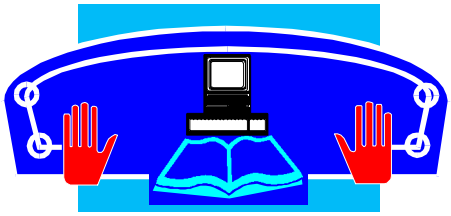

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Property Rights: The Basis of Wildlife Management

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PROPERTY RIGHTS: THE BASIS OF WILDLIFE MANAGEMENT

Peter J. Usher

1. Introduction

The thesis of this paper is that resource management policies can be neither conceived nor implemented without reference to the system of property rights, which is in turn the fundamental political arrangement of any society. The paper therefore seeks to elaborate the traditional foundations of both western and native systems of property and management. The objectives are *to* show how prevailing game management policies in the North are rooted in our system of property, and to suggest alterations to that system which will have beneficial results for both the conservation of fish and wildlife, and those who depend on those resources. I will refer to the situation in the northern parts of the provinces as well as in the territorial North.

It is common for resource managers to think of their work as a technical problem, to be solved by the application of scientific expertise and sound management technique. "We are responsible for resource management, not social programmed," "politics should be kept out of resource management," and "resource management is a scientific problem," are ideas commonly expressed by those who work for resource management agencies. The ideology of their professional training, and the bureaucratic nature of their work, encourage them to see their immediate task as a highly specialized one, distant if not

disconnected from its social context.

It is true that there is no single, unified theory of resource management. Peter Pearse, for example, distinguishes between the perspectives of the conservationists, the technologists, and the promoters (1977:17--19).1 But the tendency to divorce each of them from politics seems to be widespread among managers of diverse convictions.

Wildlife professionals lean *to* the conservationist and technologist view, chiefly because they perceive most of the resources they study or administer to be scarce rather than abundant. Many wildlife professionals see themselves as custodians of a conservationist ethic which is above politics. This tends to set them apart from those who manage such resources as timber, oil and gas, or minerals, although the promoter's view is not unknown in wildlife agencies when a particular resource appears to have great commercial possibilities.

Management for scarcity is the norm, however, and this requires both the allocation of scarce resources, and the limiting of human access and effort. This fact alone should dissuade us from accepting the idea that management can be divorced from politics.

More important, however, is that management is a prerogative which flows from the system of property. Every system of resource management is based on certain assumptions, frequently unstated, about social organization, political authority, and property rights, all of which are closely interrelated. Since

no two societies or cultures are identical in these respects, there can be no such thing as a scientifically or technically neutral management regime uhich is equally applicable and acceptable to both. Consequently, where two social systems share an interest in the same resources, there must be some accommodation in the sphere of property, as well as in the system of management, unless one is to be completely obliterated by the other.

Throughout northern Canada, the management, allocation, and use of fish and wildlife resources are matters of pressing public debate. There are two major reasons for this. One is that there is a rising demand for these resources, both by a resident population which is growing in numbers as well as in the diversity of its interests, and non--residents who are increasingly aware and concerned about the northern environment whether they visit the North or not. Thus there is a general perception that there is a conservation problem withfish and wildlife. The other is that native northerners, who have always enjoyed some measure of special access to fish and wildlife under colonial rule, now seek to enlarge and entrench this status as a set of rights by means of the settlement of native claims. These rights are not, however, clearly or uniformlY defined, nor is it clear what consequences will flow from the exercise of these rights, either for fish and wildlife populations, or for the use and enjoyment of these resources by non--natives. It is now generally recognized that the conservation probLem and the native claims problem cannot be

resolved independently of each other. Not everyone agrees that this connection is a good thing, however, nor is there much agreement about how to proceed.

Uhat is at issue here is not simply the allocation of scarce resources among competing demands, although that is a thorny enough problem in any jurisdiction. In the North, the allocation issue cannot be resolved within a common conceptual framework of property rights. Uho has rights to what resources, uhat manner of claim on these resources do these rights bestow, and what management prerogatives flow from these rights, are questions also at issue. Management, after all, presumes a human presence. The presence is always a social rather than an individual one. Property rights, social organization, and resource management, are but facets of the same human presence.

My point of departure for this discussion is, therefore, the connection between property rights and the problem of management. I believe that the importance of this connection has not been sufficiently recognized, in spite of the continuing and widespread debate over the future of wildlife management and of native claims in the North. Yet it is in that very connection that I believe we can find some workable solutions.

- 2. Property and Management

By property I mean not simply material goods which are owned, but also a system of rights: a set of generally held concepts, which are codified and enforced, about who has the right to use what, to dispose of uha"t, to benefit from uhat, and within what limits. In every society, the system of property is so basic

that each member internalizes these concepts without much special training or even thought. This process is more complete and universal where the range of things, owners, and uses is relatively limited, less so when the range is great. That is why complex societies rely so heavily on Lawyers and judges with specialized knowledge of these matters. Yet even the simplest societies rely on elders or similar authorities who can adjudicate disputes on the basis of their accumulated knowledge Of custom, as well as their personal authority. For the most part, houever, every member of society has sufficient practical understanding of the system of property rights so as *to* acquire, exchange, and use property in the normal course of affairs without creating undue social disruption.

