"Working a Great Hardship on Us": First Nations People, the State, and Fur-bearer Conservation in British Columbia Prior to 1930

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Section 91(24) of the British North American Act *conferred the responsibility of administering Aboriginal lands and protecting Aboriginal interests to the federal government, while wildlife management and conservation became provincial responsibilities under section 92(13) or 92(16). This constitutional division of powers established a jurisdictional vacuum into which First Nations rights and issues fell. In spite of its constitutional responsibilities, the federal government left unchallenged provincial game laws that interfered with the hunting, trapping and fishing rights of First Nations peoples. In British Columbia, trapping regulations validated the appropriation of First Nations territories, disrupted traditional economies and replaced Aboriginal stewardship strategies with ineffective and inefficient conservation methods. The result was that First Nations people were economically and geographically marginalized, and forced from territories they had used since "time immemorial." However, these changes did not occur without strenuous opposition and objection from First Nations people, who advocated on their own behalf to protect traditional lands and livelihoods.*

"On nous fait connaître de dures épreuves": les Autochtones, l'état et la conservation d'animaux à fourrure en Colombie-Britannique avant 1930

Article 91(24) de l'Acte de l'Amérique du nord britannique accorde la responsabilité de la gestion du territoire autochtone ainsi que la protection des intérêts autochtones au gouvernement fédéral, tandis que la gestion et la conservation de la faune sont des responsabilités provinciales d'après l'Article 92(13) ou 92(16). Cette répartition constitutionnelle des pouvoirs a établi un vide de

juridiction dans lequel sont tombés les droits et les questions autochtones. Malgré ses responsabilités constitutionnelles, le gouvernement fédéral n'a pas contesté les lois provinciales de conservation du gibier impiétant sur les droits autochtones de chasse, de tenderie et de pêche. En Colombie-Britannique, les règlements sur le piégeage sanctionnaient l'appropriation des territoires autochtones, permettaient la perturbation de leurs économies traditionnelles et remplaçaient leurs stratégies de gérance de l'environnement avec des méthodes de conservation inefficaces. Comme résultat, la population des Premières Nations est marginalisée de façon économique et géographique, pour ensuite en être obligée de quitter ces mêmes territoires utilisés depuis toujours. Cependant, les Autochtones se sont opposés énergiquement à ces changements tout en défendant leurs propres intérêts: la protection de leur territoire et de leur moyen d'extistence traditonnels.

During the second half of the 19th century, nature seemed increasingly to be under seige, and demands to preserve land and wildlife culminated in the establishment of park areas as well as legislated measures to protect certain animal species and migrating birds in both the United States and Canada. Conservation regulations addressed the perception that wilderness areas were being fast depleted of both beauty and resources. The first game protection laws were enacted in colonial British Columbia in 1859 to prevent the exploitation of certain big game animals and maintain the "healthy and manly recreation" of the gentleman's sport.[1]

By comparison, the protection of fur-bearing animals and trapping received little attention. Trapping was the vocation of Indians, settlers and itinerant prospectors, and both the lifestyles and conservation concerns of these groups were very different from those who participated in the "gentleman's sport." As a result, the unrestricted and unorganized trapping system that evolved promoted over-exploitation, proved ineffective in addressing long-term conservation concerns and failed to meet the needs of both Aboriginal and non-Aboriginal trappers.

Any person could claim a trapping territory, and there were no restrictions on resident trapping until 1913, when changes to the game laws required trappers to purchase a firearms licence and obtain a suitable badge to trap.[2] The revenue collected under the enactment was to serve as the major source of funding for the implementation of conservation measures.[3] Indians and on-duty militiamen were exempt from the licensing provision, and prospectors having a free miner's certificate or farmers and their sons hunting on their own lands were issued licences free of charge.[4]

In addressing concerns related to increased trapping by miners and prospectors as well as the intense competition between free-traders and established fur trading companies, the provincial government introduced measures that neither limited the number of licences issued nor protected First Nations trapping areas. When the fur-bearing stocks decreased to alarming levels, the legislative assembly enacted close seasons to promote population regeneration.

In 1896 the provincial government enacted the first close season by prohibiting any person from hunting or trapping beaver, marten or land otter between 1 April and 1 November.[5] The prime season for pelts was, however, left open, and the measure proved ineffective in restoring depleted animal populations. The first full-year close beaver season was legislated in 1905 and imposed a six-year moratorium on beaver trapping. The law prohibited anyone not only from taking, killing and trapping the animal, but also from possessing untanned pelts for a six-year period beginning the first day of August 1905.[6]

In British Columbia, as elsewhere, decisions about land use were made without clearly understanding either the nature of Aboriginal societies or First Nations relationships with the land and wildlife. Northern hunting territories of First Nations groups were systematically and quickly appropriated by non-Aboriginal settlers and resource developers for agriculture, road and railroad construction, forestry and village development.[7] This appropriation was further facilitated throughout the province by the *Game Act*, which implemented a trapping system that validated the arrogation of traditional lands and disrupted Aboriginal resource stewardship strategies. Under clearly defined phratric, house or familial management systems,[8] the Aboriginal trapping techniques used several tracts of scattered territory in rotation. Breeding stocks were not trapped, and areas would be left vacant for a few years to allow population rejuvenation.[9] The Aboriginal wildlife management strategies were similar to agrarian land rotation systems in that traplines were managed much like farmers cultivated their fields.[10] White trappers who disrupted this system were supported by the game laws, as long as the required licence had been obtained, even though they wasted the animal carcasses,[11] trapped breeding stock[12] and used poison.[13]

