
Indians, Odysseys and Vast, Empty Lands: The Myth of the Frontier in the Canadian Justice System*

Elizabeth Furniss *University of Calgary*

Abstract: This article addresses the question of the involvement of anthropologists in political and legal dealings of First Nations with the Canadian government. It is argued that anthropologists would have a greater influence than they do in these matters if their discourse took into account the imaginary constructions of the Canadian population. The analysis focusses on two official texts concerning Aboriginal rights. These texts express imagery and narrative forms that are deeply embedded in Canadian cultural tradition. They reveal myths that influence, though often unconsciously, judgments on the place of Aboriginal populations in the political arena, and that are conceived as common sense. The most recurrent myth which underlines relations of the general population with Aboriginal peoples (a dichotomy which belongs to that myth) is the *myth of the frontier* whose influence is obvious in the texts analyzed here.

Résumé: Cet article traite des problèmes reliés à l'implication des anthropologues dans les questions politiques et légales impliquant les Premières Nations au Canada. Il soutient que les anthropologues n'occupent pas la place qu'ils devraient parce que leur discours ne tient pas assez compte de l'imaginaire de la population canadienne. L'analyse se concentre sur deux textes officiels traitant du droit des autochtones. Elle fait ressortir de ces textes les images révélatrices des mythes qui influencent profondément, quoique souvent inconsciemment, la vision qui guide les jugements sur la place des autochtones dans le monde politique et qui se présente souvent comme une vision du sens commun. Le mythe le plus marquant des relations de la population en général avec les autochtones (une dichotomie qui appartient à ce mythe) est le *mythe des frontières* dont l'influence est évidente dans les textes évoqués.

Over the last three decades increasing numbers of anthropologists in Canada have become engaged in collaborative and applied research with First Nations. Anthropologists are now employed directly by First Nations communities and organizations, where, as researchers, advisors or even spokespeople, many are being drawn into conflicts with multinational resource corporations, government agencies and the courts. This open commitment to collaboration, and to making anthropology relevant to First Nations' concerns, has shaped contemporary anthropology in a number of ways. New theoretical models have been developed to account for the complexities of cultural change and persistence in Aboriginal communities, and to counter earlier anthropological models of acculturation typically mobilized by corporate and government interests to oppose Aboriginal rights and to promote industrial development (Asch, 1983; Feit, 1982; Usher, 1993). There is a heightened discussion about the politics of ethnographic practice, the degree to which anthropologists should get involved as advocates for First Nations and how this involvement shapes ethnographic writing (Dyck and Waldram, 1993; Kew, 1993-94; Paine, 1985; Warry, 1990). As anthropological knowledge is entering into domains where truth is a highly contested resource, there is increasing concern for the epistemological and political dilemmas of applying interpretive anthropological knowledge in public arenas that demand objective and value free data (Elias, 1993).

These questions are especially pressing for anthropologists who serve as expert witnesses in the courts. The need for anthropologists to grapple with these issues became acutely evident after the controversial 1991 decision of the British Columbia Supreme Court in the Delgamuukw Aboriginal title case. In his decision, Chief Justice Allan McEachern not only dismissed the claim to Aboriginal title and sovereignty put forth by the Gitksan and Witsuwit'en chiefs, but also dismissed the discipline of anthropology as an invalid means of knowing about culture and history (McEachern, 1991: 49-51; Mil-

ler, 1992a). In its rejection of anthropological testimony as unscientific and biased, its unquestioned acceptance of the concepts of primitive culture and cultural evolution and its unabashed promotion of the policy of Aboriginal assimilation, the decision of Chief Justice McEachern demonstrated a resounding failure of applied anthropology in the legal system. Although significant aspects of the earlier decision have now been overturned by the December 1997 decision of the Supreme Court of Canada,¹ the McEachern decision continues to serve as the pivotal case on which a critical anthropological discourse is directed (Asch, 1992; Cove 1996; Culhane 1998; Daly and Mills, 1993; Miller, 1992a; Mills, 1994, 1994-95, 1996; Paine, 1996; Waldram, Berringer and Warry, 1992).

The question remains: in the light of the extensive evidence provided by Gitksan and Witsuwit'en chiefs and academic witnesses, how could the judge reach the erroneous conclusions he did about the nature of Aboriginal culture and history in these territories? Many critics have analyzed the decision in terms of how well the judge applied conventional legal or social scientific procedures to construct an understanding of Gitksan and Witsuwit'en culture and history. They assess how well, or how poorly, the judge performed as a legal, or historical or anthropological scholar. Ridington, for example, suggests that the McEachern text, rife with ethnocentric assumptions, "stands out as being outside the bounds of normal anthropological discourse" (Ridington, 1992: 17). Cruikshank states that McEachern ignored "established bodies of knowledge" and went on to "invent his own anthropology" to assess the evidence presented to the court (1992: 26). Miller (1992b: 55) argues that the Delgamuukw decision "can be said to rest on faulty grounds and on an inadequate version of anthropology and history." Some suggest the blame lies with the judge for not listening to the evidence (Waldram, Berringer and Warry, 1992: 315), while some suggest it lies with the anthropologists for failing to adequately translate Gitksan and Witsuwit'en cultural realities in terms that the judge could understand (Paine, 1996).

My goal here is to continue the process of untangling Judge McEachern's epistemology while at the same time significantly shifting the framework of analysis. If the judge, in his decision, were speaking the language of anthropology, and hearing the evidence through anthropological frames of knowing, it is clear that the decision fails as an example of contemporary scholarship. There is, however, another way of reading this text. My proposition is that the judge is not speaking or thinking through the language of anthropology, but the language of

culturally constituted "common sense." The unfortunate tendency to "demonize" Judge McEachern (Paine, 1996: 62), and to dismiss the decision as a product of one individual's ethnocentrism or outdated colonial ideology, detracts attention from the fact that many of the judge's propositions—about the "primitiveness" of Aboriginal cultures, about the benefits of colonialism, about the desirability for Aboriginal assimilation into Canadian society—reflect widespread and conventional beliefs and attitudes that prevail among the Canadian public. McEachern himself argued that his conclusions reflected "common sense" thinking (McEachern, 1991: 284; see Miller, 1992b). As political scientist Paul Tennant has argued:

The issue of what to think of the ruling is in good part the issue of what we British Columbians are to think of ourselves and our history. To judge the judgement without judging ourselves is to be unfair to the Chief Justice and untrue to ourselves. (Tennant, 1992: 81)

It may be that anthropologists serving as expert witnesses must take more seriously the task of educating the judiciary into the principles of anthropology and the concepts of ethnocentrism and the social construction of culture (Morantz, 1997; Paine, 1996). But when speaking to non-Aboriginal Canadians, anthropologists must also educate themselves more fully about the nature of the dominant culture of Canada, the culture in which their audiences are situated. The nature of the problem encountered by Gitksan and Witsuwit'en chiefs and anthropological expert witnesses in the Delgamuukw case is much greater than the issue of one conservative judge, or a colonial institution that has denied First Nations justice: the problem implicates the very way in which Canadians imagine their own society, their identity and their colonial history.

The questions I pose here are: What are these "common-sense" beliefs and assumptions about culture, history and Aboriginal/non-Aboriginal relations in Canada, and by what cultural forms and language are these beliefs and assumptions conveyed and reproduced? How does this "common-sense" world view appear in reports and judgments produced by the Canadian justice system?