Systems of property rights are, however, entirely a cultural artifact. There being no "natural" or "immutable" system of property rights, each must have a justifying theory which is on balance accepted across society, even though it may benefit individuals differently. If too many people reject the prevailing theory, and together have the power *to* change the system of property rights, then they will in all likelihood do just that. C.B. McPherson tells us that

"Property is controversial ...because it subserves some more general purposes of a whole society, or the dominant classes of a society, and these purposes change over time: as they change, controversy springs up about what the institution of property is doing and what it ought *to* be doing....any institution of property is always thought to need justification by some more

basic human or social purpose. The reason for this is implicit in two facts...about the nature of property: first, that property is a right in the sense of an enforceable claim; second, that while its enforceability is what makes it a legal right, the enforceability itself depends on a society's belief that it is a moral right. Property is not thought to be a right because it is an enforceable claim: it is an enforceable claim because it is thought to be a human right... Property has always to be justified by something more basic; if it is not so justified, it does not for long remain an enforceable claim. If it is not justified, it does not remain property." (1978:11--12).

Anyone who has folloued the native claims issue (which is about property rights) will not have failed to notice the profusion of justifying theories of property advanced by the participants. No one should dismiss these justifying theories as mere tawdry political gambits. They are, rather, essential to the resolution of the problem. Everyone, however, shouLd try "to judge the relative merits of these theories.

Uhat are the implications of all this for resource management? Very simply, that anyone who seriously believes that it is a purel,y scientific or technical problem, separate from the political process, and separate from the sphere of property rights, is operating in a fantasy world and will never develop a workable management regime. More important, both traditionaL native concepts of management, and modern scientific management, are founded on their respective systems of property,

and any blending of the two management systems requires also a blending of the two *systems* of property. By the same token, one cannot transform the system of property rights without fundamentally altering the logic and viability of the management regime. To understand the system of property rights, which is the foundation of politics in any society, is to recognize the political base which underlies all of the technical and administrative details of management.

3. Two Systems of Property and Management

I will now describe the *two* existing systems of property and management in the North: the aboriginal and the Canadian, with the intent not only to contrast them, but also to make them more intelligible to one another. To begin, I will describe them as they have actualLy existed and worked, regardless of their legal standing in the courts of the land at this time.

To the extent that our preconceptions of native northerners are founded on popular culture, or even a few undergraduate social science courses taken ten or twenty years ago, we are poorly equipped to see uhat is really there. The very words "primitive" and "nomadic," which ue use so easily, suggest hordes of individuals without culture or social organization, roaming aimlessly about the landscape in search of sustenance. Living on the edge of survivaL, they had no time to create cuLture. Beset by superstition, they lived more as animals at the top of the food chain than as conscious and rationaL human beings, capabLe of influencing the outcome of their affairs.

Although there is remarkable variation among northern native

peoples, it is possible to make certain generalizations based on recent anthropological and other socialscientific research. Across the North, there have existed discrete bands of peoples, each having a distinct social organization, and each occupying a certain territory in which they foraged for their subsistence. Each of these bands was characterized by, first, a systematic and more or less stable pattern of Land use, in which co--residential groups used predictable areas or sites for foraging at certain times of the year, or over a cycle of years, second, a system of Local authority by which individuals, households, or other units within the band as a uhoLe were acknowledged to have certain pre--eminent rights of use and occupancy to certain areas, which was again more or less stable over time; and third, a set of customs and rules which regulated foraging behaviour so as to ensure the survival and harmony of the group.

Each of these territories was known and bounded: members of the band had the automatic right to hunt within the territory, ‘while others might gain access by arrangement. It is true that these boundaries sometimes changed over time, and it is also true that not all neighboring bands had amicable relations with one, another. That these boundaries occasionally changed by virtue of force or conquest does not negate the historical existence of politicalsocietieswith territorial boundaries in the North, capable of mediating their relations among themselves, any more than the much more prevalent occurrence of wars in contemporary international society negates the existence

of organized, sovereign states. People did *not* aimlessly rove the countryside in some uncomprehending Daruinian struggle for individual survival. Every person carried a knowledge of the territorial boundaries of the group, or, if he or she did not as individuals use the entire territory of the group, could distinguish between the territory of a neighboring member of the group, and that of a quite different group to which he or she did not belong. THat knowledge had a practical effect on their behaviour, whether or not they conceptualized boundaries in a formal or abstract way.

The means by which space was allocated among individuals within the band's own territory varied considerably across the North. Among the Inuit and the Dene, the common arrangement seems to have been subdivision by smaller co--residential groups for much if not all of the year. These groups would use certain areas collectively, in the sense that, for example, any individual could hunt caribou or moose anywhere within the group's area. Among the Algonkians in eastern Canada, there appears to have been a more specific and mutually exclusive territorial organization at the household level, although it is not clear uhether this arrangement predates the fur trade or is an artifact of it. In all of these cases, there were complex social arrangements, for example, marriage rules, which served to govern the size and composition of the local groups.

Finally, each of these groups had a system of customs and rules, capable of enforcement, which served to regulate the manner in which each individual hunted, trapped, and fished. No

individual did exactly what he pleased, in some lawless jungle in which the strong triumphed over the weak. Every person knew and observed a complex set of rules about how, where, and when to hunt and, importantly, not to hunt. These rules were commonly expressed in a metaphor of religion and spirituality, although the fact that a lot of them served in result, if not in conscious or well-articulated intent, to conserve both the resource base on which people relied, as well as harmony within the band, suggests that there was a material as well as an ideological basis for these rules. It is true that these rules did not always or invariably work. It is ridiculous, however, to suggest that substantiation of one or even several instances where they did not is ground for completely rejecting their existence and function throughout the breadth and depth of native peoples' experience on this continent. It is unbecoming in the extreme when that suggestion comes from a society which by virtue of its own alleged modernity and sophistication, has managed to obliterate more species on this continent in less than a century than disappeared in the previous sixty million years.