Provincial strategic plans for wildlife protection were designed to preserve game and enhance hunting and trapping revenues rather than ensure Aboriginal hunting and trapping vocations. The fur trade and sport hunting were business opportunities in that licence fees, royalties and tourist revenues expanded treasury returns. To protect this income, conservation laws were introduced to ensure British Columbia's status as "the last great game sanctuary of the continent."[14] Under proper

administration this natural resource was expected to yield a "tremendous revenue for the people."[15]

This revenue was generated at the expense of First Nations people since Aboriginal people's reliance on an economy intrinsically linked to land and wildlife resources was ignored in the development and implementation of conservation laws. Also ignored were the Aboriginal peoples' assertion that they had developed effective and efficient wildlife management strategies and their resentment of outside interference that disrupted these systems. Game regulations had a profound and devastating impact on the lives and livelihoods of the First Nations peoples, and they refused to observe complacently the disintegration of their economies. They vehemently protested laws that both restricted traditional vocations and validated White appropriation of traditional territories. In May 1906, the superintendent of Indian Affairs for British Columbia, A.W. Vowell, noted that the complaints against the game laws were "loud and widespread" especially when restrictions were applied on non-privatized Crown land.[16]

In spite of the responsibilities conferred by the Constitution, and, even though senior government officials were aware of the concerns of First Nations peoples, few actions were considered or taken to protect Aboriginal lands and interests. The Royal Commission on Indian Affairs for the Province of British Columbia, established in 1913 to examine and make recommendations on outstanding land claims issues, became one of the venues in which First Nations peoples expressed their grievances. Petitions presented to the commission detailed not only dissatisfaction with the loss of traditional territories and restrictive game laws but also objections to the preferential treatment that game authorities awarded Japanese and other non-Aboriginal hunters and fishermen.[17]

First Nations submissions delineated how land appropriation was leaving them without sufficient land to make a living, yet Indians were prohibited by the game laws from hunting and fishing.[18] White and Japanese people "want to take everything from us, but they do not give us more land. They want us to die. . . ."[19] In an effort to re-establish stable food sources and economies, First Nations representatives requested that ancestral lands as well as traditional fishing and hunting rights be returned.[20]

Chief James of the Yale Band delineated the bewilderment of the First Nations people in his summary of how White men prevented him from using traditional food sources: "I was sore in my heart. I would never do such a thing to the white men. If the white people were feeding on a place, I would never go there and snatch away their food; it would be a bad thing to do. . . ."[21]

Both the provincial game warden and senior Department of Indian

Affairs officials ignored Aboriginal rights in the enactment and enforcement of provincial game laws. In August 1914, Warden R.T. Richardson of Fort Steele informed the provincial game warden, A. Bryan Williams, that the game laws were being challenged by some Indians based on 1895 agreements with federal officials. Richardson noted that, even though an Indian had been charged and fined $25, the Indians remained defiant: "in fact, one old Indian, Adrien [*sic*], told me that this would be the last Indian I would get fined $25."[22] Richardson concluded that Adrian's comment was intended as a threat, but it appears that the "old Indian" meant to petition a higher government official to have Indian concerns about the game laws addressed.

In January 1915, Adrian from the St. Mary's Band, East Kootenay, sent a letter to the governor general to remind him of an 1895 meeting in which an agreement between the government and the Windermere and Tobacco Plains Indians had been reached. Adrian objected to the imposition of permits for Indian hunters that contravened this agreement.[23]

In 1916, the Lytton Indian agent forwarded a letter from the Spuzzum Band chief and members to the deputy superintendent of Indian Affairs that condemned game regulations that restricted Aboriginal hunting activities. The band members, as the original inhabitants of the land since "time immemorial," claimed ownership of the wildlife and challenged provincial rights to wildlife revenue. At issue for the First Nations group were the fees collected by the government for hunting licences that were not shared with the Aboriginal owners of the land and its wildlife resources. Furthermore, the band members complained that recreational hunters wasted the wildlife resources by discarding most of the carcass, claiming only the trophy heads. They pointed out that, in contrast, Indians used every part of the animal and wasted nothing.[24]

The divergent values between Aboriginal and non-Aboriginal trappers and hunters were reiterated in 1919 when the inspector of Indian agencies for the southeastern inspectorate noted that the Indians complained bitterly about finding carcasses of fur-bearing animals discarded by White trappers after the pelts had been removed—a practice foreign to Aboriginal people.[25] Provincial game laws that encouraged and supported such wasteful practices were understandably abhorred by the First Nations peoples.

White encroachment on Indian hunting and trapping territories disrupted harvesting methods that balanced human needs and animal resources. The impact of White trappers on Aboriginal people and fur-bearing animals was summarized in a report submitted from the Fort George and Lucerne districts in March 1924. The Lucerne detachment officer listed 24 White trappers and reported "no Indians" in his district. Constable Van Dyk, Fort George District, reported that Indians in the district had lost their trapping

territories through non-compliance with the *Game Act*, but noted that approximately 600 non-Aboriginal trappers had been operating in the district under 250 trapline licences. The same report noted that the marten, fisher and otter populations had decreased by 90 percent since the 1911/12 season while beaver had decreased by 75 percent since 1915/16.[26] Despite this, the officer made no apparent correlation between the increase in White trappers and the decrease in fur-bearing populations.

Instead of assessing the impact of White trappers on both First Nations interests and the game population, the province imposed a system to monitor and conserve the beaver population. Although big game (moose, deer, bear, mountain goat and sheep) constituted a major food source for Aboriginal people, these animals were not always procurable. Consequently, beaver, which were abundant, became the crucial and, sometimes only, available food, especially during winter months. Providing not only meat, the animal's pelt served as an exchange commodity for essential food staples and continued to be a favourite and important resource,[27] especially in the north, where the animal was trapped as much for food as fur. The close seasons were the government's ineffective efforts to re-establish decimated wildlife populations caused by non-Aboriginal hunters and trappers. The solution seemed straightforward to the First Nations people: keep non-Aboriginal trappers out of traditional territories, which had been successfully managed from time immemorial.