To begin, I suggest that representatives of the Canadian justice system weigh evidence and construct truths through diverse and complex processes that can not be characterized simply as either the operation of objective standards of rationality and reason, as the ideology of the legal system would have it, nor as the brute force of state power, ideology and false consciousness, as some of

McEachern's critics have suggested. Instead, facts are assembled and truths are constructed through a complex interaction of multiple epistemologies. This observation parallels the findings of many scholars who have documented processes of "legal pluralism" in colonial and postcolonial societies (for reviews of this literature see Merry 1988, 1992). The concept of legal pluralism has been used to refer not only to the persistence and interaction of indigenous forms of justice within the legal systems imposed by colonial governments (e.g., Fiske, 1997-98; Mastura, 1994; Moore, 1993; Russell, 1990; Westermarck, 1986) but also to the discrepancy of legal ideologies held by various participants in urban American court proceedings (e.g., Conley and O'Barr, 1990; Kemple, 1995; Merry 1986, 1990; O'Barr and Conley, 1988). My point here is that this pluralism is evident not only among different groups engaged in adversarial processes, but also *within* the truth-making apparatus of representatives of the state themselves.

Second, taking the McEachern decision as a starting point, I suggest that the apparently incongruous or even irrational conclusions of this text reflect the working of a historical epistemology that is distinct from legal and academic ways of knowing: an epistemology that exists as a Canadian variant of the American myth of the frontier (Furniss, 1997-98; Slotkin, 1992). The frontier myth consists of a distinctive set of narratives, metaphors and images that permeate the presentation of history in Canadian literature, in the arts and entertainment industries, and in local and national ceremonies celebrating Canada's past. The frontier myth frames the very way many Canadians think about, experience, and commemorate the past, and it does so not through direct ideological statement, but indirectly and intuitively through metaphorical imagery and narrative forms that are deeply embedded in Canadian cultural tradition. Judge McEachern's text reflects the operation of not only an ideological discourse, but also a mythic discourse.

Third, and most critically, I argue that this historical epistemology is also evident in reports of the Canadian justice system that take very different stances on Aboriginal issues. This very flexibility—the fact that individuals may draw on the language of the frontier myth to construct diverse and opposing understandings of the past and to both affirm and challenge the existing structure of relations between Aboriginal people and the Canadian state—is key to the hegemonic power of the myth of the frontier. Its power exists not in its use to support the authority of the Canadian state, but in its transformation into a particular historical world view that is reinforced and reproduced in everyday dimensions of

life. The frontier myth provides a set of rules for constructing historical truths, and a particular language for conveying those truths, that ultimately bear the weight of our colonial past and limit our historical imagination.

To illustrate these points, in the following pages I analyze the narrative forms, metaphors, and imagery contained in the texts of two reports of the Canadian justice system: the 1991 McEachern decision and the 1993 report of the Cariboo Chilcotin Justice Inquiry (Sarich, 1993). Presided over by B.C. Provincial Court Judge Anthony Sarich, the Cariboo Chilcotin Justice Inquiry investigated allegations of brutality and discrimination against Aboriginal people by RCMP officers and agents of provincial justice system in the central interior of British Columbia. The Sarich report condemned the actions of the RCMP and the systemic racism of Canadian Indian affairs policy, and provided sympathetic support for the aspirations of First Nations towards Aboriginal treaties and independently run justice systems. On its release, the Sarich report received the tentative endorsement of the three Tribal Council organizations that represent the region's Secwepemc, Carrier and Tsilhqot'in peoples.

There are a number of obvious differences between these two texts. The judges were addressing different issues with radically different potential consequences: one was a judgment of the court, while the other a report of a non-criminal commission of inquiry. What is important is that despite their opposing ideological stances on First Nations issues, the authors of these texts both draw on common metaphors, images and narrative conventions that point to the persistence of a common frontier formulation of Canadian history, a formulation that coexists alongside legal and academic epistemologies. A close examination of these reports on First Nations issues provides an opportunity to come to a fuller understanding of the complex relationship between colonialism, power and "common-sense" thought in Canada and its implications for the practice of applied anthropology with First Nations.

The Myth of the Frontier

For over three centuries the frontier myth has served as one of the most important "cultural myths" shaping public understandings of the history of European colonization and settlement in the United States.² In his exhaustive, three-volume study, Richard Slotkin (1973, 1986, 1992) identifies the frontier myth as a distinctive constellation of narrative genres, symbols and metaphors that flow through American literature (including settler autobiographies and 19th-century dime novels), performative arts (including early Wild West shows and con-

temporary Hollywood movies), and 19th- and 20th-century political discourse legitimizing American domestic and foreign policy. Despite the various formulations of the frontier myth in these very different social, economic and historical contexts, in its most common "progressivist" formulation (Slotkin, 1992: 22-24), the frontier myth has several standard features. The frontier myth portrays North America as an empty, unoccupied wilderness (notwithstanding the occasional acknowledgment of the Indian presence) where resources are rich and land is free for the taking; or if not exactly free, they becomes the rightful spoils of war for those representing the interests of civilization and progress. The symbolic landscape of the frontier narrative is marked by boundaries, and by the encounter of opposites: civilization and savagery, man and nature, Whites and Indians, good and evil. These encounters are characterized in terms of conflict and violence as the protagonist struggles against the harsh environment, the unknown and potentially hostile Indians, the savagery of the empty land. These struggles, taking place on the moral terrain of good and evil, also involve a degree of ambiguity in that the protagonist moves between these opposing worlds and temporarily mediates these dichotomies. Eventually these encounters are resolved through domination and conquest, through the subordination of Indians, nature and evil to the forces of progress, civilization and the ultimate will of God. The triumph of the protagonist highlights the triumph of the values of self-reliance, democracy, competition and freedom, values that continue to define both American and Canadian ideals in the present.

Frontier narratives are easily identified in various Canadian settings, from high school history textbooks and museum representations to public memorials, ceremonies and commemorations. Canadian versions of the frontier myth, though, do vary from American versions. For example, in the popular histories found in rural settings in British Columbia the central narrative structure is less one of domination and conquest through violent means, as Slotkin emphasizes in American versions of the frontier myth, but rather is one of conquest through benevolence: through the paternalistic actions of government agents, Mounties, missionaries and settlers to whom Aboriginal people meekly submit (Furniss, 1997-98). The idea of the frontier influences the historical consciousness, contemporary identities and political discourses of Euro-Canadian residents of rural settings in a variety of even more complex and subtle ways (Furniss, 1999).