The anthropological literature on the territorial arrangements of the eastern Algonkians, and on the band structure of the Dene, and the Inuit, dates back several decades, but there has been a great advance in documentation and interpretation in the last ten years, particularly under the rubric of the various land use and occupancy studies.2 The thrust of these research results is that the native peoples who

now live in Arctic and subarctic Canada not only occupied distinct territories according to systematic patterns since aboriginal times, but also had relatively stable systems of political authority, land tenure, and ruLes for resource harvesting which, if their continued existence over generations is anything to go by, uorked. These systems are known to Lawyers as Lex Loci, and may be conceived as the locaL equivalent of English common Law. In the Light of historic court decisions in the 1970s, it is now possible to assert, according to G.S. Lester, that these groups "have a Lex Loci which is, on the evidence, of a cLass which can be presumed to have survived the assertion of a territorial sovereignty by the Crown" (1977:367).

I stress these findings because they stand in contrast to the received wisdom of jurists, theologians, poLitical theorists and statesmen over centuries of colonization of North America. In his landmark judgement in the CaLder case, Justice HaLL wrote: "This concept of the aboriginal inhabitants of America Led Chief Justice MarshaLL in...the outstanding judiciaL pronouncement of Indian rights *to* say..."But the tribes of Indians inhabiting this country were fierce savages, whose occupation was war..." We nou know that this assessment was ilL--founded. The Indians did in fact at times engage in some tribal wars but war uas not their vocation and it can be said that their preoccupation with uar pales into insignificance when compared to the religious and dynastic wars of "civilized" Europe of the 16th and 17th centuries. Chief Justice MarshaLL was, or course, speaking with

the knowledge available to him in 1823. " (cited in Lester 1 977:).

Unfortunately, the message which is finally getting through to at Least some of the courts and the legislatures of this land may not be making a similar impression on wildlife professionals. It is still possible to find statements in the current scientific literature like the following:

There seems no ● violence, then, that uildlife was purposefully managed by Amerindian populations in northern Canada at the time of contact. Instead, we may conjecture that the impact of hunting on wildlife stocks is Limited only by the 10U technological level of the hunters and the fact that their populations uere small and insecure... .

Uildlife management for sustained yield is today a sophisticated, scientific activity uhich seeks to accommodate social desires in wildlife without damage to the resource. Historically, however, it is a product of the feudal society, and began as an imposition on the uanting by the wealthy. It is 'a craft rooted in privilege and not in poverty. (McPherson 1981:104).

Early man often failed to conserve, too, because he lacked the two prerequisites for conservation of resources: perception of the danger of over--exploitation, and an option to do something about it. Concerning the former, early man had no ability to count wildlife abundance except locally, and was mobile enough to overcome Local depletion by moving. Concerning the latter, when the resource in question is absolute availability of food,

there is no option. Anthropologists have not described any behavioral self-regulatory mechanism or tradition to adjust natality to the realities of food supply, such as exists in man's co--predator, the wolf. (Theberge 1981:281).

Is it possible that those responsible for wildlife administration in northern Canada are still mired in the notion that aboriginal societies were nothing more than biological populations in a pure predator--prey relationship, having no culture, no historical experience, and no self--conscious or rationaL means for making their way in the world? That these peoples are but ancestral relics, like Neanderthals in our midst, having no option but to rely on the wisdom of scientists for the management of their daily affairs? One can only hope that this a minority view.

Property rights, in aboriginal, society, can be said to have rested with the group. Each band or co--residential group maintained the right to use its territory by virtue of occupancy. The connection betueen the land and the group lay in knowledge, naming, travel, foraging, and residence. There were no attempts to alter or partition the landscape, or to appropriate sections or features of it into private hands in a manner that would exclude other members of the group. The land and its resources were in effect the common property of the group, meaning that no member could be excluded from access. To the extent that people articulated their relationship with the land, they saw themselves as belonging to it, rather than it to them. TraditionaL cosmology did not share with western thought

the clear subject -¨object distinction between man and nature: the idea that nature is but insentient stuff for man to dominate or master. The land uas home and sustenance, but could not be reduced to individual possession and could not be aLienated. Land was neither a commodity nor a factor of production. Nor ‘ uere animals property. Rather, animals existed in reLation to man, and man could to some extent control that relationship through knowledge and deliberate action.

There existed as well the political means to ensure that individuals used the land in harmony rather than in conflict uith one another, and that they did not use the land or its resources in such a way as to endanger the security of the group, insofar as that couLd be known. The longevity and stability of these systems is an indication that they worked well in practice.

