story that Australia was settled peacefully. Keith Windschuttle's controversial 2002 book *The Fabrication of Aboriginal History*, which received considerable publicity, was designed to recuperate a benign narrative of British settlement in which an effective rule of law legitimately brought civility, order and good government to the Australian colonies.

CONCLUSION

The operations of Canada's North-West Mounted Police and Australia's colonial mounted police forces were clearly different in some fundamental ways. Perhaps the most significant of these, in terms of how they were enabled to police the frontier on the ground, was the considerable leverage over Indigenous peoples that the NWMP held from the outset, compared to their Australian counterparts. This leverage arose primarily from their larger numbers as a centrally organised force and from the practical authority they gained from land cession treaties. The NWMP also backed their power of persuasion with the threat of legal authority and military force to convince Indigenous peoples that they were better living under Canadian sovereignty and the Queen's law than others caught south of the 49th parallel.

Yet these differences in the operations of Australian and Canadian mounted police forces also help to illuminate the central parallel between them: that is, that the concept of Indigenous protection under the law was a double-edged sword. Along with the 'gift' of British subjecthood for Indigenous people, the application of the 'rule of law' entailed an explicit agenda of subjugation. The two intents of legal protection and actual subjugation were, in practice, inextricably combined. On Australia's frontiers, British subjecthood was less a 'gift' to Indigenous people enshrined in law than a harsh lesson to be learnt through use of force. While the status of British subjects was intended to protect Indigenous people from unauthorised violence, authorised violence was in practice periodically imposed upon them as a sign of their subjugation to the Crown and the negation of their sovereignty. In the Canadian west, the protection afforded Indigenous peoples as British subjects was fully conditional upon their promise of subjugation to colonial authority.

In neither country, however, does the role of state-sanctioned policing have a significant place in the historical memory of how Indigenous sovereignty was dismantled in the transition to the colonial state. In Australia, the mounted police still tend to figure as a minor extension of the pioneer story, despite their historical place as a significant instrument of colonial rule. In Canada, despite recent historical work challenging the powerful mythology surrounding the peaceful settlement of the Canadian west, there is still relatively little acknowledgment of the role played by the NWMP in the implementation of national policies of Indigenous containment and surveillance. Responding in the Australian context to efforts by neo-conservatives to reinvigorate a traditional foundational story of gentle occupation and good government, Mark Finnane (2005, p. 55) notes that the fact that 'such arguments can still generate such popular appeal … highlights the importance of more sustained histori-

cal examination'. A detailed study of the origins of mounted police forces and their exercise of power and authority on Britain's colonial frontiers can provide a more adequate starting point for illuminating the practical ways in which the creation of the settler state took place on the back of Indigenous dispossession.

Endnotes

1 Most notably in the Australian context is the work of Cunneen (2001), Finanne (1994), and Neal (1991). For an overview of literature on other 19th century British White-settler colonies, including Canada, New Zealand, and the Cape Colony, see Smandych (2009).

2 For significant exceptions to this, see Anderson & Killingray (1991); Deflem (1994); Evans et al. (2003); Graybill (2007); McKenna (2006); Marquis (2005); Richards (2008); and Williams (2003). For a related discussion of the benefits of comparative history, see Coates (2005).

3 Today the prairie or plains region of western Canada roughly encompasses the southern and central parts of the provinces of Manitoba, Saskatchewan and Alberta. From the time of the founding of the North-West Mounted Police (NWMP) until 1905, this entire region was part of the Northwest Territories. However, from early in its history, the jurisdiction of the NWMP also extended into the eastern interior part of present-day British Columbia and the more northern territory of the Yukon. For the purposes of the current comparative analysis, we restrict our attention to South-Central Australia and the prairie region of western Canada as regions that shared similar timelines as well as legal and demographic issues in their development.

4 There is a large body of historiography on conflict on Australia's frontiers. For recent examples see for instance Attwood & Foster (Eds.) (2003), Connor (2002).

5 For Canadian and Australian studies that illustrate this, see: Buti (2002); Cunneen (1999); Hogeveen (1999); Kidd (1997); Mazerolle, Marchetti, & Lindsay (2003); Miller (2008); Milloy (1999); Pettipas (1994); Raftery (2006); Smith (2009).

6 See for instance: Hubner (1998); Loo (1996); Macleod & Rollason (1997); Satzewich (1996).

7 See for instance: Anderson & Killingray (Eds.) (1991); Cunneen (2001); Finnane (Ed.) (1987). For regional studies, see for example: Choo & Owen (2003); Nettelbeck & Foster (2007b).

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