Aboriginal people, supported by Indian agents throughout the province,[28] insisted that Indians had always preserved the wildlife, including fur-bearing animals, and disputed reports that presented them as malicious killers. Although Indians and their agents argued that Aboriginal people were not responsible for wanton slaughter and over-trapping, close beaver seasons were imposed on Aboriginal and non-Aboriginal trappers alike. The Indian agent from Hazelton summarized the concerns of his contemporaries in his opposition to close beaver seasons:

> I would like to impress on the Department that this condition of affairs [close beaver season] has had a very marked effect on the general life of the Indian for not only do they make use of the skin of the beaver but the Indian [*sic*] also uses the meat as their staple winter food. . . .[29]

Close beaver seasons caused economic disaster for First Nations people, and these closures were emphatically opposed in petitions to government officials. In 1905, the chiefs of the Stuart Lake, Stoney Creek and Fraser Lake tribes submitted a petition to the superintendent of Indian Affairs complaining that the province was endeavouring to take away the

Indians' livelihood, thereby threatening them with starvation. The chiefs reminded the superintendent of the department's responsibilities to Indian peoples by describing the province as a "cruel stepmother" and asking the Department of Indian Affairs to act as a "good father." By enacting a close beaver season, the province was "annihilating rights of immemorial date" transmitted to the Indians by their ancestors. The chiefs pointed out that the beaver was their only livelihood because big game animals had been decimated by fires and were an unreliable food source. Even if big game was plentiful, the leaders noted that the costs of ammunition and weapons were prohibitive. The chiefs argued that their territory should be exempted from the close beaver season because the Indians had their own laws dictated by self-interest.[30] Survival was the ultimate conservation motive.

The chiefs of the Stella and Stoney Creek Indian bands pointed out to the minister of Indian Affairs in 1909 that "we will be reduced to serious straights [*sic*] and be in danger of starvation, as apart from the salmon the Beaver are our main support."[31] If the government would not rescind the close beaver season, the chiefs requested seeds and agricultural implements for cultivation, as well as fertile agricultural lands and the establishment of a local Indian agency.

The head chief of the Fort Rupert Band, Kwawkewlth Agency, in addressing the Royal Commission on Indian Affairs for the Province of British Columbia, 1 June 1914, described how all the tribes were in "bad condition" because of game restrictions and loss of traditional rights and territories.[32]

In 1919, the chiefs and headmen of the Stuart Lake Indian Agency, in a letter to the Department of Indian Affairs, "humbly" asked the deputy superintendent of Indian Affairs to investigate the provincial game laws in relation to the rights of the Indians. The leaders complained that their traplines were being gradually stolen away from them by the White trappers and that this was "working a great hardship."[33]

The chief of the Fort George Indian Band sent a petition to the governor general in October 1919 requesting that the federal government determine the impact of the provincial *Game Act* on Aboriginal rights. The chief reminded the governor general that the Indians were "loyal subjects of King George," and, in claiming the right to trap all game animals without restriction, pointed out that game laws were causing great hardship and suffering.[34]

In their 1919 effort to gain recognition for Aboriginal rights, the chiefs of the Burns Lake Band compared Indian trapping methods with those of the White trappers. The chiefs pointed out that the "standard rule" among Indians was to conserve the beaver, while White trappers took beaver

indiscriminantly. The chiefs believed that the best way to conserve the beaver was to have exclusive trapping rights assigned to the Indians, because White trappers were decimating the stocks.[35] They summarized First Nations concerns from around the province by stating: "In locking up the bever [*sic*] You are locking the bread out of our camp We depend as mutch [*sic*] on the bever [*sic*] as the farmer depends on his crop for food."[36]

Missionaries also petitioned government officials on behalf of First Nations people. In October 1907, Reverend Coccola informed the deputy minister of Indian Affairs, Frank Pedley, that the close beaver season would cause hardship for the Indians because there were no deer or caribou in the Stuart Lake area, and the beaver constituted the "backbone" of the Indians' livelihood.[37]

In a letter to the provincial premier dated 23 January 1920, Reverend Morice, O.M.I. quoted the chief of the No. 2 reserve near Prince George in delineating the dire consequences of a close beaver season. Even though two band women had died of malnutrition, the game laws prevented the Indians from not only trapping beaver but also killing moose, deer and caribou. Without salmon, the country was a "most wretched one" and the Indians, who went without food for sometimes two days at a time, begged the missionary to ask the government for exemption from the game laws.[38]

First Nations people also received support from an "old" trading partner. In expressing their opposition to the 1905 beaver moratorium, Hudson's Bay Company officials delineated the impact the trapping restrictions would have on the First Nations groups of the north. In an attempt to demonstrate that legislated conservation methods, at least for Aboriginal people, were unnecessary, company solicitors described the First Nations approach to conservation. The beaver was the principle resource and the country had since time immemorial been allocated by tribal chiefs and headmen. This resource allocation system had served to conserve the beaver stocks and protect the Indian livelihood since there was no other animal that could "take its place as an article of food or in respect of its commercial value as fur."[39] The lawyers concluded by stating that White encroachment on Indian territory would lead to trouble, and they predicted that orders in council and enforcement officers would be ineffective replacements for traditional Native laws and customs that had governed past conservation methods.[40]

The strong opposition from First Nations people in the northern regions, supported by Hudson's Bay Company officials, Department of Indian Affairs agents, and missionaries secured close beaver exemptions for the First Nations groups in the Stikine, Laird and Peace River drainage areas between 1905 and 1907, and again in 1912/13.[41] The 1905–1907 exemption

was not extended after 1907 because the boundary line between the exempt and non-exempt areas was impossible to patrol, and Indians south of the line would trade in the north. A total province-wide closure began in 1907, and to prevent pelts from being sold outside the province the provincial game warden solicited assistance from the North-West Mounted Police in Whitehorse and the chief game warden in Alberta.[42]

As encroachment on hunting and trapping territories intensified, securing a living became increasingly difficult for Aboriginal people. First Nations requests for the return of lands and rights to maintain traditional livelihoods were common presentations to the Royal Commission on Indian Affairs for the Province of British Columbia, 1913–1916.[43] These efforts were, however, futile, since the commission was not empowered to address Aboriginal land and rights issues and the political will necessary to do so was lacking at both the federal and provincial levels.