RecalLing C.B. Macpherson's comment on the need for justification of property institutions, it seems clear that the absence of well articulated theories of that nature amongst aboriginal societies was not due to their Lack of civilization or intelligence, as earlier European theorists presumed. It was due instead to the fact that Land and resources were heLd in common. If no cLass within native society couLd or did appropriate Land to itself, there was no need of a justifying theory to advance car rebut that process. Now that southern society encroaches on their traditional Lands by “peacefuL” poLitical processes of absorption, rather than through outright warfare, native peopLes are rapidLy elaborating theories uhich

justify their tit Le. Contemporary native perceptions of their property rights in land and resources seem to me to rest on their understanding Of the consequences of losing these things. These consequences are seen in a collective as well as an individual uay. There will be adverse impacts on native communities and on native institutions, as weLL as on native individuals.3 This concern is entirely consistent uith aboriginal tradition and experience. It is not a subterfuge for grabbing oiL revenues, nor was it mischievously invented by outsiders.

Let us now examine our own system of property rights, in contrast. Many Canadians subscribe to democratic and individualistic notions about land and resource rights. Frontier areas, and especially the North, are regarded as Lands Of opportunity, uhere the individual, regardless of cLass, may make his fortune, or pursue his own goal of happiness, and in so doing, strengthen and enrich society as a whole. Perhaps too much American TV is the source of these ideas, because the 'reality of the Canadian system of Land and resource rights is far removed from this conception. The Crown owns the Land and its resources, and alienates these to private interests onLy in piecemeaL, and at such quantities and rates as further the collective interests of society as perceived by the state. Nou we may disagree about what the collective interest is, or ue may point to the tendency of the state to identify the pubLic interest with that of Large corporate hoLders of Land and resource rights, but Legally not much can be done on northern

lands in Canada without licence or authority from the Crown. The tradition that private lands should be transferred to private interests in full, and as fast as possible, is an American, not a Canadian, idea.4

Uhatever rights individuals hold in land, they do so by virtue of a deed, grant, or Licence from the Crown. The Crown is divisible, in the *sense* that both the federal and territorial levels of government may have the authority to grant titles or interests in Land. No other, smaller group within Canadian society has collective rights in land and resources. The claim for such rights by aboriginal groups rests on their traditional use and occupancy prior to the assertion of European sovereignty. All the rest of us derive our titles and interests from the sovereign. These titLes and interests carry certain rights, but obviously these too derive from the sovereign. Freehold title to Land, or entitlements to particular resources, may be the private property of individuals (or of corporations which are individuals under the law). Uhere they are ‘transferable, they have value as commodities. But these titles and interests are derived from the Crown, and the Crown may expropriate them.

There are several categories or Levels of property interests in land. These range from freehold title in uhich a person may transfer, assign, or dispose of his property as he pleases, to the barest of Licence to engage in certain activities on a piece of land subject to relevant statutes and regulations. In between, we find such grants or licences as easements,

exploration permits, grazing or cutting rights, and production Lea ses. In some cases these rights are transferable, in others they revert to the Crown. There may be performance requirements in order *to* maintain the right in good standing, and the grant is only for a Limited time. If fee simple title is only to the surface (as is usually the case), then at least some of these other rights may be granted to other parties, solely at the pLeasure of the Crown.

What we have, then, is a system of property in which lands and resources can be both conceptually and legally divided up in space and by attribute or use, and parcelled out to individuals. For a group to gain such rights, it must be incorporated and have the legal standing and liability of an individual: an Indian band, however, cannot be so incorporated. In this system, it is the Croun which has sovereignty over the land, and allocates land to its subjects on certain conditions and , according *to* certain policies.

We have very feu common property resources under our system. Fish and wildlife are such, not because everyone believes this is a good and functional arrangement, but because we have not been very successful in figuring out how to place them into private hands. Because of their mobility and wildness, fish and wildlife are not property under the common law until they have been reduced to possession by kill or capture. This raises another important theme in western thought: that property arises through the application of human labour. Labour is involved only in the capture or killing, not in the creation of

wild Life. Uildlife is therefore not only not property, but also has no value, prior to the application of la bour. But here we move from the legal to the economic aspects of the property system, and I will return to the latter below.

In England, the Croun did not actually own wildlife, but had the right and the power to forbid its subjects to harvest it. Wildlife was therefore not common property in the aboriginal sense, which meant that no member of the group could be excluded from using it. In North America, more democratic ideas have prevailed. No one has the preeminent right to use fish and wildlife to the exclusion of others, except where they are on private lands. In Canada, special access and use to fish and wildlife on Croun lands have been granted to at least three categories of people: native Indians and Inuit, scientists, and those deemed privileged by the Crown.5 In no case, however, is this privilege unrestricted and unregulated. Without exception, the prerogative to manage fish and wildlife rests with the Crown in right of Canada or of a province or territory.

Management, in this system, must always keep certain objectives and problems in mind. -The Crown, having overarching sovereignty, has an interest in its Land and resources which may be ,separable from those of any particular set of individuals or groups. The Crown therefore not only mediates the interests of these parties, but also furthers its own interests, not the least of which is to maximize the flow of revenue from its assets.

Our modern conception of property is that it is either

private, or belongs to the state. Uhat is neither, is not really property. Resources which are not amenable to private appropriation we call common property. But contrary to aboriginal conceptions, we do not mean that it is collectively owned by a group. We mean that it is not owned by anyone, indeed that it is a free good, there for the taking. The prevailing view in our society is that this is a bad arrangement, to be remedied by subjecting common property to administrative arrangements which will make it akin to private property. The distinctive feature of private property in modern society is that it is alienable and marketable. Private property is the foundation of many social systems, but the transformation of Land (and for that matter labour) into commodities to be exchanged on the free market, is an institutional innovation linked to the transformation from feudalism and mercantilism *to* industrial capitalism. It is the creation of the market as the institutional device for allocating property, including land and resources, which Karl Polanyi (1957) referred to as the Great Transformation in European history. I have argued (1982) that it is the same process which is currently entraining a Great Transformation among native northerners. Heilbroner refers to these events, and the rise of economics as a distinct field of inquiry, as "the making of economic society" (1968).

