

Conservation and the Indian: Clifford Sifton's Commission of Conservation, 1910-1919

Frank Tough

Many modern federal-provincial initiatives for conservation and the management of natural resources in Canada can be traced back to a series of conferences sponsored by the federal Commission of Conservation. This commission held annual conferences between 1910 and 1919, but the work of co-ordinating and harmonizing conservation policies began again in 1922 with the Dominion-Provincial Wildlife Conferences.¹ Clifford Sifton, as Interior Minister, played a leading role in the Commission's work. The Commission for the Conservation of Natural Resources was established by federal statute,² and one of the Commission's purposes was to frame recommendations for "the conservation and better utilization of the natural resources of Canada."³ The act designated federal and provincial representatives (i.e., federal cabinet ministers and faculty members from provincial universities). In practice, a number of influential federal and provincial politicians and civil servants, and academics made up the commission. Members of game protection associations, lumber merchants and American wildlife experts also attended the commission's annual conferences. Like the Dominion-Provincial Conferences on Wildlife in the 1920s, the annual meetings were well-organized, papers were presented, committee reports and resolutions were accepted, minutes were recorded and the annual reports were published. For decades, game and fisheries protection legislation have regulated the exercise of hunting, trapping and fishing rights. An examination of the early development of policy viewpoints provides historical background on the evolution of laws that served to redefine treaty and Aboriginal rights. In *R. v. Sparrow*, the Supreme Court noted that "The government must bear the burden of justifying any legislation that has some negative effect on any aboriginal right protected by s. 35(1)."⁴ While section 35(1) of the *Constitution Act, 1982* has generated a great deal of academic and legal research on the meaning of contemporary Aboriginal and treaty rights, the development of conservation and resource management regulations is poorly understood.

This note will explore the views held by early policy-makers about conservation and Indian hunting. *Sparrow* dealt with the confusion between regulation and extinguishment, which in turn raises questions about how past policies were devised.⁵

Records from the annual meetings of the Commission of Conservation are useful sources for an understanding of the development of the concept of conservation and the perspectives that conservationists held about Indian use of natural resources. Sifton clearly stated the Commission's purpose:

It is our business to exercise original thought in collecting and applying information that is of immediate practical benefit. It is our sole business to promote the economic utilization of resources.⁶

Thus, this Canadian direction in conservation was not simply an effort to protect resources for sentimental, intrinsic or aesthetic values. Economic concerns were central. Similarly, Oliver Master, Assistant Secretary for the Commission, stated that the Commission sought to "promote more efficient protection and utilization of Canada's resources in fisheries, game and fur-bearing animals."⁷ "Use without abuse" was the commission's guiding approach to natural resources. Although it did not surface immediately, the various federal and provincial representatives were not equally informed about the importance of the fur trade to Canada's development as a nation state and they held different views about the value of Native use of the game, fish and fur-bearing animals.

C. Gordon Hewitt, Dominion Entomologist and Consulting Zoologist, was one of the better-informed members of the Commission concerning the northern Native economy. He argued that the livelihood of the Natives and the future economic development of the north depended on unimpaired existence of northern wildlife. He stated:

Unless the fur trade is maintained an enormous part of the Dominion would be rendered unproductive, and the native inhabitants would either starve to death or become a charge on the Government.⁸

Moreover, and in sharp contrast to many conservation policy makers, Hewitt did not portray the Native hunter as a threat to wildlife. He stated, "The Indian trapper is a true conservationist as a rule, inasmuch as he will not, in a region in which he is working, completely exhaust its fur-bearing animals."⁹ Hewitt argued that with the breakdown of the Hudson's Bay Company monopoly, free traders and the foreign trappers were depleting

the country of fur-bearing animals. He explained the problem that was developing:

[U]nless we are willing to sacrifice the only available resource of that north country, and to allow the inhabitants to be deprived of their chief and, in many cases, their only means of livelihood, measures will have to be taken to prevent a dangerous extension of the destructive activities of these foreign trappers and traders, who have, as I have said, no interest in the future of the country; their sole desire is to enrich themselves and the firms they represent in the quickest manner possible, and this would be at the expense of our northern resources.¹⁰

He suggested that the *Northwest Game Act* be revised to include a form of licence so that

This would enable us to exercise a greater control over the operations of these trappers, whose activities affect the legitimate interests of the Indian trappers and other inhabitants and the operations of the older established Canadian companies, who are operating in a manner that will not jeopardize the future of our fur-bearing animals in the north.¹¹

Hewitt also suggested that a government monopoly, along the lines of the Danish government administration of the Greenland fur trade, would provide effective regulation of trapping. He argued that public ownership of wildlife resources would permit a government monopoly to control the resources so as to ensure protection of the resources, create a source of revenue and protect Native interests.¹²

Conservationists and policy makers were keenly aware that the commercialization of wildlife led to market pressures that generally resulted in over-exploitation. This topic was the point of several papers during the Commission's existence. Frederick K. Vreeland of the Campfire Club of North America advocated the prohibition of the sale of game. He suggested that "the time has passed when wild game was a legitimate part of our food supply, excepting in very few very remote sections."¹³ With considerable validity, Vreeland noted that "it is almost a truism that the very best way to exterminate any species of wild life is to put a price upon its head."¹⁴ The concern about commercialized game did not specifically identify Natives as the source of the problem; this position was left to the so-called "pot" hunter, and Vreeland suggested cutting off markets for wild game. While this perspective was relevant to the disappearance of

game as settlement intensified, it was not informed about the importance of game as food to Natives and the long standing-practice of selling game. The European fur traders had been provisioned by Native hunters for decades prior to any "pot" hunters.

The desire to use resources more efficiently, in absence of any consideration of the economic importance of these resources to Natives, promoted the concerns of new "user" groups. By 1910, the use of natural resources had gone beyond local sportsmen and included tourists. Kelly Evans, the Ontario representative, outlined this rationale:

It is the attraction to tourists in which the value consists, and I would point out to the members of the Commission that money attracted this way has a peculiar economic advantage to the country that gains it. . . . But in this case our fish and game attract the money brought in by tourists. This money is left with you, and represents a net gain, because, in return, you give for it practically nothing more than a little bit of healthy amusement. . . . I would ask you to take that view of it rather than the view which is apt to be taken by some people, that fish and game protection has no economic advantage and that it is all sentiment.¹⁵

Many current conflicts between "third party interests" (i.e., the tourist sector) and Indian bands for land and resources is not a recent phenomena. Kelly Evan's statement shows that the state foresaw that wildlife and fish resources could generate commercial gains through tourism. Apart from the licence revenues, who actually benefited from this money left behind? The argument advanced by Evans about the broad effects of tourism has since developed into a science of defending the existing access to resource policies. Subsequently, this policy thrust developed without a cautionary consideration of Native food needs and treaty obligations.

With respect to Native resource needs, not all participants seemed to be as informed as Hewitt. In 1910, F.T. Congdon, Member of Parliament for Dawson, commented on the Indian trapper:

One difference between hunting by trappers and by Indians is that, while the Indian, whether through laziness or Providence — I would be inclined to attribute it to the former — always leaves a stock of all the fur-bearing animals in a district to continue the species, the white man does not.¹⁶

The idea that the Indian's reputation as a conservationist was based on the perception that Indians were lazy was all too common in this era. But Congdon was not unsympathetic to Indians; he recognized the problem of

White trappers, and he typified the attitude of many of those involved in the conservation of wildlife. Like Hewitt, he tried to combine the interests of the Indian and the larger economy:

[T]his is the time in which an endeavour should be made to stock some of the enormous unused lands in Canada with fur which will be valuable in the future. If it served no other purpose, it would supply a means of livelihood to the Indians, to whom we owe at least something, and it would ensure a larger production of furs in Canada than we have at present.¹⁷