Although Indians petitioned against close beaver seasons, some also protested White encroachment and defied provincial game regulations by removing traps from White traplines, destroying beaver houses and setting fires to deter Whites from trapping. In two cases, Indians from the Hazelton area were prosecuted and found guilty of interfering with a licensed White trapper; the sentences ranged from a fine of $25 or one month hard labour[44] to a fine of $200 and one month hard labour plus costs or four months' hard labour.[45]

Extensive trapping by non-Aboriginal trappers was placing the lives and livelihoods of the First Nations peoples at risk, forcing them to disregard game regulations and engage in drastic measures. In his 1918 report, the constable for the South Fort George/Hazelton area reminded his superiors that the Indians were the original inhabitants, and that "their decedents not unnaturally nourish a belief that all game is theirs and every whiteman's trap line an encroachment on vested rights."[46] One reason the Indians of the Hazelton District opposed game laws was explained by the chief game inspector in 1920 when he reported that White rather than Indian trappers were responsible for the illegal trapping of beaver.[47]

Although close beaver seasons and legislated conservation measures proved inadequate in addressing conservation issues, leaving management of the resource under the control of Aboriginal trappers was not considered. In September 1923, George S. Pragnell, inspector of Indian Agencies, Kamloops, defined the Indians as the "best preservers of the fur trade" and accused the provincial government of being largely responsible for the extermination of the fur-bearing animals. In Pragnell's estimation, the game laws both supported abusive White trapping methods and reflected an ignorance of the fur-bearing animals and the actual prime trapping season.[48]

Game Department officials, in their aversion to give game concessions to Indians, ignored such condemnations and were reluctant to grant close season exemptions because they did not believe the Indians relied on beaver as an essential food source. Separating the economic value of the beaver as a trade commodity from its direct value as a food source restricted the First Nations peoples' abilities to sustain their traditional livelihoods and therefore themselves. Fur was used as a commodity to purchase essential food items through exchange—a basic concept ignored by government officials.

Although the chairman of the provincial Game Conservation Board, Dr. A.R. Baker, had a "great deal of sympathy for the Indians and wish[ed] to see them properly treated,"[49] he was not convinced that the Native people in the northern districts suffered for want of beaver meat for food. In his estimation, during 1919, Indians in the northeastern region had killed over five thousand beaver and Indians throughout the province had been responsible for the illegal shipment of "probably fifteen to twenty thousand" pelts out of the province.[50] The chairman wanted to ensure that any fur revenues from beaver taken for food went to the provincial treasury and not illegal traders.[51] Even though there was no concise monitoring system to substantiate the claims, Baker held the Indians largely responsible for the illegal fur trade and, in his determination to put a stop to the beaver slaughter, expected Department of Indian Affairs assistance.[52]

By 1921 the failure of the beaver conservation management strategies implemented by the provincial government was apparent. A royal commission established to investigate allegations of mismanagement against the chairman of the Game Conservation Board, Dr. A.R. Baker, publicized the illegal fur trade that operated between British Columbia and Alberta. The pelts of beaver caught by Indians for food were being shipped across the border and sold in Alberta to avoid payment of both the royalty tax and traders' licence fees.[53] In the Game Conservation Board chairman's estimation, even though the Board "had not interfered with the Indian rights to kill for food, . . . the buyers were persuading the Indians to kill illegally for the trade."[54]

The daily papers in Vancouver and Victoria followed the royal commission testimony, which focused attention on the trapping issues in the northeastern sector of the province. In spite of Indian agent reports to the contrary, the Indians of this region were condemned both for depleting big game stocks and decimating the beaver population. In the immense Peace River District, where game law enforcement was complicated by Treaty 8 guarantees, game enforcement officers claimed that it was practically impossible to deter illegal trapping, especially in beaver. The Indians killed the beaver for food and, instead of destroying the pelt, saved it for trade when the season opened.[55]

The illegal trade raised concern that settlers, prospectors and placer-miners would be forced to abandon their vocations if the beaver stock was seriously depleted. Suggestions that measures be adapted to protect beaver as a food source for Aboriginal people's were rejected. When the member of the legislature for Omineca, A.M. Manson, attempted to have the Indians from the northern part of the province exempted from the 1920 close beaver season, especially in isolated regions where White trappers had not encroached and where the beaver were plentiful due to Native conservation methods, his motion was defeated.[56]

Dissatisfaction with the unrestricted and unorganized trapping system was widespread and the system's ineffectiveness motivated recommendations for improvement from both Aboriginal and non-Aboriginal sources. In June 1920, H.S. Gallop of Invermere, submitted a proposal to the deputy attorney general of British Columbia that, if adopted, would introduce the first registered trapline system in North America.[57] Gallop contended that the existing game laws were unsystematic, expensive and inadequate in managing wildlife, which he defined as one of the province's greatest natural resources. To protect the game and fur-bearing animals and provide the province with steady revenue, Gallop proposed a licensed system that would assign specific areas to trappers, encourage conservation and permit licensed holders to "police" his own area. In the northern districts, "where the Indians depend on Hunting and Trapping for a living, suitable areas should be set aside for their exclusive use, and over which no Trappers Licence should be issued."[58]