This new discipline, asking such questions as "what is value?", "how is wealth created?", and "by what rational principles do we allocate scarce resources among economic ends?"

has of course profoundly informed our ideas about resource management. Some economists Like to think of their discipline as a science divorced from social, cultural, and historical reality, capable of deducing human nature on the basis of economic behaviour. In fact, economics arises from and is informed by the property arrangements of modern society.

A final observation, in this comparative exercise, on the connection between property and management. Economics distinguishes between productive property---the means of production---and individual property---consumer goods. Since ue generally regard the management of the latter as a private affair, public economic policy is concerned with the management of the former. Management skills are in great demand these days, in business, in factories, and in resource administration. The growth of management parallels the increasing functional separation of the ounership and administration of productive property in modern economies. The chief requirement of industrial organizations,6 with its elaborate specialization of functions, and the chief consequence on the humanity of those who are employed in industry, is the separation of conception and execution in uork.

In traditional, simply organized societies, this division was within the person. The mind conceived, the hand executed. In industry, the division is uithin the uorkforce. The managers and the engineers conceive, the manual and clerical workers execute.

Stripped of conception, uork becomes labour, which economists

call a disutility. Large employers commonly refer to the entire range of pay, pensions and benefits to their Labour force as a compensation package. The value of this compensation is realized, however, in the course of time off work, uhich we generally call Leisure. This distinction betueen work and leisure is largely an artifact of industrial society. Leisure, however, requires not only time but aLso space and resources. The need for wilderness parks, and for the recreational use of wildlife, well known to wildlife managers, is of course that of an industrial as opposed to an agrarian or foraging society. Some social theorists, however, have suggested that leisure is not so much the opposite of work but its counterpart, and that modern industrial society finds need to manage our leisure experience no less than our work experience (Andrew 1982).

Uhat is more or less unified in aboriginal cosmology is fragmented in our own. The division of knowLedge into such branches as law, political theory, economics and biology, the distinctions betueen uork and leisure, between man and nature, amongst the attributes of land and the incidents of property, are essentially foreign to aboriginal tradition. That in itseLf, as well as the many specific comparisons I have drawn, contributes to the gulf between our two societies and heritages. My intention, however, is not simply to draw contrasts, but aLso to suggest where bridges might be built.

4. Property and Uildlife Management Policies

I will now show hou some of the fundamental tenets of wildlife management, as it has been practiced by government

agencies in the North, relate to these two systems of property. Let us begin with the concept of common property itself.

Fish and uiLdLife are administered as common property resources. The implications for management are both poLiticaL and economic. Our prevailing assumption is that since these resources are incapable of being privateLy owned, they are state property, and it is therefore the state's prerogative to manage them. Obviously, however, they were not always state property in the modern sense. How did they become so?

Originally, within each of a series of bounded territories, there was an organized society which had the effective right and ability to use and manage fish and uildlife while these resources were present. Fish and uildLife were, in effect, communaL property.7 They became state property through various forms of expropriation. By this I mean that transfer of titLe everywhere took place against the wishes of native people, whether or not with their compliance or agreement. In the treaty areas, there is continuing debate about what was actually agreed to, and whether the terms of the agreements have been fuLfilLed. In the rest of the North, the debate is about whether or not expropriation has already legally occurred or not, and what the nature and amount of compensation should have been or should be. In practice, of course, and why these are such contemporary issues, the effective transfer of titLe has been quite recent. The state has chosen *to* exercise the powers and prerogatives of ownership, chiefly through the granting of competing interests in Land, and the regulation of fish and

wildlife harvesting, only in the last generation or so in much of the North. It is these developments which have given such strong impetus to the native claims movement.

Our prevailing conception of common property as state property was imposed not on a lawless, free for all situation in which no one owned or had responsibility for anything, but rather on a functioning system of communal property which was in fact managed by the occupying group. Ue must therefore re--examine our assumptions about the management implications of common property, about the comparative achievements of other management systems than our own, and the role of science in public administration.

Consider the management implications of Garret Hardin's "Tragedy of the Commons:'. I expect his ● ssay has been highly influential among administrators of common property resources, and 1 need not recount it here. You will recall, however, that his portrait omits social organization as a mediating force between individuals and their environment. Ue have, instead, -atomistic herdsmen, each making individual calculations about his personal gain, "each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in a commons brings ruin to all." (Emphasis Hardin's, 1968:). Hardin sees two options: sell the commons off as private property, or keep it as public property but allocate the right *to* enter, either of which will introduce the required element of individual responsibility. These new social arrangements require mutual coercion, mutually agreed on, according to

The view that all arrangements other than individual property ownership lead to negative or even tragic consequences is seductive, but unsupported by historical and anthropological evidence. The reason is that *in* Hardin's common, the social arrangements which have actually prevailed in most instances of common property tenure are absent. Gordon, one of many economists who, for different reasons as ue shall see, have excoriated common property arrangements, tells us that under feudalism

"the manor developed its elaborate ruLes regulating the use of the common pasture, or 'stinting' the common: Limitations on the number of animals, hours of pasturing, etc., designed to prevent the abuses of excessive individualistic competition" (1954:13s).