Despite these complexities, there are several features relevant to this analysis that characterize the frontier myth as a distinct way of knowing about and

expressing history. The very process of history is understood as the heroic struggle between the forces of good and evil, where conflict, violence, domination and suppression are naturalized as the inevitable processes of historical change. The complex interplay of diverse individuals and groups is distilled into a simple narrative structure of a protagonist's encounter with opposing forces, most often the wilderness and Indians. The diversity within Aboriginal peoples and cultures is rendered invisible; they are reduced to a homogeneous group—Indian—through which the settler's own self-identity is realized in contrast. Representations of Indians vary between the noble and ignoble savage stereotypes: at times they are represented as a hostile, threatening people to be conquered and subdued; at other times, they are portrayed as helpers of the colonial project or as a childlike people to be patronized and protected. What remains consistent is the inflexibility of the Indian/White dichotomy. Overlooked are the multiple identities, the diverse and conflicting interests and the ambiguities and incompleteness of domination and resistance that characterized the colonial encounter, themes that are now emphasized by anthropological histories and postcolonial studies (Abu-Lughod, 1990; Barker, Hulme and Iversen, 1994; Bhabha 1994; Comaroff and Comaroff 1991; Hanks, 1986; Trigger, 1985).

Finally, the frontier myth conveys historical truths not so much through explicit, discursive forms of expression such as argument, polemic debate or sermon, but indirectly through narratives rich in symbolism and metaphor (Slotkin, 1992: 5). As Slotkin argues, the "language is metaphorical and suggestive rather than logical or analytical. The movement of a mythic narrative, like that of any story, implies a theory of cause and effect and therefore a theory of history (or even of cosmology); but these ideas are offered in a form that disarms critical analysis by its appeal to the structures and traditions of story-telling and the clichés of historical memory" (ibid.: 6). Of particular importance are what Slotkin calls mythic icons: "Through frequent retellings and deployments as a source of interpretive metaphors, the original mythic story is increasingly conventionalized and abstracted until it is reduced to a deeply encoded and resonant set of symbols, 'icons,' 'keywords,' or historical clichés" (ibid.: 5). Each of these mythic icons, he writes, "is in effect a poetic construction of tremendous economy and compression and a mnemonic device capable of evoking a complex system of historical associations by a single image or phrase (ibid.: 6). The symbol of the "pioneer," or the "empty wilderness," for example, are classical examples of mythic icons in Canadian frontier histories.

That these images and metaphors filter through decisions and reports of the Canadian justice system is testimony to the way certain, selective understandings of colonial history are communicated indirectly and intuitively almost without notice.

I refer to the frontier myth as a historical epistemology. It might also be approached as a set of pervasive historical discourses, or, even more narrowly, as a specific narrative genre. But all narrative forms, as Hayden White (1987) points out, contain within them ideal images of society, authority and morality. Narrative, he continues, "is not merely a neutral discursive form . . . but rather entails ontological and epistemic choices with distinct ideological and even specifically political implications" (ibid.: ix). Narratives thus are a *product* of epistemological processes. The work of an epistemology can only be traced by an analysis of forms of representation; that is, how people process information and construct knowledge can only be traced by how they express their understandings of the world. In short, in referring to the frontier myth as an epistemology, I am inferring backwards from narrative to epistemology in order to draw attention to the deeper issues of how this particular epistemology is embedded in the cultural context of North American colonialism and how it influences the cognitive processes of members of Euro-Canadian society.³

The McEachern Decision

Other commentators have shown how the McEachern decision contains many of the assumptions of a colonial ideology: the judge upholds the long-outdated anthropological concepts of primitive culture and cultural evolution; he privileges written documents over oral tradition as the only reliable source of historical evidence; he argues that assimilation is in the best interests of the Gitksan and Witsuwit'en people. Here, I wish to draw attention to the way in which these "common-sense" views of Aboriginal people, of society, and of history are communicated not only through direct polemic argument or explicit statement, but also indirectly through particular images, metaphors and narrative forms. In this way the frontier myth fills the interstitial spaces of the McEachern text, providing an implicit context for the conveying of historical "truths."

First, the image of Gitksan and Witsuwit'en territories as a vast, empty land appears repeatedly through the decision:

These explorations were for the purpose of familiarizing myself . . . with this beautiful, vast and almost empty part of the province. (McEachern, 1991: 1-2)

The total territory is a vast, almost empty area. (Ibid.: 11)

The most striking thing that one notices in the territory . . . is its emptiness . . . the territory is, indeed, a vast emptiness. (Ibid.: 12)

I suspect [the failure of the Hudson's Bay Company to establish a post in Wet'suwet'en territory] was because it was largely an empty country. As it is empty now, it was probably empty . . . at the time of contact. . . . (Ibid.: 276)

Second, a set of images referring to nature, and man's relationship to nature, appears throughout. Nature is represented as an evil force, as something to be feared. Man's relationship with nature is represented in terms of opposition, strife, and life-or-death struggle for survival.

The acquisition of firearms . . . made hunting a far less random and hazardous exercise than it had always been. (Ibid.: 251)

Although the Gitksan and Wet'suwet'en [*sic*] had well established trails . . . there was little reason for the Gitksan to stray far from their villages. . . . (Ibid.: 261)

It is unlikely that the [Gitksan and Witsuwit'en] ancestors, prior to the fur trade, would occupy territories so far from the villages, particularly in the fierce Canadian winters. (Ibid.: 276)

The construction of nature as a force to be feared and either endured or conquered is a characteristic feature of the Canadian version of the frontier myth and pervades Canadian literature. Northrop Frye (1971) writes of the "garrison mentality" in Canadian literature, where the frontier is imagined not as a line dividing the wilderness from the metropolis, as in American frontier literature, but as an all-encompassing force, creating pockets of civilization surrounded by an empty, cold, alien wilderness. Margaret Atwood has emphasized this fear of nature, this sense of being victimized by the landscape, as a primary characteristic of Canadian literature and Canadian identity (1972). These literary conventions appear in the McEachern text: he envisions Canadian winters as "fierce," he portrays Aboriginal people as having "little reason" to "stray" from the safety of their villages. That Aboriginal people failed to surmount these forces of darkness is evident in McEachern's now infamous quotation from Hobbes: that Aboriginal life in the territory was "nasty, brutish and short" (McEachern 1991: 13).

In the McEachern text, this victimization by nature is restricted to Aboriginal people. He represents the process of history as a struggle for survival, as captured in the axiom "survival of the fittest." It is not surprising,

given the man/nature relationship described above, that history is seen as the natural outcome of struggle, conflict and violence. Conflict and violence are to be celebrated and glorified.

This vision of history is explicitly suggested in McEachern's description of the history of European colonization. He argues that Aboriginal people "were a reticent people" (ibid.: 128):

[They] became a conquered people, not by force of arms, for that was not necessary, but by an invading culture and a relentless energy which with they would not, or could not compete. (Ibid.: 129)

He argues that "the Indians' lack of cultural preparation for the new regime" (ibid.: 129) has been the cause of the widespread poverty and dependence many Aboriginal communities face. Colonization as a "relentless energy," a competitive struggle, a heroic conquest, all affirm the colonial identity and the paramount values of industrial capitalism: that of competitive spirit, of self-reliance, of industriousness. Simultaneously this vision of colonization as "survival of the fittest" rationalizes the processes of domination and the social and economic inequalities now dividing Aboriginal and non-Aboriginal Canadians.