In September 1921, Indian Agent W.J. McAllan from the Fort Fraser Agency requested that the chairman of the Game Conservation Board, A.R. Baker, discuss the creation of an Indian trapping region with the Indian chiefs of the northern interior. Describing the large numbers of beaver killed for the benefit of "illegal manipulators" in the region, McAllan argued that "[p]utting the entire trapping of beaver into the hands of the Indians . . . [was] the only way to control the situation, preserve the beaver and secure the revenue to the Province."[59]

By 1923 Indian leaders were requesting that large tracts of lands be reserved for their exclusive hunting and trapping use.[60] In a special report on trapping in British Columbia, the inspector of Indian agencies (Kamloops), George Pragnell, noted that, because the Indians were neither able to retain traditional lands nor maintain traditional trapping methods, they were requesting the establishment of a trapline registration system. [The Indians] "contended that they themselves, where previous long usage shows a proprietary claim should have first chance of registration, that regular white trappers living in the districts should come next, and that trappers from

outside last."[61] The Kootenay Indians had recommended that if this system was not viable then a block of land should be set aside for Indian trapping and that Indians themselves would assign lines within the area. Pragnell supported the First Nations recommendation of a registered system to replace the "present promiscuous method."[62]

These recommendations were rejected by the inspector of Indian agencies for British Columbia, W.E. Ditchburn. In his circular to all provincial Indian agents, Ditchburn pointed out that Indians had rights equal to White trappers even though they were exempt from purchasing trapping or hunting licences. He advised the agents to pacify Indian fears about losing their traditional lands by assuring them that as long as they consistently adhered to the game regulations they need have no concern.[63] This must have been a most difficult task for the Indian agents since experience had proven provincial laws inadequate in addressing the subsistence and conservation needs of the First Nations people.

After the First World War, except for a brief decline in 1921/22, fur prices climbed and remained high until 1930.[64] Stable prices attracted non-Aboriginal trappers to a predominantly First Nations vocation. As knowledge of the lucrative nature of the fur industry expanded, government officials and members of the legislative assembly advocated imposing taxes to bring some of the profits into government coffers. In 1920, adapting the recommendations of F.W. Anderson, MLA from Kamloops, and Dr. A.R. Baker, chairman of the Game Conservation Board, the government imposed a royalty tax on furs that would create an estimated revenue of $80,000 to $100,000.[65] Initial estimates were exaggerated, but as revenues derived from the fur trade increased from $5,291.39 in 1920 to $60,594.18 in 1923, concern about the depletion of fur-bearing animals intensified.[66] Reports such as that submitted by Constable Edward Forfar from the Hudson Hope detachment in April 1924 provoked the concerns of the Game Conservation Board:

> The fur catch has been good, too good, there has been far more fur caught than the increase wil [*sic*] in any way make up for, we are killing the Goose that lays the golden egg, the Beaver returns are good, deceitfully good, as the hunt has been carried in many localities to the point of extermination, it is as well for Game Conservators to remember that close seasons will not bring back Game when the seed has been caught out.[67]

Continued interest in the economic aspects of the trade and demands for preservation of the beaver prompted the attorney general to propose amendments to the *Game Act*, effective in 1925, that would impose the first

compulsory trapline registration system in North America. Neither Gallop's nor McAllan's recommendations that northern areas be exclusively reserved for Aboriginal use were incorporated into the *Game Act* amendment. The Indians' request to be allowed first option to register because of prior use rights was ignored and excluded from the legislation. Economic factors and conservation concerns directed the creation of legislative measures, and Aboriginal usufructuary rights, when considered, were invalidated or ignored.

Designed as a conservation strategy, the registration restricted "aliens" from trapping in the province, and required all traplines to be registered with the trappers who would act both as harvester and conservationist. In return, the trapper would be protected from trapline encroachment. The intention of the act was to put "the fur industry back on the basis of prevailing in the days when Indians did most of the trapping. The Indians, it [was] recalled, always endeavoured to conserve the country's fur."[68] The idea that an effective conservation system had originated with traditional Aboriginal practices was reiterated in 1929 by H.G. Polley, the Conservative attorney general, who, in presenting amendments to further define trapline responsibilities, noted that the Indians of the early days were better fur-bearer conservationists than their White successors.[69]

Using traditional First Nations conservation methods as a basis for the trapline registration system was a paradox since the strategy was not compatible with traditional phratric, house or familial management methods. The First Nations system "was based on freedom of access, flexible use, and rotational conservation, which meant that some areas went untrapped for seasons on end."[70] The trapline registration system was implemented to address conflicts between First Nations and White trappers and to introduce a conservation management structure that could be monitored by game enforcement officers. The idea was to provide a sense of ownership to a certain area and create an exclusive right to harvest furs in exchange for responsibility for conservation. This approach was applied to all the wildlife in a given area, not just the fur-bearing animals. Restricting hunting activities to a single resource in selected areas while opening hunting seasons for specific animals in all areas was a foreign, ineffective and unsustainable management technique for Aboriginal people.

Legislated conservation systems supported hunting and trapping for recreation rather than sustenance. White men hunted either for pleasure or to supplement their existing diet and they trapped to augment existing economic endeavours. Aboriginal people tied to traditional economies hunted to survive, had only one vocation—trapping[71]—therefore, vehemently opposed restrictive game regulations. The provincial government's attempt

to meet the trapping needs of two divergent groups in one management structure—the registered trapline system—guaranteed confrontation and confusion.

There were three main difficulties associated with the implementation of the trapline registration system for First Nations people: cultural barriers to compliance, the registration process and the administrative structure of both the federal department of Indian Affairs and the provincial game board.