Gordon adds:

"stable primitive cuLtures appear to have discovered the dangers of common property tenure and to have developed measures to 'protect their resources" (ibid.)

Aboriginal and feudaL systems of land tenure aLike were characterized by simiLar restraints. Unrestricted individualistic competition uas not a feature of traditional Inuit or Indian Life. Indeed those cuLtures were highly resistant-to such personality traits, not least in the economic sphere. Further, it seems likely in both the feudal and aboriginal cases that these arrangements were achieved under the very conditions of sociaL stabiLity which Hardin supposed uould

remorselessly generate the tragedy of the commons.

The commons without law, restraint or responsibility is an appropriate metaphor not for those societies, but rather for laissez--faire industrial capitalism and the imperial frontier, both of which uere the historical contexts of such events as the arctic whale fishery, the west coast salmon fishery, and the buffalo and passenger pigeon hunts. Hardin's herdsmen were putting into practice not the economics of medieval times, but those of Adam Smith. Their behaviour is what we expect when community, and its restraining institutions, are absent.

It is therefore essential to distinguish between traditional communal systems of property, and what we now conventionally call common property arrangements. The latter are characteristic of rapid economic change, unstable social institutions, and the absence of local, community control. The Pacific salmon fishery, whcih is to biologists and economists alike the classic illustration of the evils of common property tenure, resulted from the expropriation of historic, local fishing systems and the deliberate creation of an economic free--for--all in which the spoils went only to the strong. It was, in other uords, the condition, not the latter, that managers are, or should be, trying to overcome.

I am by no means suggesting that native people never found it convenient or necessary to behave as pirates once the institutions of community were overturned. Aboriginal systems of tenure must, houever, be acquitted of the charge of lawless individualism. The ideas of biologists like Macpherson and

The berge, cited above, can be rejected on the grounds that the propensity to conserve wildlife resources (or not to do so) is a function not of the psychological or genetic makeup of "human nature" but rather of social organization and the system of property rights.

Now it is true that traditional systems of tenure and of customary law have been under substantial assault for many years in the North. So it might be wondered what relevance all of this has for future management strategies. It is not enough, however, for wildlife managers to blame other causes --- the rise of commercialism and the decline of the old way of life--- and claim they nou have no alternative but to clean up the mess uith a healthy dose of scientific management. The history of fish and wildlife management in the North is founded at almost every turn on our western notions of property rights, and the assumption that these were being imposed in the absence of stable and viable indigenous institutions. These institutions were thus either consciously or unconsciously suppressed by wildlife management policies.

Space permits only the briefest summary of this history. From the beginning of fish and game management in the North, essentially the years after World Uar One, the distinction was made between commercial and subsistence activity. This was an era in which native people were not longer alone in the North as hunters, trappers and fishermen. The fur trade monopoly had long since passed, and there was everywhere an influx of mobile and individualistic commercial fishermen, trappers and traders,

relying heavily on wild game for food. The management response was, usually belatedly, to restrict entry, sometimes by season or gear, sometimes by categories of persons, sometimes by instituting private property--Like arrangements.

The outstanding example of the last method was the registered trapline system, which was introduced in British Columbia in 1926 and widely adopted in such areas as Ontario, the Yukon, and the Mackenzie Delta in the 1940s and early 1950s. A reading of the files on the implementations of this system seem invariably *to* reveal explicit references to the superiority of private property relations as a means to resource conservation, not only *to* unlimited ● ntry by non--natives, but also to native peoples' own practices.8 Many native people, however, did not view trapline registration so positively. Protection against the encroachment of outsiders was indeed desirable, but the system in practice was seen as a disruption of their own tenure and conservation arrangements, as well as in some instances actuaLly favouring white trappers in preference to themselves. Only in the N.W.T. uere relatively draconian measures taken to exclude white trappers without recourse to the registration system.9

The regulation of commercial fishing has a somewhat different history. This activity was, in the tuentieth centruy, more typicaLLy a non--native enterprise, relying on heavier capitalization and much more speedy and reLiabLe access to markets than trapping. Native people therefore tended to enter the commercial fishery Later, and in a subordinate or disadvantaged position, although in some cases speciaL efforts

were made to encourage Indian participation.

The policy of using wild game as a social overhead cost of pioneer settlement uas, in Canada, short--lived (in contrast with the situation in Alaska---see Sherwood 1981). From an early date, in most jurisdictions, wild game was reserved for native peoples' subsistence and sport hunters. Again, however, to read the viewsof those who made these poLicies is instructive.

The commercial and subsistence use of fur, fish and game was generally seen as a temporary phase. There uas a widespread expectation that the transformation of the North into a frontier of timber, hydro and mineral wealth would more or less put an end to development based on the exploitation of wildlife, and at the same time, put an end to native peoples' reliance on it for subsistence. The ,concern (where it was expressed) to reserve. stocks of fish and wildlife for native peoples' use was motivated in no small part by a desire to keep them off the welfarerolls until jobs could be found. Similarly, in the years followingWorld War Two, when the old fur trade system was collapsing, reserving traplines and commercial fishing licences for Indians was often seen as a temporary substitute for uase employment.