Thus, at a very early date of government intervention, the Native economy became of interest to planners. Sifton's "economic utilization of resources" generated policy proposals which sought to tie the Native economy to conservation and resource management. Some policy suggestions placed Indian interests ahead of certain intruders such as "foreign trappers and free traders," but the demands of other groups such as tourists and sportsmen were advanced on rational economic lines. Apparently, no serious effort was made to incorporate treaty obligations into the policy framework of conservation. The suggestion to find a means to contain White trappers and the idea of rehabilitating the Native economy through a stocking program were not seized upon by policymakers in 1919. In years with strong fur prices, White trappers were a serious threat to Native livelihood. Many of these trappers exploited the resource without any heed for conservation.¹⁸ Throughout the subarctic, years would pass before government authorities would regulate trapping in a manner that would provide some protection for Indian traplines.

In the 1919 Conservation Commission conference, a very serious debate occurred on the question of Indian use of wildlife. Deputy Superintendent General of Indian Affairs Duncan Campbell Scott made a presentation on the "Relation of Indians to Wildlife Conservation." Although hardly a defence of the Native economy, it innocently initiated a heated discussion. He stated the department's position: "the Department of Indian Affairs is actually going to conserve wild life by endeavouring to induce the Indians to obey the laws."¹⁹ Scott qualified this position by adding, "We should have a good deal of sympathy for the Indian" and that it was "increasingly difficult to support himself and make way amidst competition and the restrictive regulations which he is expected to recognize and obey."²⁰ Again he stated "the Department of Indian Affairs endeavours to induce the Indians to obey Provincial laws. That is the fixed policy of the Department."²¹ Scott argued that the "mention" of hunting and fishing "privileges" in the treaties was limited and constrained because

treaty Indians also agreed to be loyal subjects and to obey laws. He added that the *Indian Act* did not legislate on the question of hunting and fishing, except for the prairie provinces where it was used to bring the Indians under provincial laws. After repeating several times that "our fixed policy is to endeavour to induce the Indians to obey the laws passed by the Provincial authorities for the conservation of wildlife and the preservation of game," the discussion opened up.²² In essence, Scott minimized Indian interest in wildlife, reduced treaty rights to privileges and strongly supported provincial laws that regulated the Native economy. A serious discussion followed Scott's talk, perhaps aggravated by his statement that "we sometimes get exaggerated reports that the Indians are killing all the moose in certain districts, but, when we investigate them, we usually find that there is little foundation for the reports."²³ For once, sharp controversy entered the commission's proceedings.

Many of the concerns about Indian hunting raised by provincial officials would be reiterated as themes for decades. Seeking "to control the Indian," Saskatchewan Game Guardian F. Bradshaw launched into the Department of Indian Affairs with a litany of complaints about the "wanton slaughter" and "destruction" of wildlife by Indians.²⁴ He stated that "One of the most difficult problems we have to contend with in Saskatchewan is the non-observance of the game laws by Indians," and he supported his assertions by reading long letters of complaint received by his department.²⁵ He objected to the Indians traditional methods: "The Indian does little or no big game hunting during the lawful open season, but it is an established fact that, during August, September, and October, when the moose and elk are easily lured within range by the use of a call, he kills far more big game than he is legally or morally entitled to."²⁶ Bradshaw provided a context for these complaints: sportsmen, he stated, "go to considerable expense and trouble in preparing for their annual big game hunting trip, only to find, on arriving at their camp, unquestionable evidence that the Indians have preceded them."²⁷ One complaint cited by Bradshaw really demonstrated the gap between sport and subsistence hunting: "Some of the finest heads, that would be considered almost priceless, are slaughtered and left to rot."²⁸ In fact, these complaints frequently noted that drying racks and piles of moose hair were left behind — evidence that the meat and hide were processed by Indian families. The observation that the game was processed was used to confirm for officials that the game was killed by Indians. The conflict between "rotting heads" and the complete processing of meat and hides symbolized two different needs, two different types of hunting. Bradshaw expounded on the Saskatchewan situation by stating:

... I think it would be no exaggeration to say thousands, of such Indians engaged in similar destruction throughout the length and breadth of this Dominion, we may form some idea of the tremendous slaughter that takes place annually as a result of this unlawful practice.²⁹

Bradshaw's assertion that the Indian "is a real menace to the big game, and that the operations of the Big Chief Company are contrary to the most elementary principles of economy and conservation," found support from several other provincial representatives. At this meeting Bradshaw read into the minutes letters from local settlers and sportsmen.³⁰ He certainly articulated the interests of the sports hunters.

Similarly, a representative from Quebec, E.T.D. Chambers, noted "the terrible depredations made by Indians" and stated:

The Indians were slaughtering the animals, taking away the meat for food, and leaving the heads to rot in the bush. . . . There is no doubt that the destruction by Indians of wild game in portions of our province is terrible, and, in that respect, I endorse some of the things that have been stated by representatives from other provinces.³¹

The representative from British Columbia announced to the meeting that Indians hunted mountain sheep "just for the love of killing."³² Some assertions made by the critics of Indian hunting were tempered by the experiences of some of the meeting's other participants. Even the most vociferous attacks on the Indians professed "sympathy" for the Indian. Bradshaw noted that the complainants were also sympathetic to Indians:

Notwithstanding the many complaints we receive of the Indian's depredations, there is still displayed an unmistakable trace of sympathy for the Indian by most complainants, a sympathy, I think, which in a greater or less degree is found in every person who recognizes the red man's former privileges, and his present day improvidence.³³

Common perceptions of Indians are evident in Bradshaw's statements. Misinformation and contradictions combined to set the parameters for policy makers.

The Saskatchewan representative, after presenting evidence that Indian overhunting was not "exaggerated," challenged policy makers:

If the Indian Department has no control over the Indians in this respect — a condition of affairs which I am not prepared to accept

— there seems to be but one other solution of this problem, and that is the vigorous enforcement of the game laws, a policy which we would be reluctant to adopt, if we could find any way of avoiding it. However, I am firmly convinced that, under present conditions, it is absolutely necessary that stringent measures be taken if we intend to stamp out this evil.³⁴

Bradshaw out-manoeuvred D.C. Scott at this meeting, forcing Scott to state “the responsibility for the enforcement of the law rests upon the province; the Indian Department can do nothing about that,” and to admit that his department was in sympathy with the enforcement of provincial laws.³⁵ Since the late 1890s, Department secretary J.D. McLean tended to downplay treaty rights, uphold provincial laws and argue that the Department of Indian Affairs was powerless to protect Indians charged with violations of provincial game protection laws.³⁶ Because Scott and the Department of Indian Affairs had abandoned any notion that Indian treaties recognized legal rights, he was left to articulate a rather bewildering position: “We wish to preserve the game; at the same time, we wish to have our Indians well fed, but we do not want the hunters to feed themselves entirely on the game of the country.”³⁷ Scott did not challenge Bradshaw on his extreme and categorical use of language. At this point the meeting became acrimonious. The well-known conservationist Jack Miner suggested that matters be discussed in a friendly manner. Miner then went on to provide his evidence about Indian destruction and slaughter of game.³⁸

The issues raised at the meeting would echo for decades among resource managers. While it is clear that only romanticism would not allow that some of the complaints could be substantiated, the Native economy was not well understood by these resource managers. There was little or no effort to understand Indian hunting in light of treaty and Aboriginal rights. The extensive demands generated by a kin-based subsistence economy could not easily be grasped by the sports hunter horrified by “rotting heads.” Moreover, there were conflicting views about who should benefit economically from hunting big game. The more enlightened view of Gordon Hewitt concerning the use of public ownership to protect the Native economy did not emerge.