There are many passages that suggest a colonial policy of benevolent paternalism. In contrast to his explicit statements about the primitiveness of Gitksan and Witsuwit'en cultures, these passages indirectly, and implicitly, equate Aboriginal people with children, and the Aboriginal/Euro-Canadian relationship with a child-parent relationship. These attitudes, of course, have been central to the development of Canadian Indian policy (Dyck, 1991) and policies linked to the colonization of Canada's north and Inuit populations (Paine, 1977). They have also been accepted as widespread, "common-sense" truths among many non-Aboriginal Canadians (e.g., Brody, 1991; Furniss, 1999). As children, Indians have only a partial awareness of events in their midst, in sharp contrast with non-Aboriginal newcomers:

Many have said . . . that the Indians did not do as much for themselves as they might have done. For their part, the Indians probably did not understand what was happening to them . . . I suspect the white community understood what was happening to the Indians but did not have the resources, or the knowledge, to respond appropriately. (Ibid.: 129)

Through this relationship, the image of the colonizers is one of good parents who have acted in Aboriginal peoples' best interests:

Benefitting in some respects from the industry and trade goods of the settlers, [Indians] often did not object to the inroads made into the geography of the Colony. (Ibid.: 128)

The Indians of the colony [accepted] many of the advantages of European civilization. (Ibid.: 128)

By today's morality, the [assimilation policy] will be regarded by many as an attempt to destroy Indian culture and identity. By the standards of the day, compared with the rest of the world, it was probably enlightened. (Ibid.: 128)

One variation, the image of the Indian as an ungrateful child, also appears:

In addition to reserves . . . it is necessary to keep in mind the annual substantial cash and service payments and allowances [a significant metaphor] which have been paid to or for Indians. The Indians deeply resent both the form and the quantum of these "benefits," which . . . amount to billions of dollars annually. (Ibid.: 184)

The construction of the Indian/White relationship here is structured not as a relationship of violence, as in the "Indian war" narrative common in American formulations (Slotkin, 1992), nor of aggressive competition, as suggested earlier. Instead, as in the popular histories found in the public landscape of rural British Columbia, the Indian/White encounter is portrayed as a relationship of Aboriginal submission to Euro-Canadian benevolent paternalism; the narrative of history is one of conquest through benevolence. The Indian is presented as an inferior Other through his childlike qualities of naivete, innocence, partial awareness of the surrounding world, and alternating gratitude and resentment towards the paternalistic, well-meaning colonizers.

While the representation of colonized subjects as Other is a common feature of all colonial texts, what is important to highlight is that this representation is coupled here with a more extensive set of understandings in which the frontier landscape is imagined as a harsh, empty wilderness, and in which history is imagined as the product of violent struggle and conflict. These images define not only a colonial discourse but a particular colonial discourse that has taken shape in the Canadian context, a discourse that provides a narrative and symbolic landscape for the telling of history and that communicates ideas about the nature of individual agency, historical change and the legitimacy of conquest indirectly through powerful, compelling metaphors and images.

The Cariboo-Chilcotin Justice Inquiry, in contrast, reverses much of the ideological content of the McEachern decision. The Sarich report implicitly challenges McEachern's rejection of the existence of Aboriginal rights and title and explicitly challenges his view of Aboriginal culture as "primitive" and inferior. Nevertheless, some of the principal images and metaphors remain constant. Sarich directly draws upon the frontier myth to metaphorically represent his personal experience of the justice inquiry to his readers.

The Sarich Report

Between December 1992 and May 1993 the Cariboo-Chilcotin Justice Inquiry held hearings on 10 of the 15 Secwepemc, Carrier and Tsilhqot'in reserve communities. In all, over 50 days of testimony were heard, during which almost 200 incidents were reported. The vast majority of complaints focussed on the conduct of the RCMP, although complaints were also voiced against lawyers, Crown counsellors, conservation officers, ministry of social services workers and private security guards. People gave testimony of being subjected to excessive force and assault by RCMP officers, and of being subjected to intimidation, coercion, racial insults and other abuses of authority. Some testified of RCMP overpolicing and harassment; others spoke of the failure of the RCMP to respond quickly to calls for assistance. Some spoke of problems they had experienced in the court system: of a lack of understanding of the court process, of poor service from legal aid lawyers, and of poor communication with Crown counsel.⁴

The inquiry was not a criminal proceeding; instead, its goal was to hear Aboriginal peoples' testimony, to define the nature of the problems being experienced and to propose remedies. At its heart, the justice inquiry involved a process by which all parties—the Secwepemc, Tsilhqot'in and Carrier peoples testifying and the lawyers for the RCMP and other government agencies responding to the allegations—each sought to promote their own interpretation of the nature of the problem to a level of general acceptance. In moving from a consideration of the complaints presented to the inquiry to an interpretation of their causes, in his final report Commissioner Sarich essentially was presenting a cultural construction of the nature of this "public problem" (see Gusfield, 1981).

Judge Sarich's formulation of this problem has two components. The first is one of racial discrimination, practiced not only by the RCMP, but by non-Aboriginal society in general, and reinforced by the Indian Act and the paternalistic Indian Affairs bureaucracy. The second

aspect of the problem, according to Sarich, emerges from Aboriginal peoples' testimony that they often found court proceedings confusing and difficult to comprehend. The experience of feeling confused and intimidated by the court system is not restricted to Aboriginal people, of course, and there are a variety of possible ways for interpreting these experiences. The judge highlighted what he called the "frightening and incomprehensible" justice process (ibid.: 8), and proposed its reason lies in the great "cultural lacuna" (ibid.: 13) between Aboriginal and non-Aboriginal worlds.

This theme of the essential, immutable cultural difference dividing Aboriginal people from non-Aboriginal Canadians dominates the report. For example, while Sarich criticizes the RCMP detachment leaders for not correcting the conduct of their officers, he does so on the grounds of the detachment leaders' failure "to appreciate the different requirements of culturally diverse peoples within their jurisdictions" (ibid.: 27). The problem now is not the discriminatory behaviour of RCMP members, but their insensitivity to matters of fundamental cultural difference.

The Sarich report reads as that of a sympathetic individual deeply moved by the experience of his encounter with Aboriginal peoples. The report also reads as that of an individual to whom the Indianness of the witnesses was a continually relevant factor. That this report is about Indians, rather than about generic Canadian citizens; moreover, that it is about noble savages, is suggested even before turning the cover of the report, from where an archival image of an anonymous, dignified Aboriginal person stares out at the readers.

The assimilation of the justice inquiry into the mythic structure of the Indian-White encounter on the frontier begins in earnest on page 2, where, undoubtedly with some intended humour, Sarich credits his assistant for his "unfailing and energetic work as a 'forward scout and contact.'" On page 5 the judge describes how he soon became convinced that if the inquiry was to be successful:

It could not be held in a courthouse, or in some well-appointed convention hall in the urban center. Nor could the hearings be conducted in the manner of a regular trial. The commission had to go out to the people, and this it did. And so began an odyssey that was to cross and re-cross that vast area many times. (Ibid.: 5)

Once again, Aboriginal territories are imagined as vast and formidable, where geographic distance is equated with cultural distance. The metaphorical representation of the justice inquiry as journey to the frontier,

as a heroic odyssey of discovery, with its underlying conceptual oppositions of metropolis vs. frontier, Whites vs. Indians, fits into a standard narrative structure that Euro-Canadians and Euro-Americans have drawn upon for centuries to comprehend their relations with Native North Americans. Indeed, Sarich's portrayal is strikingly similar to Judge McEachern's description of his helicopter tour through the "remote" stretches of Gitksan and Witsuwit'en territories, a tour he described as "a fascinating voyage of exploration and discovery" (McEachern 1991: 306).