The registered trapline system repudiated hundreds of years of Aboriginal prior right use and successful wildlife management. First Nations trappers were expected to comply with elaborate registration regulations and licensing requirements despite their deficiencies with the English, literacy and mapping skills that were essential for following instructions. All applicants registering a trapline were expected to furnish "a true and correct geographical description of his line."[72] Unable to transfer their geographical knowledge of the territory to the Euro-Canadian mapping technique, First Nations efforts to sketch the required individual traplines were deemed inadequate, ignorant and childish—"just little scratches."[73] The Aboriginal understanding of the relationship between humans, land and wildlife, the First Nations phratric, house or familial management strategies, and ownership based on ancestral claims and tradition could not be moulded into a regulated system based upon Euro-Canadian concepts of capitalism, conservation and common law. Cultural differences and language barriers made compliance with the compulsory registration system extremely difficult.

In certain cases, White trappers received preferential treatment because wardens were awkward with or hostile towards Indians.[74] Based on criteria established by non-Aboriginal officials, Aboriginal trappers' efforts to prove trapline usage could be judged inferior to that of their White counterparts,[75] and Indians were described as ignorant, illiterate liars.[76]

Other factors besides inequitable treatment made the implementation of the registration system particularly arduous in northern districts. By October 1925, when the directive was received, most of the trappers were already on the traplines and not available to register their areas until the spring.[77] Game officials had difficulty securing appropriate instructions, forms and maps, even in 1930,[78] and compounding this problem was the confusion over district[79] and provincial boundaries[80] as well as unsurveyed lands.[81] Constables who misunderstood or misinterpreted the regulations further complicated the process.[82] In other instances, game officers erred through ignorance of Aboriginal harvesting practices,[83] and the process was also delayed by the extensive responsibilities assigned to law enforcement officers, especially those in remote areas.[84] Staff turnovers also influenced registration.[85]

First Nations trappers were further disadvantaged because of the lack of understanding game administrators had about Aboriginal relationships to land and wildlife. A First Nations trapper endeavouring to manage the beaver according to traditional Aboriginal methods of using several areas in rotation risked losing all or part of his line because of underuse. The only evidence the game inspector required to rescind and reassign trapping areas was sworn affidavits stipulating an Indian trapping area had not been fully used.[86]

Because the basic barriers to registration for First Nations people were ignored and their fundamental needs disregarded, the policy that was developed ensured that the trapline registration system would be inequitable. Trapping areas were quickly registered by astute, aggressive White trappers[87] who understood the process and were unrestricted by language or cultural barriers. Once claimed by a White trapper, areas were easily transferred from one to another by nomination of a successor or through settlement of an estate.[88] Section 41 of the *Game Act* stipulated the conditions under which a trapper could nominate a successor to trap his line. The trapper had to have adhered to the game regulations, operated to conserve the fur and have become "incapacitated by illness or otherwise."[89] The trapper's estate could nominate a successor in case of death, and all transfers were subject to approval by the game commissioner. Although the Act stipulated that "incapacitation" was the criteria under which lines could be transferred, this was not followed, and the ability to transfer lines added additional monetary value beyond fur returns to the lines. Although the selling, bartering and trading of any registered trapline was prohibited,[90] a trapper could sell his traps, equipment and trapping cabins to anyone he wished. The trapper disposing of his line then wrote to the game officer nominating the purchaser as successor. If the nominee met the criteria of being a nationalized resident and a licensed trapper,[91] the transfer was approved.

Indians were exempt from purchasing licences, yet a licence was required to qualify for nomination as a trapline successor.[92] This *Catch 22*, combined with the ease with which White trappers transferred lines to other non-Aboriginal trappers, effectively kept lines from reverting to the game department for redistribution to either individual First Nations trappers or the Department of Indian Affairs.

Indian agents could purchase the $2.50 Extra Special Firearms Licence so that Indians could trap a line acquired by the Department of Indian Affairs,[93] but this failed to alleviate game officials' concerns about the revenues lost when a White trapline reverted to the Indians. In 1938 the Department of Indian Affairs agreed that the province should not be

penalized for permitting the sale of White traplines for transfer to Indian trappers, and supported the levying of the $10 Special Firearms Fee on Indian trappers.[94] Indian Agents were instructed to collect the fees from the Indians whenever possible.[95]

The difficulties associated with the implementation of the trapline registration system were compounded by organizational structures designed to administer the provincial *Game Act* and the federal *Indian Act*. Although law enforcement officers accepted registrations from Indian trappers, the responsibility to compile and submit Indian traplines belonged with the Indian agent.[96] Indians could not take a partner nor dispose of their lines without the written permission of the Indian agent.[97] Agents were expected to guide the chief and council in the division of band lines,[98] but they could arbitrarily make recommendations about Indian registrations to both the Department of Indian Affairs and the provincial game commission without consultation with First Nations people.[99]

For the Aboriginal people, any implementation of a trapping system that failed to provide them with priority access incited fears that registration would validate non-Aboriginal appropriation of First Nations trapping territories. Even though the deputy superintendent of Indian Affairs, Frank Pedley, had, in 1908, acknowledged the Indians as being the group most critically interested in conserving game,[100] provincial game laws imposed conservation management systems on First Nations people that focused on balancing wildlife and revenues rather than wildlife and Indian needs. Trapline registration restricted First Nations access to traditional territories, validated non-Aboriginal encroachment of Aboriginal lands designated as Crown land, disrupted the First Nations' way of life and caused hardship. They were not introduced without challenge. First Nations' adamant opposition to the close beaver seasons and game laws in general continued after the compulsory trapline registration system was implemented. Wildlife conservation became a provincial policy, but for First Nations people, conservation remained a lifestyle: a simple matter of survival.