Where local non--natives had strong interests in the commercial exploitation of fish and wildlife, confLicts arose. Federal Indian Agents and provincial resource administrators were sometimes at odds over Licencing poLicies. The Crown in right of Canada had to consider the economic welfare of its

Indian wards. The Crown in right of the provinces had to consider the economic return on its resource assets. In the longer run, houever, the emphasis at both levels of government has been on the recreational use of fish and wildlife by both a growing resident population and a non--resident (or in the provinces, a southern--based) urban industrial population. Uhatever the allocation priorities are at any particular time, there appears to be a thrust in all fish and wildlife administrations (and in economic development administrations) to eventually phase out subsistence and commercial uses in favour of recreational use.

This thrust is supported by economic theories which are also grounded in our western notions of property. The Labour theory of value, to which I referred earlier, derives primarily from the economics of Ricardo and Marx. Although neoclassical economics does not subscribe to a pure labour theory of value, the idea of labour as a justification for property is nonetheless a dominant theme in our political economy, uhether "we read the story of the little red hen or the writings of John Locke and Jeremy Bentham. Neoclassical economics has difficulty assigning value to wildlife for a different reason: not being property, it cannot be exchanged and therefore has no ● mpirically observable market value. kfelfare economics seeks to overcome this probLem by imputing a value, or a shadou price, to wildlife by proxy transactions which do occur in the market place. All modern approaches to wildlife evaluation seek to determine the consumer's willingness to pay, and this in turn

presupposes existing property arrangements. They assume not only that it is possible to measure all personal utility in dollars, but aLso that the consumer has no proprietary interest in wildlife, only a privilege granted by the state. They ask, in effect, are people willing to pay for that privilege --- a privilege, indeed, not necessarily to consume the resource itself, but to experience the chase. What is being measured here is not only the utility that consumers derive from consuming wildlife (or the "wildlife experience"), but aLso the economic rent the resource could yield to its owner, because the one question presupposes the other. The question of economic rent is of course very interesting to the Crown in its endeavour to maximize revenue from its assets. From the Crown's perspective, the distinction between the willingness to pay for the experience as opposed to the resource itself, is an important one because many more people will experience the chase than will consume the resource. Anyone uho has a proprietary interest in a resource, however, asks not what he is willing to pay for the privilege of using it, but what he is willing to accept as compensation for its Loss.

As economics has groun in sophistication, the business of maximizing revenues from resource assets has grown in complexity. Once we can evaluate non--market goods, and hence the potential rent to their ouner, the owner is in a position to evaluate alternative uses for his assets, and in the case of Land, the relative merits of choosing to maximize revenue from one resource or attribute rather than another. That is the

objective of cost--benefit analysis, uhether in its more primitive reliance solely on market values a generation ago, or in its more sophisticated attempts to evaluate non--market phenomena nowadays.

The legacy of these policies is very much uith us today. one consequence is that native peoples' access to resources is seen by many as a social policy issue rather than a property right. Native people are finding out, houever, that resource assets whose use rests on the interests of a governing party do not provide the same security as those which rest on proprietary title. Where the prospect of the use and enjoyment of property is not secure, the inclination to maintain and manage that property for long range benefit declines.

There are many examples in northern Canada of native people being first encouraged by governments to move somewhere or take up some new occupation, based on fur, fish and game, and then being Left high and dry when some new sociaL or economic poLicy direction is implemented. Inuit were moved to the High Arctic to make a better Living from hunting and trapping. If oiL and gas development now threaten that Livelihood, let them get jobs in industry. In the boreaL forest, many Indian bands were ● ncouraged to take up commercial fishing, or to rely on new beaver management programmed for their Livelihood. If the marshes and streams are Later fLooded, or the waters poLluted, let them get jobs in industry.

The problem is that, with few exceptions, native peopLe have no legal interest in the resources on which they have

historica Lly reLied. Aboriginal and treaty hunting rights have been vieued as the barest of interest in the land. All they mean, it turns out, is that the Indian or Inuk who is hunting or fishing on unoccupied Croun land is not actually trespassing (aLthough he may be violating the game laws). The overseas oil company granted an exploration permit yesterday has greater standing before the Law than the Indian whose ancestors used and occupied the land for 10,000 years. The reason is obvious. Such devices as the Dominion Lands Act, the Territorial Lands Act, and the Canada Oil and Gas Lands Act, were all intended to convey ri"ghts in land from the Crown to individuals. All the while, aboriginal rights, which preceded those of the Crown, were never properly codified so as to give their holders a legally enforceable and practically useful devence. So there is first of all the problem of the property interest that native people have in the land, and in fish and uildlife resources, vis a vis that of parties granted competing interests in the land.

Second is the problem of their rights vis a vis those of other parties to fish and wildlife resources themselves. Governments which do not recognize the proprietary interests of native people in these resources can only make economic calculations about allocation. Whether on the narrow basis of direct rents, or a broader basis of maximizing the yield of the resource to society, the state seeks to maximize the difference betueen the total vaLue and the totaL costs of production (for a straightforuard description of economic maximization in a fishery, see Crutchfield 1977). This Level of output, assuming

resource rents are properly calculated is somewhat beLow the maximum sustainable yield. Now although the economic maximization theorists pay lip service to the importance of other social goals---equity, social and cuLtural values, community viability, and so on, they almost invariably fall back on efficiency as the central criterion. This is especially so in commercial harvesting because efficiency is so much more reeadi Ly measured in dollar terms. Once the issue is cast in terms of efficiency, however, native people, in aggregate a minority group with a minority way of life, and in their communities both geographically and socially isoLated, inevitably become the losers. It aLso explains the state's preference for recreational over subsistence or commercial use of fish and wildlife.