The theme of the justice inquiry as a positive cross-cultural encounter (as opposed to an investigation of the failings of public policy) periodically reemerges in following pages. In describing the testimony, Judge Sarich writes how some witnesses "gave evidence in an interesting colloquial idiom" (ibid.: 7), while others required the assistance of an interpreter. He writes:

Once underway the hearings were attended by all community members at the site of the hearings, from toddlers in jolly jumpers to elders. . . . Even a stray dog would come in from time to time to check out the proceedings and perhaps get a scratch or two behind the ear. (Ibid.: 8)

The hearings were held in community halls . . . the people of the reserves received us with unmatched generosity and openness. They prepared delicious meals and fed everyone present, even though the numbers present were never constant. They shared what they had with all of us. (Ibid.: 7)⁵

The noble savage image celebrated in the Sarich report stands in sharp contrast with McEachern's ignoble savage. Yet there are similarities. Both evoke the image of the Indian as child, and of Indian-White relationship as a child-parent relationship. Sarich makes numerous references to Aboriginal peoples' presumed "confusion" in their encounter with the colonial system of justice (ibid.: 8, 10, 13, 14, 15, 26, 28). This confusion, he argues, "has its roots in the dichotomy of cultures" (ibid.: 14). He writes that Aboriginal people are "befuddled by many non-native cultural values" (ibid.: 26) and that RCMP officers enforced "incomprehensible rules" on reserves (ibid.: 27). He states:

The Canadian court process is a strange and bewildering one to most native people. Even those who have been through the process a number of times remain confused and frightened. With rare exceptions, natives simply don't trust those who operate and administer it. They are handicapped by a cultural and language barrier

that is not overcome simply by their ability to speak English sufficiently to "get by." (Ibid.: 13)

The many other references to Aboriginal peoples' confusion with the court system, and the explanation that these problems are due to cultural factors, suggest that, by virtue of a culture and language that handicaps them, Aboriginal people are inherently incapable of comprehending the justice system: that their difference from Euro-Canadians is an essential one.

In both the Sarich and McEachern reports, the idea of "confusion" is one-sided. Euro-Canadians are represented as having a privileged, superior vantage from which to view the real nature of Aboriginal/non-Aboriginal relations. It suggests the automatic burden of paternalism, reinforces the image of the Indian as childlike, fearful and semi-rational and upholds the responsibility of those who presume to understand the nature of the problem to take charge. In McEachern, this presumed omniscience translates as the need for Euro-Canadian society to treat Aboriginal people with a paternalistic stiff hand. In the Sarich report it translates as the need for Euro-Canadian society to make a benevolent accommodation to Aboriginal people, who are imagined as trapped within a rigid, unchanging and unchangeable culture.

Finally, Sarich's representation of history diverges from that of McEachern, who envisions history as linear progress, praises early colonial governments and lauds the spirit of competitive capitalism as the motor of history. Instead, Sarich condemns early government actions and, implicitly, the very values they introduced. He writes:

It may well be true that the policies of the governments both of Canada and British Columbia were well-intended But from the beginning, government officials were unable or unwilling to accept that the community—and family-centred cultural values of the native people were irreconcilable with the values of a free-enterprise, individual-oriented, self-acquisitive society. . . .

Rather than suggesting Aboriginal peoples' problems are due to their "reticence," or their unwillingness to assimilate, Sarich suggests that the contemporary problems facing Cariboo-Chilcotin First Nations are the outcome of the imposition of colonialism. He writes:

The results of government policy have been tragic for native people. . . . Past government policies of suppression and segregation of the people into small, uneconomic reserves, attempts at forced assimilation and a

smothering of bureaucratic interference in every aspect of the lives of the natives has reduced a once proud and independent people to a state of complete dependency. (Ibid.: 10)

Elsewhere Sarich comments:

The dependence, the poverty, the self-destruction to which the natives were reduced by a conscious policy of government were unspoken confirmation of this [presumed] "truth" [of Aboriginal inferiority]. (Ibid.: 11)

In short, Sarich's history is an equally linear process of the conquest of a "once proud people" now reduced to a state of "complete dependency." As is characteristic of the frontier narrative structure, the subtleties and complexities of history and the interplay of domination, resistance and accommodation, remain muted.

Sarich, however, does directly criticize the paternalistic orientation of the federal government to First Nations. He calls on governments to establish agreements with area First Nations to protect the resources of traditional lands pending settlement of Aboriginal land claims (ibid.: 29). He envisions the eventual establishment of autonomous Aboriginal justice systems in the Cariboo-Chilcotin (ibid.: 28). In making these remarks, Sarich is affirming the validity of Aboriginal title and rights. Yet he couches his argument within a vision of history, of Aboriginal people, and of Aboriginal/non-Aboriginal relations that remains framed by the images and metaphors of the frontier myth.

Sarich's narrative is representative of what Slotkin (1992: 22-26) has termed "populist" versions of the frontier myth, which have served as one of the major vehicles for social criticism in 20th-century America. "Progressivist" versions of the frontier myth portray history as a celebration of the continual development of industrial capitalism, modernization and prosperity for all of society (ibid.: 22). In contrast, populist frontier narratives uphold ideal images of the past (ranging from romantic notions of pre-contact Aboriginal life to the idyllic, pastoral images of 19th-century agrarian communities) and launch critiques of the policies and developments that have brought about the abandonment of older, traditional values and ideals and the destruction of social ties and communities (ibid.: 22-24). The central hero of populist myths may be the social bandit figure; in Western film and literature he is the renegade outlaw who defends the small farmer against the expanding ranching corporations, the big banks and the government officials imposing unjust laws and regulations. The hero may also be

the disenfranchised urbanite, a liminal figure who, like James Fenimore Cooper's Hawkeye, "knows Indians" and mediates the two cultural worlds, at times defending the interests of the disempowered (ibid.: 15-16). Sarich presents himself in such a liminal position in his narrative of the justice inquiry as a frontier odyssey of discovery. The metaphors he draws upon to frame his story, the emphasis he places on cultural differences between Aboriginal and non-Aboriginal Canadians, his sympathetic portrayal of Aboriginal people as the victims of colonial conquest are fully resonant with the populist critiques that continue to find expression in late 20th-century popular literature, film and political discourse (Furniss, 1999: 125-138; Slotkin, 1992: 624-660).⁶

Representations of the inherent difference between Aboriginal and colonizing peoples are defining features of colonial discourses more generally, whether these discourses are produced within public policy, literature, the arts and entertainment industries or academic studies (Said, 1978, 1984; Thomas, 1994). That representatives of the Canadian justice system should draw on a political rhetoric highlighting Aboriginal/non-Aboriginal difference is not, in itself, surprising or unusual. Indeed, First Nations political leaders draw on a similar rhetoric of Aboriginal alterity, arguing for the distinctiveness of Aboriginal cultures in order to bolster First Nations political demands for public recognition of Aboriginal rights. What is important to trace is not so much that constructions of Aboriginal/non-Aboriginal differences exist, but how these images are created and applied in specific social and political contexts, and how these constructions contribute to reinforcing or challenging the existing balance of power.