Legal disempowerment combined with language and literacy barriers placed First Nations trappers at a disadvantage in maintaining even a percentage of their traditional lands through compliance with the *Game Act*. In the early 1930s, the department of Indian Affairs endeavoured to purchase some of the lost territories for reversion to the Indians. This was, at best, a perfunctory solution because White trappers were so deeply entrenched to prevent both the establishment of Indian hunting preserves or reclamation of substantive traditional territories.[101]

At the 1928 Interprovincial and Dominion Conference on Wildlife, a resolution was unanimously passed to set aside, "as far as practical,"

unsettled regions exclusively for Indians to trap. According to the Department of Indian Affairs secretary, T.R.L. MacInnes, Canada, in passing this resolution, was endeavouring to save remaining wildlife from exploitation and, at the same time, was assuring "to the Indians, under proper supervision, at least some happy hunting ground where they may pursue their ancient vocations unmolested."[102]

This paternalistic sentiment epitomizes the empty words and promises of senior government officials charged by the *British North America Act* to protect First Nations' interests. The government's negligence facilitated the erosion of First Nations land and wildlife resources management techniques and the demise of traditional economies on which self-determination was based. These results are characteristic of the interaction between First Nations and Euro-Canadian people, and they are the legacy on which contemporary issues, disputes and concerns have been built. To develop a vision for the province's future that includes redefining and strengthening relationships with First Nations communities, all aspects of the province's past, including the history of its' First Peoples, needs to be understood and valued.

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3 Ball, p. 64.

4 *Statutes of British Columbia* (1913), sec. 9:21B (9) & (10), p. 127.

5 Ball, p. 49.

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7 D. Jenness, *The Carrier Indians of the Bulkley River, Their Social and Religious Life*, Anthropological Papers no. 25 (Washington: Bureau of American Ethnology, Bulletin 133, 1943), p. 488.

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86 BCARS, Fish and Wildlife Branch, GR 1085, box 31, file 7, Report of E. Martin, Game Warden. Prince Rupert to Officer Commanding, "D" Division, Prince George, B.C., 24 July 1935 and related correspondence. See also Report of E. Martin, Game Warden, Prince Rupert to Officer Commanding, "D" Division, Prince George, B.C., 5 December 1935 and related correspondence; Report of E. Martin, Game Warden, Prince Rupert to Officer Commanding, "D" division, Prince George, B.C., 26 September 1934 and related correspondence.

87 NAC, RG 10, vol. 6735, file 420-3C 4, Mr. MacInnes to Dr. McGill, Superintendent General of Indian Affairs, Ottawa, 4 October 1934. See also BCARS, Fish and Wildlife Branch, GR 1085, box 1, file 2, Game Law Enforcement Branch, Prince George to E.S. Baptiste, Nichel, B.C., 23 February 1924. The game officer informs Baptiste that when a registered trapline sytem is enacted, a notification will be printed in the local papers to notify trappers, and that until that time the existing trapping regulations were to be followed.

88 BCARS, Fish and Wildlife Branch, GR 1085, box 24, file 2, Trapline Files, 1933, P.: T. Van Dyk, Inspector Commanding, "D" Division to R.H. Moore, Indian Agent, Vanderhoof, B.C., 10 May 1933. The Indian agent's request for a line was denied since the line was willed to a successful applicant. See also box 23, file 3, Trapline Files, 1933, H.: J.S. Clark, Game Warden, Fort Nelson Detachment to the District Game Warden, "D" Division, 16 June 1932 and related correspondence. Two trappers swapped lines so that one could remain close to home: box 25, file 5, Trapline Files, 1934A, S.G. Copeland, Game Warden, Prince George to Officer Commanding, "D" Division, 28 June 1934. A trap line was received from the estate of the previous trapper: box 19, file 4, Trapline Files, 1932, B.: T. Van Dyk to Wm. G. Brighton, 5 October 1932. Permission to annex a bordering line was granted: box 19, file 5, Trapline Files, 1932, B.: T. Van Dyk, District Game Warden to George Baurie, Nukko Lake Fur Farm, 9 January 1932. Permission to annex part of another trapper's line was refused because the lines were separated by a third registered

line. Van Dyk recommended a partnership: box 19, file 7, Trapline Files 1932, D.: Mr. James Davidson to Van Dyk, 19 August 1932. The transfer of a line to a second trapper was approved: box 19, file 8, Trapline Files, 1932, E.–F.: F.A. Edmunds to Van Dyk, 9 September 1932. Permission was granted to register a trap line formerly registered to another trapper: box 22, file 5, Trapline Files, 1933, B.: J.E. Bateman to Provincial Police, Gisome, B.C., 31 January 1933. Bateman released a line to another trapper, and Van Dyk approved, 31 January 1933: box 23, file 6, Trapline Files, 1933, K.: F.J. Koeneman to Head Game Guardian, Prince George, 4 October 1933. A trapper requested that part of his line be reverted to an ex–partner, and if this was not acceptable, he asked that the whole line be transferred: box 27, file 3, Trapline Files, 1934, F.R. Butler, Inspector to Officer Commanding, "D" Division, 8 December 1934. A trapline registration submitted to the inspector was cancelled and reassigned to a nominated successor: box 30, file 3, Trapline Files, 1935, G.: F.R. Butler to O.C. "D" Division, 16 April 1935. The transfer of part of a line to another trapper was approved: box 30, file 7, Trapline Files, 1935, K.: Game Warden S.F. Faherty, Pouce Coupe to O.C. "D" Division, 14 June 1935. Notification of cancellation in favour of a nominated successor was given: box 31, file 4, Trapline Files, 1935, Mc.: F.R. Butler to O.C. "D" Division, 22 October 1935. A request to have a line transferred to another trapper was approved: F.R. Butler to Donald MacDougall, Hudson Hope, 23 March 1935. Transfer of a line to another trapper was acknowledged: box 22, file 2, District Correspondence, 1933, District nos 1, 2, 3, 4, T. Van Dyk, Inspector "D" Division to R.H. Moore, Indian Agent, 19 May 1933. Notification that a request for a trapline for an Indian was not allowed because the line was willed to a trapper who gave the line to a second trapper: box 22, file 2, Trapline Files, S.: Van Dyk to Carl Swanson, 6 February 1932. A trapline sale agreement dated 31 October 1931 was approved: box 23, file 6, 1933, Trapline Files, T.: Game Warden W.L. Forrester to J. Tual, Chief Lake, 27 November 1933. Forrester informed Tual that a trapline in which he was interested might be cancelled since the current registrant had not renewed his licence. The warden notified Tual that "if this line is cancelled, you will be given the chance to register it."