The forthright exchanges on Indian hunting placed Duncan Campbell Scott in a rather difficult situation. He affirmed:

While the Indian has been blamed, as well as the Indian Department, I wish to say that our policy is to support the provincial authorities in the conservation of game, and anything we can do through your

agents to assist, we shall do energetically. If the provincial delegates can make any suggestions at any time as to action that might be taken by the Indian Department we shall be delighted to co-operate.³⁹

The problem was not the lack of federal support for provincial policies, rather that the Department of Indian Affairs could not control Indian hunting in the manner desired by many provincial authorities. Provinces with weak game and fish administration looked to the Department of Indian Affairs to control Indian hunting. Not surprisingly, Scott received support from the Ontario representative. G.H. Rapsey, the Superintendent of Game and Fisheries, thanked the Department of Indian Affairs for co-operation and noted, "I have no adverse criticism to offer, so far as Ontario is concerned; the Department of Indian Affairs gives us every assistance."⁴⁰ In point of fact, Ontario was well ahead of the other provinces in using provincial law to regulate Indian hunting. By 1919 the province of Ontario had successfully beat off a legal challenge based on Indian treaty rights and a legal argument that Ontario's game protection legislation was *ultra vires*.⁴¹ Moreover, Ontario's protection legislation was extremely rigorous.⁴²

At the last meeting of the conservation commission, a consensus was reached on Indian hunting. Despite somewhat different perspectives on Indian hunting, a resolution was accepted.

Be it resolved that, in view of the destruction of game illegally by Indians of the various western provinces, the Dominion Government be urged to co-operate in the enforcement of the game laws in this particular respect, and more especially in the provinces of Alberta, Saskatchewan, and British Columbia, by means of the Royal Northwest Mounted Police or other special officers in districts where damage to game by Indians most frequently occurs.⁴³

Clearly, Saskatchewan's representative, Bradshaw, had succeeded in getting the meeting to support the position that Indian destruction of game was extensive, and that federal police should be used to enforce provincial game laws against Indians, in particular. At this meeting, and subsequent Dominion-Provincial Wildlife Conferences, a forum was created so that provincial concerns and desires to regulate the Native economy could be pressed upon the federal officials. Similarly, exchanges of information between various provincial officials resulted in the diffusion of new management policies. At the 1919 meeting, the Quebec representative reported on how control over the fur trade had been accomplished.⁴⁴

The evidence presented by this research note elucidates the observation

by the Supreme Court in *R. v. Sparrow* that "Canada's aboriginal peoples are justified in worrying about government objectives that may be superficially neutral but which constitute de facto threats to the existence of aboriginal rights and interests."⁴⁵ Policy makers wanted to control Indian hunting, and did not seem to understand the needs of the Native economy; treaties were reduced to a privilege. They claimed to be sympathetic to Indians and the assumption was made that conservation policies served Indians as much as any other interests. Yet there tends to be a long-held presumption that conservation and resource management are uncontroversial. In *Sparrow*, the view was expressed that, "Further, the conservation and management of our resources is consistent with aboriginal beliefs and practices, and, indeed, with the enhancement of aboriginal rights."⁴⁶ Future research needs to be directed at the problem of determining the extent that state conservation regulations were a means to reallocate wildlife, fur-bearers and fish resources to non-Native commercial interests. With respect to *Sparrow*, the Supreme Court required the Crown to ensure that regulations are in keeping with the priority of Indian food fishery over other groups. The Court stated:

The objective of this requirement is not to undermine Parliament's ability and responsibility with respect to creating and administering overall conservation and management plans regarding the salmon fishery. The objective is rather to guarantee that those plans treat aboriginal peoples in a way ensuring that their rights are taken seriously.⁴⁷