Patrick Macklem (1993) has argued that agents of the Canadian legal system manipulate notions of Aboriginal similarity to and difference from non-Aboriginal Canadians to maintain existing institutional structures and the subordinate position of Aboriginal peoples within Canadian society. Specifically, the law recognizes Aboriginal similarity when to affirm difference would "threaten basic organizing categories of the Anglo-Canadian legal imagination"; vice versa, the law asserts Aboriginal difference in circumstances when to recognize similarity would challenge those same organizing principles (ibid.: 11). "This interplay of similarity and difference constitutes the rhetoric of justification that has legitimated the imposition of non-Native legal norms onto Native society by the judiciary . . . [which has] been critical to the establishment and maintenance of legal relationships of dependence between Native peoples and the Canadian state" (1993: 12). These manipulations of ideas of similarity and

difference are clearly evident in McEachern's rationale for dismissing the Gitksan and Witsuwit'en case (Culhane, 1998: 261).

These dynamics are carried out, albeit perhaps unintentionally, within the Sarich report. Here, the image of inherent Aboriginal difference is used as a vehicle to implicitly affirm the struggles of area First Nations for public recognition of Aboriginal rights and independently run justice systems. Yet in its emphasis on the essential division between Indian and White, the Sarich report ultimately downplays a critically important feature of Aboriginal testimony at the inquiry. Witnesses testified that their difficulties with the justice system arose from their discriminatory treatment at the hands of regional police officers, Crown counsel and legal aid lawyers. In other words, Aboriginal people testifying also sought to affirm their inherent similarity with non-Aboriginal peoples and their right to be treated with the same fairness and respect as other Canadian citizens. In speaking of the racial insults, the abuses of authority and the assaults they have been subjected to by RCMP officers, Secwepemc, Carrier and Tsilhqot'in people were seeking, in part, to draw critical public attention to these problems so as to improve their treatment *within* the institutions of the Canadian justice system. These efforts are consistent with Sharp's observation (1997) that the struggle for Aboriginal justice in settler societies involves not just claims to Aboriginal sovereignty, but also efforts to come to a shared agreement about both the terms of Aboriginal autonomy and the dimensions of commonality through which new forms of coexistence within the same encompassing society may be forged.

Yet it was just this emphasis on Aboriginal difference—construed through the lens of racist attitudes and prejudices—that has contributed significantly to the problems Aboriginal people experience. Today, leaders of the Secwepemc, Tsilhqot'in and Carrier communities have differing opinions regarding the success of the Justice Inquiry in addressing these systemic problems within the justice system. Complaints of racial discrimination and unfair treatment at the hands of RCMP officers continue to be raised, just as First Nations leaders and RCMP representatives are continuing in their efforts to address these issues and to develop more positive relationships. In itself, the Sarich report, in emphasizing the problem both as one of RCMP insensitivity to cultural difference and as one of the inherent incompatibility of Aboriginal and non-Aboriginal institutions and cultures, ultimately detracted attention from the issues of racial prejudice and discrimination and protected the justice system from the critical public scrutiny it deserved.

Conclusion

My intent here has been to create an ethnographic space within which to situate these two recent products of the justice system, and to suggest the importance of considering the way in which these two individuals' fundamental cultural experience as members of the dominant Euro-Canadian society has shaped their understandings of culture, history and Aboriginal/non-Aboriginal relations. I am not suggesting that the two texts examined here are typical products of the justice system. Many other inquiry reports and court rulings, including the 1993 B.C. Court of Appeal's ruling in Delgamuukw, the 1991 Manitoba Justice Inquiry (Hamilton and Sinclair, 1991), the Royal Commission on the Donald Marshall case (Hickman, Poitras and Evans, 1989) and the recent Royal Commission on Aboriginal Peoples (Canada, 1996), are less obviously shaped by frontier narratives, metaphors and imagery. Nevertheless, that the Sarich report and the McEachern decision communicate contrasting sets of opinions on Aboriginal issues while being framed in a similar mythic discourse speaks directly to the need to consider how frontier conceptions of history, and their expression in metaphor, symbolism and narrative, implicitly communicate "common-sense" beliefs, attitudes and values of a culture.

A sensitivity to the frontier myth's pervasive force is important for all anthropologists engaged in applied work with First Nations. The effectiveness of anthropologists as expert witnesses in the court system, and in public policy issues in general, is the subject of a growing critical literature in Canada (for example, Dyck and Waldram, 1993; Mills, 1996; Morantz, 1997; Paine, 1985, 1996; Pryce, 1992; Ray, 1990, 1993). The Canadian court system, being structured as an adversarial process that purports to operate according to a positivistic epistemology that demands objective facts rather than relativistic cultural understandings, undoubtedly will continue to be the site of political struggle between First Nations, anthropologists and the state.

In this context, a heightened awareness to the frontier conception of history may assist anthropologists in becoming aware of the manner in which perhaps unintended cultural meanings are communicated through the metaphorical and narrative content of our own representations. For example, analyses that emphasize cultural continuity rather than historicity, or that focus on the internal aspects of Native community life while downplaying the complex ways in which Native cultures and communities have been shaped by their articulation with regional and national mainstream society, may resonate

all to easily with the frontier myth's emphasis on the inherent "difference," homogeneity and ahistoricity of Aboriginal societies. Anthropologists serving as expert witnesses may lack control over the process of how testimony is received, but we do have control over the vehicle—the language—through which cultural concepts are communicated. Given the presumption that "language does not reflect culture but . . . language use in discourse creates, recreates and modifies culture" (Sherzer, 1987: 300), we might begin the process of cultural change by bringing concerns regarding the meaning of language into the forefront of our representations and by taking care not to reproduce in our own representations the metaphors, images and narrative forms on which the frontier myth rests.

Second, in anthropology's typically liberal orientation, it is easy to lose sight of the fact that concepts of primitive culture and cultural evolution, while no longer accepted within the discipline, nevertheless are widespread beliefs among non-Aboriginal Canadians. To be effective in such settings, it is important to develop greater predictive power over the way in which our representations of culture and history are heard and comprehended by the dominant society. This requires visualizing applied anthropology as a process of cultural translation not just between Aboriginal and non-Aboriginal world views, but between the cultures of First Nations, contemporary anthropologists, and the general, non-Aboriginal Canadian public. It requires expanding our definition of the anthropology of First Nations away from the narrow focus of bounded, "traditional" cultures to exploring the various ways in which Aboriginal and settler cultures are articulated within the same dominating colonial system, and to including the dominant culture of Canada as an important object of ethnographic analysis.

In beginning this process, I suggest the importance of investigating the ongoing role played by the myth of the frontier in structuring dominant Canadian conceptualizations of Aboriginal peoples, culture and history more generally. Some may argue that the views expressed in the McEachern decision reflect traditional views of history that have now become outdated and superceded by newer, more informed historical understandings among the general public (Tennant, 1992: 80). It is worth exploring whether this new history, guided as it may be by sympathetic and sensitive concerns for First Nations, is not simply a counterhegemonic reformulation structured by the moral inversion of the primary conceptual oppositions of the frontier myth. Indians as noble savages whose society is superior to Western society, and who have been victimized by Western society, is a form of cul-

tural critique that has been played out repeatedly in historical cycles over the last four centuries, most recently in Hollywood movies such as *Dances with Wolves*. Sympathetic portrayals couched in the language of the frontier myth—whether by Hollywood movie makers, judges or anthropologists—may simply reproduce the terms through which the frontier myth has long retained its grip on Canadian historical consciousness.