89 NAC, RG 10, vol. 6735, file 420–2 5, F.R. Butler, Game Commission Member to Dr. H.A.W. Brown, Indian Agent, Fort St. John, B.C., 14 May 1937.

90 British Columbia, *The British Columbia Gazette*, 27 August 1925, p. 2650, section 2.

91 BCARS, Fish and Wildlife Branch, GR 1085, box 2, file 9, B.C. Police, Regulations, Registration of Trap-lines, sec. 3 & 4.

92 BCARS, Fish and Wildlife Branch, GR 1085, box 29, file 4, T. Van Dyk, Inspector "D" Division to Game Warden G.M. Kerkhoff, 2 January 1934 and related correspondence.

93 Ibid., H.A.W. Brown, Indian Agent to Mr. M. Christianson, Inspector of Indian Agencies, Alberta Inspectorate, Calgary, 12 January 1935 and related correspondence.

94 NAC, RG 10, vol. 6735, file 420–3 5, T.R.L. MacInnes, Secretary, Indian Affairs Branch, Department of Mines and Resources to Mr. D.M. MacKay, Indian Commissioner for B.C., Vancouver, B.C., 25 February 1938 and related correspondence. See also BCARS, Fish and Wildlife Branch, GR 1085, box 39, file 4, H.A.W. Brown, M.D., Indian Agent, Fort St. John to Inspector T. Van Dyk, "D" Division, Prince George, 9 June 1937.

95 NAC, RG 10, vol. 6735, file 420-3 5, T.R.L. MacInnes, Secretary, Indian Affairs Branch, Department of Mines and Resources to Mr. D.M. MacKay, Indian Commissioner for B.C., Vancouver, B.C., 25 February 1938 and related correspondence. See also BCARS, Fish and Wildlife Branch, GR 1085, box 39, file 4, Divisional Correspondence, 1938, H.A.W. Brown, M.D., Indian Agent, Fort St. John to Mr. T. Van Dyk, Inspector "D" District, Prince George, 9 June 1937 and related correspondence; box 39, file 5, District Correspondence, 1937, nos. 3 and 4, H.A.W. Brown, M.D., Indian Agent, Fort St. John to T. Van Dyk, Inspector, "D" Division, 25 April 1937 and related correspondence, 25 April 1938 and related correspondence.

96 BCARS, Fish and Wildlife Branch, GR 1085, box 2, file 9, British Columbia Police, General Order no. 43, 2 September 1926.

97 NAC, RG 10, vol. 6735, file 420-3 6, D.M. MacKay, Indian Commissioner for B.C. to F.R. Butler, Member of the Game Commission, Vancouver, B.C., 20 January 1938. See also BCARS, Fish and Wildlife Branch, GR 1085, box 30, file 7, Trapline Files, 1935, K.: Correspondence re: Hudson Bay Company Manager trapping on Indian trap line, O.J. Jack, Game Warden to T. Van Dyk, Inspector, "D" Game Division, 6 December 1935 and related correspondence.

98 NAC, RG 10, vol. 6735, file 420-3 6, Indian Commissioner for B.C. to The Secretary, Indian Affairs Branch, Department of Mines and Resources, Ottawa, 15 June 1938 and related correspondence.

99 NAC, RG 10, vol. 6735, file 420-3 5, H.A.W. Brown, M.D., Indian Agent, Fort St. John, B.C. to The Secretary, Indian Affairs Branch, Ottawa, 12 November 1937. Brown recommended that band lines be individualized and the special firearms licence fee of $10.00 be levied on Indians over the age of 21 engaged in trapping. Brown believed that game wardens should monitor Indian and White traplines equally. See also Brown to Secretary, Indian Affairs Branch, 9 June 1937; Brown to Secretary, Indian Affairs Branch, 22 April 1937. For an objection to implementating these recommendations, vol. 6735, file 420-3 5, D.M. MacKay, Indian Commissioner for B.C. to the Secretary, Indian Affairs Branch, Department of Mines and Resources, Ottawa, 16 February 1938.

100 NAC, RG 10, vol. 6735, file 420-3, F. Pedley, Deputy Superintendent General of Indian Affairs to Right Honourable Sir Wilfred Laurier, Premier of the Dominion of Canada, Ottawa, 24 April, 1908.

101 NAC, RG 10, vol. 6735, file 420-3C 4, Mr. MacInnes, Secretary, Department of Indian Affairs to Dr. McGill, Deputy Superintendent, Ottawa, 4 October 1934.

102 NAC, RG 10, vol. 6735, vol. 4085, file 496, 658-1, pt. 5, T.R.L. MacInnes, Department of Indian Affairs, "What Canada Is Doing for the Hunting Indians" (prepared for the North American Wild Life Conference, Washington, 3–7 February 1936).