

Who Controls the Hunt? First Nations, Treaty Rights, and Wildlife Conservation in Ontario, 1783-1939 by David Calverley

Mathieu Arsenault

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Who Controls the Hunt?

*First Nations, Treaty Rights,
and Wildlife Conservation
in Ontario, 1783-1939*

By David Calverley

Vancouver: University of British Columbia Press, 2018. 224 pages. \$29.95. Paper ISBN 9780778431345. \$89.95. Hardcover ISBN 9780774831338. (www.ubcpres.ca)

Divided into seven chapters, this relatively short book is a distilled and more accessible version of a doctoral thesis defended at the University of Ottawa under the slightly different title “Ontario’s Game Act, the Canada Government and the Ojibwa, 1800-1940.” Opening with a foreword by Graeme Wynn, this book is a welcome addition to the historiography of the difficult relationship between provincial wildlife conservation policies and Indigenous peoples in Canada. Like other historians who have recently added insightful regional analysis (Sandlos, 2008; Ingram, 2014) to the history of these conflicts explored on the national level by Tina Loo in 2007, Calverley’s book *Who Controls the Hunt?* sheds a new light on Ontario’s tense relationship with Indigenous hunters. As the question in the title suggests, the goal of this investigation is to “explain how the Ontario government and the Department of Indian Affairs sought to deprive the Anishinaabeg of their treaty rights to hunt and trap” (4). While he acknowledges that more research remains to be done to fully answer the question “who controls the hunt” (125) in Ontario, Calverley brings many important elements of response that are revealed to the reader alongside a chronological analysis.

It is unfortunate, however, that the ti-



tle promises more than the book delivers. By suggesting it will provide an insight on First Nations, Treaty Rights, and Wildlife Conservation in Ontario between 1783 and 1939, the book suggests indeed that it will cover a broader perspective in time and space. Early on in the reading, it is clear that such will not be the case as the geographic scope focusses essentially on the Robinson Treaties. As such, the starting point could more accurately said to be 1850, not 1783. Without explaining his choice to begin in 1783, Calverley quickly rushes to 1850, covering the 67 years between Upper Canada’s first pre-Confederation treaty—known as the Crawford Purchases (1783), and the Robinson treaties in less than three pages. In fact, the author himself seems to contradict the spatiotemporal promises of his title when he acknowledges

that the “book begins with a contextualization of how the Anishinaabeg of northern Ontario hunted and trapped in the mid-nineteenth century” (11). For an analysis of First Nations, treaty rights and wildlife conservation in southern Ontario before 1850, readers would then benefit to turn to Michael J. Thoms’s Ph.D. thesis (UBC, 2004), especially to its chapters 2 and 3 focusing on the coming of English game laws and exclusive fishing rights in Upper Canada, as well as the negotiation of Treaties of Co-Existence between 1763 and 1798. While it is to be noted that unlike Calverley’s book, this work is mainly centered on the fisheries and the sportsmen’s challenge to Aboriginal treaty rights, it is nonetheless surprising that no reference to this more recent historiography was added to *Who Controls the Hunt?*.

Once this discrepancy between the time frame announced by the cover of the book and its content is overcome, another issue remains regarding the territory identified as the Robinson Huron and Superior treaties. While an unsourced map is reproduced in chapter one (16), it would have been beneficial for the author to engage in a discussion about treaty boundaries. For reasons that we can only attribute to the legitimate concern of appealing to a broader audience, Calverley chose to avoid any complex question related to the southeast and eastern boundaries of Robinson Huron Treaty, leaving all the territory beyond French River and Lake Nipissing outside of it. While understandable, this choice is unfortunate as the author’s Ph.D. thesis clearly testifies of his knowledge on these questions and of his capacity to discuss the overlaps between the Robinson Huron and the 1923 Williams Treaty for the benefit of a non-specialist audience.

The research then presented by Calverley is drawn mainly from the institutional

archives of the Indian Department and the Hudson Bay Company (HBC), as well as various Game Commission records and Court Cases. With occasional references to Indigenous voices recorded in letters of complaint and petitions written by or for Indigenous hunters, Calverley dives into the complex and tense political and power dynamics between provincial civil servants, the Indian Department, game wardens and local Indian agents in the field. Focusing on the relationship between the HBC, First Nations and the provincial government, the fourth chapter exploring the period between 1892 and 1916 is where Calverley’s book is at its best. Suggesting that the provincial conservation’s laws broke the “organic relationship” that had previously evolved between the HBC and First Nations (51), the chapter strongly demonstrates how the company responded to the pressures of the game commissioners by mobilizing a discourse on treaties and treaty rights in order to challenge the provincial game laws. Understanding that this private company was actively lobbying for First Nations hunting rights on the federal and provincial levels out of self-interest more than sympathy for Indigenous hunters, Calverley makes an important contribution here by unravelling the difficulties experienced by the HBC in maintaining its preeminence and influence in the changing market at the time.

In an attempt to revisit the legacy of Duncan Campbell Scott at the head of the Indian Department, Calverley then argues for a reconsideration of the narrow vision attributed to the civil servant. Suggesting that Scott’s views on hunting rights “were far more nuanced than one would expect” (73), the author sees in the literary works of the poet bureaucrat enough evidence of his good intentions towards Indigenous hunters, as he “was the first to pursue a

deliberate policy of obtaining concessions from the Ontario government” (75). Taken together with his depiction of Indian agents as “unlikely allies” who worked with First Nations in their agencies to “fight legal battles, secure counsel and protect traditional trapping territories” (89), this book offers an original—and historiographically courageous—analysis of Indian Affairs officials in the inter-war period. As such, it is an interesting complement to Robin Jarvis Brownlie’s book *A Fatherly Eye* (2003), in which Indian agents figures as the primary source of oppression for Indigenous peoples. While certain agents “sought more than once to enlarge hunting rights” (Brownlie, xii-xiii), they may have nonetheless remained the conveyor belt of the State’s patriarchal and colonial policies. That being said, Calverley does explain that ultimately, “Indian Affairs refused to live up to its fiduciary obligation” because “senior Indian Affairs officials were consistently willing to sacrifice those promises and the Anishinaabeg on the altar of political opportunism” (121).

Finally, while Calverley adopts an innovative perspective on the role played by some Indian agents and Indian Affairs officials in order to protect First Nations hunters from abusive applications of provincial game laws, the rationale used to explain the lack of action is more or less convincing. At least twice, the author attributes this inertia

to the fact that “legal thinking and concepts were too limited at that time to embrace traditional Anishinaabeg land use and management” (89, 107). Yet, at the same time, the author says that Professor Martin from McGill University provided Duncan Campbell Scott with “radical counsel” in a memorandum stipulating that “under the Robinson Treaties no Indian privilege can be withheld except by deliberately breaking the terms of the treaties” (82). The 1930’s judgment of Justice McKay stating that treaties “constituted ‘a supreme law of the land’” and that “Anishinaabeg hunting rights could not be restricted to reserve land” also suggest that limited legal thinking wasn’t the main issue. It is rather the problems created by the provincial-federal division of powers and the ultimate lack of willingness of the Federal Indian Department to openly challenge the province that was the main source of this inertia. While Calverley’s book does raise the “lack of political support” (49) as a factor negatively impacting the First Nations’ legal fight against Ontario, the growing economic and political power of the provincial state can be seen as the main explanation of Ottawa’s ultimate failure to force the Ontario Crown to act honourably with respect to First Nation’s treaty rights.

Mathieu Arsenault
Université de Montréal