Notes

- * The research and writing of this article was supported by a doctoral fellowship from the Social Sciences and Humanities Research Council of Canada. Final revisions were undertaken while I was a Social Sciences and Humanities Research Council post-doctoral fellowship holder and based at the Centre for Cross Cultural Research, Australian National University. I gratefully acknowledge these forms of support.
- 1 The Supreme Court of Canada ordered that a retrial of the case was necessary. It concluded that Judge McEachern had erred in his failure to consider First Nations oral history as an important source of historical evidence. The decision also broadened and liberalized the scope for the consideration of the rights flowing from Aboriginal title. Aboriginal title, if legally deemed to exist, could include the right to "exclusive use and occupation of the land"; the particular rights need not be limited only to traditional activities but could include contemporary cultural practices. The decision also clarified what evidence is required to show proof of Aboriginal title. For example, Aboriginal title could persist as long as a group held a "substantial connection" to the land, and even if their occupation was discontinuous (Supreme Court of Canada, 1997).
- 2 I am not using the term myth in the structuralist sense, as being comprised of objective, binary "archetypes" that have an objective existence in language independent of human will or consciousness. Instead, as Slotkin writes: "Myth and ideology are created and recreated in the midst of historical contingency, through deliberate acts of human memory, intention, and labour . . . myth has a human/historical rather than a natural or transcendent source and is continually modified by human experience and agency" (1992: 25). The frontier myth, while it exerts a conservative cultural force, is nevertheless subject to continual reworking through history and—in theory, at least—is capable of being transcended through critical self-reflection.
- 3 In using the term historical epistemology I am not suggesting that individuals are trapped within a particular frontier vision of the world. Multiple epistemologies operate in the realm of everyday life and each may shape how individuals construct an understanding of the world around them. Similarly, there are multiple forms and narrative genres by which these understandings may be represented. My intent is to illustrate the appearance and pervasiveness of one such prevalent epistemology/narrative form.
- 4 Transcripts, Cariboo-Chilcotin Justice Inquiry, Nenqai Yaheltig Law Center, Anaham Reserve, British Columbia.
- 5 According to my discussions with two First Nations leaders organizing the inquiry, this account is not quite accurate.

Generosity of spirit aside, the women preparing these meals were not sharing all they had, but rather were being paid for their work and were taking advantage of a rare opportunity to earn a bit of extra cash income.

- 6 Slotkin, somewhat prematurely, suggested that the events around the Vietnam crisis during the 1970s brought about a "crisis of public myth." By the 1990s, Americans were "in a 'liminal' moment of our cultural history. We are in the process of giving up a myth/ideology that no longer helps us see our way through the modern world" (1992: 654). Yet his own compelling demonstration of the force of the frontier myth over a period of three centuries suggests that while elements may be undergoing some structural modification, an abandonment of the frontier myth in totality is highly unlikely.

References

Abu-Lughod, Lila

- 1990 The Romance of Resistance: Tracing Transformations of Power through Bedouin Women, *American Ethnologist*, 17(1): 41-55.

Asch, Michael

- 1983 Native Research and the Public Forum: Implications for Ethnological Theory, *Consciousness and Inquiry: Ethnology and Canadian Realities*, Frank Manning (ed.), Ottawa: Mercury Series, National Museums of Canada: 201-214.

- 1992 Errors in the Delgamuukw Judgment: An Anthropological Perspective, *Aboriginal Title in British Columbia: Delgamuukw v. the Queen*, Frank Cassidy (ed.), Lantzville, BC: Oolichan Books: 221-243.

Atwood, Margaret

- 1972 *Survival: A Thematic Guide to Canadian Literature*, Toronto: Anansi.

Barker, Frances, Peter Hulme and Margaret Iversen (eds.)

- 1994 *Colonial Discourse/Postcolonial Theory*, Manchester: University of Manchester Press.

Bhabha, Hommi

- 1994 *The Location of Culture*, New York: Routledge.

Brody, Hugh

- 1991 *The People's Land: Inuit, Whites and the Eastern Arctic*, Vancouver: Douglas and McIntyre.

Canada, Royal Commission on Aboriginal Peoples

- 1996 *Report of the Royal Commission on Aboriginal Peoples*, Ottawa.

Comaroff, Jean, and John Comaroff

- 1991 *Of Revelation and Revolution: Christianity, Colonialism, and Consciousness in South Africa*, Chicago: University of Chicago Press.

Conley, John M., and William M. O'barr

- 1990 *Rules versus Relationships: The Ethnography of Legal Discourse*, Chicago: University of Chicago Press.

Cove, John

- 1996 Playing the Devil's Advocate: Anthropology in *Delgamuukw*, *POLAR: Political and Legal Anthropology Review*, 19(2): 53-58.

Cruikshank, Julie

- 1992 Invention of Anthropology in British Columbia's Supreme Court: Oral Tradition as Evidence in *Delgamuukw v. B.C.*, *B.C. Studies*, 95: 25-42.

Culhane, Dara

- 1998 *The Pleasure of the Crown: Anthropology, Law and First Nations*, Vancouver: Talon Books.

Daly, Richard and Antonia Mills

- 1993 Ethics and Objectivity, *American Anthropology Newsletter*, 34(8): 1.

Dyck, Noel, and James B. Waldram (eds.)

- 1993 *Anthropology, Public Policy and Native Peoples in Canada*, Montreal: McGill-Queen's University Press.

Elias, Peter Douglas

- 1993 Anthropology and Aboriginal Claims Research, *Anthropology, Public Policy and Native Peoples in Canada*, Noel Dyck and James B. Waldram (eds.), Kingston: McGill-Queen's University Press: 232-270.

Feit, Harvey

- 1982 The Future of Hunters within Nation-States: Anthropology and the James Bay Cree. *Politics and History in Band Societies*, Eleanor Leacock and Richard Lee (eds.), Cambridge: Cambridge University Press: 373-411.

Fiske, Jo-Anne

- 1997-98 From Customary Law to Oral Traditions: Discursive Formation of Plural Legalisms in Northern British Columbia, 1857-1993, *B.C. Studies*, 115/116: 267-288.

Frye, Northrop

- 1971 *The Bush Garden: Essays on the Canadian Imagination*, N.p.: Anansi Press.

Furniss, Elizabeth

- 1997-98 Pioneers, Progress, and the Myth of the Frontier: The Landscape of Public History in Rural British Columbia, *B.C. Studies*, 115-116 (Fall-Winter).

- 1999 *The Burden of History: Colonialism and the Frontier Myth in a Rural Canadian Community*. Vancouver: UBC Press

Gusfield, Joseph

- 1981 *The Culture of Public Problems: Drinking-Driving and the Symbolic Order*, Chicago: University of Chicago Press.

Hamilton, A.C., and C.M. Sinclair, Commissioners

- 1991 *Report of the Aboriginal Justice Inquiry of Manitoba*, Manitoba: Province of Manitoba.

Hanks, William F.

- 1986 Authenticity and Ambivalence in the Text: A Colonial Maya Case, *American Ethnologist*, 13(4): 721-744.