Comments made by federal and provincial policy-makers in the 1919 meeting of the Conservation Commission of Canada indicate that rights were not taken seriously. The point is not to glorify the present by judging the past by today's values, but to use our understanding of treaty and Aboriginal rights as means to explore past relationships between Natives and Whites. Significantly, if past conservation measures had the effect of expropriating resources, then compensation should be made available. The Supreme Court provided some guidance to the future of resource management by stating, "The extent of legislative or regulatory impact on an existing aboriginal right may be scrutinized so as to ensure recognition and affirmation."⁴⁸

Notes

- 1 Canada, Commission of Conservation, *Reports of Annual Meetings, 1910-1919* [various publishers]. The Commission's last meeting was in 1919, but it was not abolished until 1921. For a history of the Commission, see D.J. Hall,

Clifford Sifton, vol. 2, *A Lonely Eminence: 1901-1929* (Vancouver: University of British Columbia Press, 1985), pp. 236-63.

- 2 *An Act to establish a Commission for the Conservation of Natural Resources*, S.C. 1909, c. 27.
- 3 Canada, Commission of Conservation, *Report of the First Annual Meeting, 1910* (Ottawa: Mortimer Co., 1910), p. viii.
- 4 *R. v. Sparrow* [1990] 4 W.W.R. at 411.
- 5 *Ibid.*, at 426-427.
- 6 Canada, Commission of Conservation, "Review of the Work of the Commission," by Sir Clifford Sifton, *Report of the Eighth Annual Meeting, 1917* (Montreal: Federated Press, n.d.), p. 21.
- 7 Canada, Commission of Conservation, "Report of Committee on Fisheries, Game and Fur Bearing Animals," by O. Master, *Report of the Eighth Annual Meeting*, p. 249.
- 8 Canada, Commission of Conservation, "Conservation of the Fur Resources of Northern Canada," by C. Gordon Hewitt, *Report of the Eighth Annual Meeting, 1917*, p. 120.
- 9 *Ibid.*
- 10 *Ibid.*, pp. 120-21.
- 11 *Ibid.*, p. 121.
- 12 *Ibid.*, p. 121. Later Hewitt expanded upon the idea of public sector involvement in the fur trade:

I pointed out that the Danish Government administers the fur trade of Greenland as a government monopoly, and has thus been able to exercise a great degree of control, with a view to ensuring the conservation of the fur resources, and, what is of still more vital importance, the conservation of the health of the natives by protection from foreign traders. . . . The policy of state ownership of public utilities has its adherents and opponents, but the state ownership of natural resources is not in the same category, and the state ownership of certain resources, such as forests, has undoubtedly proved successful, from both the point of view of conservation and of revenue. . . . It is desirable, however, that all who are interested in the conservation of our wildlife, and particularly the fur-bearing and game animals, should consider the suggestion that these wildlife resources in the Northwest Territories might be administered as a government monopoly, and for three reasons: First, as a means of securing adequate protection for these resources; second, as a source of revenue; and, third, in order to safeguard the native population, which is dependent upon and is the chief means of harvesting the crop.

See Canada, Commission of Conservation, "The Need of Nation-wide Effort in Wild Life Conservation," by C. Gordon Hewitt, *National Conference on Conservation of Game, Fur-Bearing Animals and other Wildlife* (Ottawa: J. De Labroquerie Tache, 1919) p. 13. See also C. Gordon Hewitt, *The Conservation of the Wild Life of Canada* (Toronto: Coles Publishing, 1972, original 1921).