Hickman, Chief Justice T. Alexander, Associate Chief Justice Lawrence A. Poitras and The Honorable Mr. Gregory T. Evans, Commissioners

- 1989 *Royal Commission on the Donald Marshall, Jr. Prosecution*, Nova Scotia: Province of Nova Scotia.

Kemple, Thomas M.

- 1995 Litigating Illiteracy: The Media, the Law, and the People of the State of New York vs. Delbert Ward, *Canadian Journal of Law and Society*, 10(2): 73-97.

Kew, Michael

- 1993-94 Anthropology and First Nations in British Columbia, *B.C. Studies*, 100: 78-105.

- Macklem, Patrick
1993 Ethnonationalism, Aboriginal Identities, and the Law, *Ethnicity and Aboriginality: Case Studies in Ethnonationalism*, Michael D. Levin (ed.), Toronto: University of Toronto Press: 9-28.
- Mastura, Michael O.
1994 Legal Pluralism in the Phillipines, *Law and Society Review*, 28(3): 461-475.
- McEachern, Chief Justice Allan
1991 *Reasons for Judgement, Delgamuukw v. B.C.*, Vancouver: BC Supreme Court.
- Merry, Sally Engle
1986 Everyday Understandings of the Law in Working-Class America, *American Ethnologist*, 13: 253-270.
1988 Legal Pluralism. *Law and Society Review*, 22: 869-896.
1990 *Getting Justice and Getting Even: Legal Consciousness among Working-Class Americans*, Chicago: University of Chicago Press.
1992 Anthropology, Law, and Transnational Processes, *Annual Review of Anthropology*, 21: 357-379.
- Miller, Bruce
1992a Anthropology and History in the Courts, *B.C. Studies*, 95 (Autumn).
1992b Common Sense and Plain Language, *B.C. Studies*, 95: 55-65.
- Mills, Antonia
1994 *Eagle Down is Our Law: Witsuwit'en Law, Feasts and Land Claims*, Vancouver: University of British Columbia Press.
1994-95 Cultural Contrasts: The British Columbia Court's Evaluation of the Gitksan-Wet'suwet'en and Their Own Sense of Self and Self-Worth as Revealed in Cases of Reported Reincarnation, *B.C. Studies*, 104: 149-172.
1996 Problems on Establishing Authority in Testifying on Behalf of the Witsuwit'en, *POLAR: Political and Legal Anthropology Review*, 19(2): 39-51.
- Moore, Erin P.
1993 Gender, Power and Legal Pluralism: Rajasthan, India, *American Ethnologist*, 29(3): 522-542.
- Morantz, Toby
1997 The Judiciary as Anthropologists, *Justice for Natives: Searching for Common Ground*, Andrea P. Morrison (ed.), Montreal: McGill-Queen's University Press: 233-243.
- O'Barr, William M., and John M. Conley
1988 Ideological Dissonance in the American Legal System, *Anthropological Linguistics*, 30(3/4): 345-368.
- Paine, Robert (ed.)
1985 *Advocacy and Anthropology: First Encounters*, St. John's, NF: Institute of Social and Economic Research, Memorial University.
- Paine, Robert
1977 The Nursery Game: Colonizers and the Colonized, *The White Arctic: Anthropological Essays on Tutelage and Ethnicity*, R. Paine (ed.), St. John's, NF: Institute of Social and Economic Research, Memorial University: 77-106.
1996 In Chief Justice McEachern's Shoes: Anthropology's Ineffectiveness in Court, *Political and Legal Anthropology Review*, 19(2): 59-70.
- Pryce, Paula
1992 The Manipulation of Culture and History: A Critique of Two Expert Witnesses, *Native Studies Review*, 8(1): 35-46.
- Ray, Arthur J.
1990 Creating the Image of the Savage in Defense of the Crown: The Ethnohistorian in Court, *Native Studies Review*, 6(2): 13-29.
1993 The Historical Geographer and the Gitksan-Wet'suwet'en Comprehensive Claim: The Role of the Expert Witness. *Indigenous Land Rights in Commonwealth Countries: Dispossession, Negotiation and Community Action*, Garth Cant, John Overton and Eric Pawson (eds.), Christchurch: Department of Geography, University of Canterbury and the Ngai Tahu Maori Trust Board for the Commonwealth Geographical Bureau: 81-87.
- Ridington, Robin
1992 Fieldwork in Courtroom 53: A Witness to Delgamuukw v. B.C., *B.C. Studies*, 95: 12-24.
- Russell, Ross
1990 Legal Pluralism in New Zealand over the Last One Hundred and Twenty Three Years, *Law and Anthropology*, 5: 66-94.
- Said, Edward
1978 *Orientalism*, New York: Pantheon.
1994 *Culture and Imperialism*, New York: Vintage.
- Sarich, Judge Anthony
1993 *Report on the Cariboo-Chilcotin Justice Inquiry*, Victoria: Attorney-General's Office.
- Sharp, Andrew
1997 *Justice and the Maori: The Philosophy and Practice of Maori Claims in New Zealand Since the 1970s*, 2nd ed., Oxford: Oxford University Press.
- Sherzer, Joel
1987 A Discourse-Centered Approach to Language and Culture, *American Anthropologist*, 89(2): 295-309.
- Slotkin, Richard
1973 *Regeneration Through Violence: The Mythology of the American Frontier, 1600-1860*, Middletown, CT: Wesleyan University Press.
1986 *The Fatal Environment: The Myth of the Frontier in the Age of Industrialization*, New York: Atheneum.
1992 *Gunfighter Nation: The Myth of the Frontier in Twentieth Century America*, New York: Atheneum.
- Supreme Court of Canada
1997 *Reasons for Judgement, Delgamuukw v. British Columbia*, 11 December 1997, File No. 23799, Ottawa.
- Tennant, Paul
1992 The Place of Delgamuukw in British Columbia History and Politics—and Vice Versa, *Aboriginal Title in British Columbia: Delgamuukw v. The Queen*, Frank Cassidy (ed.), Montreal: Institute for Research on Public Policy: 73-92.
- Thomas, Nicholas
1994 *Colonialism's Culture: Anthropology, Travel and Government*, Princeton, NJ: Princeton University Press.
- Trigger, Bruce G.
1985 *Natives and Newcomers: Canada's Heroic Age Reconsidered*, Montreal: McGill-Queen's University Press.

Usher, Peter

1993 Northern Development, Impact Assessment, and Social Change, *Anthropology, Public Policy and Native Peoples*, N. Dyck and J. Waldram (eds.), Montreal: McGill-Queen's University Press: 98-130.

Waldram, James B., Pat Derringer and Wayne Warry

1992 "Nasty, Brutish and Short": Anthropology and the Gitksan-Wet'suwet'en Decision, *Canadian Journal of Native Studies*, 12(2): 310-316.

Warry, Wayne

1990 Doing unto Others: Applied Anthropology, Collaborative Research and Native Self-determination, *Culture*, 10(1): 61-73.

Westermark, George D.

1986 Court Is an Arrow: Legal Pluralism in Papua New Guinea, *Ethnology*, 25: 131-149.

White, Hayden

1987 *The Content of the Form: Narrative Discourse and Historical Presentation*, Baltimore: Johns Hopkins University Press.