- 13 Canada, Commission of Conservation, "Prohibition of the Sale of Game," by Frederick K. Vreeland, *Conservation of Fish, Birds and Game: Proceedings at a Meeting of the Committee, 1915* (Toronto: Methodist Book and Publishing House, 1916), p. 93.
- 14 Ibid., p. 97. Similarly, W.T. Hornaday stated at the 1919 meeting: "It is now a widely accepted principle of conservation that no wild species can long withstand commercial exploitation. It is an accepted fact that the surest way quickly to exterminate any wild species is by placing a cash price on the heads of its members." See Canada, Commission of Conservation, "The Rational Use of Game Animals," by W.T. Hornaday, *National Conference on Conservation of Game, Fur-Bearing Animals and Other Wild Life, 1919* (Ottawa: J. De Labroquerie, 1919), p. 64.
- 15 Canada, Commission of Conservation, "Fish and Game in Ontario," by Kelly Evans, *Report of the First Annual Meeting, 1910*, p. 103.
- 16 Canada, Commission of Conservation, "Fur-Bearing Animals In Canada, and How to Prevent Their Extinction," by F.T. Congdon, *Report of the First Annual Meeting, 1910*, p. 110.
- 17 Ibid., p. 112.
- 18 Arthur J. Ray, *The Canadian Fur Trade in the Industrial Age* (Toronto: University of Toronto Press, 1990), pp. 202-05.
- 19 Canada, Commission of Conservation, "Relation of Indians to Wild Life Conservation," by Duncan Campbell Scott, and Discussion, *National Conference on Conservation, 1919*, p. 19. For a biography of Scott see E. Brian Titley, *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: University of British Columbia Press, 1986).
- 20 Scott, *National Conference, 1919*, p. 28.
- 21 Ibid., p. 20.
- 22 Ibid., p. 21.
- 23 Ibid.
- 24 Ibid., p. 21.
- 25 Ibid.
- 26 Ibid.
- 27 Ibid., p. 22.
- 28 Ibid., p. 23. This particular letter also stated:

Two years ago I was over very much the same ground as I was this year. That year I saw 157 head. Each and every member of our party saw a large number of animals, these being principally cows. This year, with cows and all, I saw only eight head, putting in a week extra over what I did the previous year. I am reliably informed that one party of Indians alone killed 127 head of elk during the month of September. While it is hard to prove these things, there is not the slightest doubt in my mind but what this is done.
- 29 Ibid., p. 26.
- 30 Ibid.

- 31 Ibid., pp. 29-30.
- 32 Ibid., p. 30.
- 33 Ibid., p. 27.
- 34 Ibid.
- 35 Ibid., p. 28.
- 36 For examples, see National Archives of Canada, public records of the Department of Indian Affairs, RG 10, Volume 2405, file 84041, pt. 1.
- 37 Scott, *National Conference, 1919*, p. 28.
- 38 Ibid., p. 28-29.
- 39 Ibid., p. 32.
- 40 Ibid.
- 41 See Frank Tough, "Ontario's Appropriation of Indian Hunting: Provincial Conservation Policies vs. Aboriginal and Treaty Rights, ca. 1892-1930," Research Report (Toronto: Ontario Native Affairs Secretariat, 1991).
- 42 Summary convictions under the Ontario Game and Fisheries Acts indicate problems: a lack of separation between enforcement and adjudication (deputy wardens were *ex officio* Justices of the Peace); each pelt or animal was considered to be a separate offense; and the defendants were compellable witnesses. For example, see *The Ontario Game and Fisheries Act*, S.O. 1907, C. 49, ss. 57-61. Earlier legislation permitted those prosecuting the offense to obtain one-half of the fine imposed. *The Ontario Game Protection Act*, R.S.O. 1897, c. 287, s. 29.
- 43 Canada, Commission of Conservation, *National Conference, 1919*, p. 146.
- 44 Canada, Commission of Conservation, "Co-operation in the Regulation of the Fur Trade," by J.A. Bellisle, *National Conference, 1919*, pp. 122-129. Similarly, the participation of members of game protection associations resulted in information exchanges that re-enforced a use of resources that competed with the Native economy. Quebec officials were in close contact with Ontario officials. The prosecution of the Hudson's Bay Company, as an indirect attack on treaty and Aboriginal rights, was mapped out by the Ontario government and followed by Quebec.
- 45 *R. v. Sparrow* [1990] 4 W.W.R. at 436.
- 46 Ibid., at 439.
- 47 Ibid., at 442.
- 48 Ibid., at 436.