The Crown licences economic activities on its Lands in order to maximize its revenues, and social goals are invariably considered as secondary. Even allowing for social concerns, economic maximization theory suggests that the measurable sociaL benefits must outueigh the cost burden on the resource of deviating from the goaL of maximization. The way in which revenues are maximized from allocating resource rights to private interests is normally to make the Licence conditional on the performance of its holder. Thus mining claims, timber berths, grazing leases and registered trapLines must be used in order to be kept in good standing. The holder must be able to demonstrate the appropriate levels of Labour and capital input, as indicated by exploration expenditures per acre, or the

trapping of a predetermined quota of beaver. Those most able to meet Crown performance requirements year after year are those who have chosen economic efficiency as their primary objective. They will have the most efficiently capitalized and the most profitable operations. If the number of licences is restricted; then those who choose to maximize for any other goals, in addition to let above instead of, economic efficiency, will gradually lose access.

Between the biological conservationist, and the economic maximizer, native people are caught in a double bind. Either they are said to be harvesting too much, which is reason to clamp down on them, or they are harvesting too little, which is reason to allocate the resource to someone else. Caribou in the Keewatin is an example of the former, wild rice in northern Ontario an ● xample of the tatter.

Both apply utilitarian judgments to native peoples' use of resources. The conservationists suggest that native people do not really "need" their resources, and could substitute other things for them (see, for exampl,e, Mitchell and Reeves, 1980, on the Alaska bowhead problem). This is in spite of the fact that in contemporary social science, the distinction between wants and. needs is fraught with both theoretical and empirical difficulty (Leiss 1976). The urban "environmentalists" tell the Newfoundland sealers that they should get jobs to replace their Lost income, as though human well--being is totally and perfectly measurable by per capita income.

The economic maximizers suggest that native people do not use

the resources to which they have been "granted" access efficiently. The fish taken home for domestic consumption is better sold to the packing plant, because some dollars are better than no dollars. But the fish sold to the packing plant is better left for the sport fishermen to take (or the polar bear whose hide is sold at auction is better left to the sport hunter to kill), because more dollars are better than fewer. The changes engendered in the relations among people, and in the organization of work, are thought to be of no consequence. Nor even is the fact that the extra dollars may accrue to someone other than the hunter who has foregone his right, although here there is substantial contrast among jurisdictions. The N.U.T., for example, has a much better record of ensuring that the sportsman's dollar goes to the local community than does, say Ontario.

Not the least of the problems with the utilitarian economic approach is its denial of the sacred. In the perfect free " market, all men's powers are commodities for sale. Nothing is exempt from private bid, or state expropriation and compensation. Everything and every person must have a price. That is why the most dedicated environmentalist, thrust into administrative pouer, has no choice but to wind up trading muskoxen for oil. The notion that land and animals might have religious or sacred significance is untenable in a society uhere these things are routinely bought and sold. The sacred, in this system, can have material expression only in consumer goods, not in producer seeds, because the latter case would constitute an

intolerable interference with the free market. It is this feature of our western heritage which is so repugnant to many native people, and indeed to many non--natives.

Finally, let me explore the theme of management as the separation of conception and execution, in the context of wildlife management. Perhaps no society on earth unified conception and execution in its daily economic activity to the extent of the Canadian Indian and Inuit. The competent adult combined an accumulated knowledge of animal habitat and behaviour with high physical dexterity and simple but efficient technology for capture. Scientists, by different, and in terms of practical experience, much more remote techniques, have been able to duplicate some of this knouLedge, and add to it other data unobservable by traditional hunters. Using sometimes different modes of thought and analysis from those hunters, scientists have reached certain conclusions about fish and wildlife. Some of these findings can be empirically verified time after time, and no hunter disputes them. Others are partly or Largely speculative, and can be verified only by modifying the behaviour of those who use fish and wildlife.

Scientists and managers have thus been abLe to appropriate a good part, but certainly not all, of the collective knouledge of hunters, trappers, and fishermen. Having conceived of their theories and poLicies, however, they must get others to execute their instructions so as to test and implement them. This means that managers must repLace hunters' conceptions of how the uorLd works with their own, or persuade them beforehand that they can

produce desired results that hunters on their own cannot. And where do managers get this power? It has been delegated to them by the Crown, which expropriated communal property and turned it into common (state) property. The results for hunters and trappers may or may not be more animals and more money at the end of the season, or at the end of next season in exchange for Less at the end of this season. Uhat is certain, however, is that some of their autonomy and their power has been stripped from them.

In Pennsylvania, in the late 19th century, an engineer by the name of Frederick U. Taylor revolutionized industrial production by appropriating the individual skills and knowledge of a myriad autonomous artisans and tradesmen. Using time and motion studies, he fragmented the unified flow of thought and action, and reassembled the bits as prescribed routines for people to follow, over and over again. Output rose, and costs went doun, as these men uere stripped of their skills and autonomy at the uork place. Within a generation, engineers and managers were 'planning the production routine in every factory to the minutest detail, and every morning the workers were given their instruction cards and told not to think or question, just to do.

Some like to think that those days are over, and that the neu management style encourages creativity and autonomy on the job (unless they happen to m"an the uord processors, the cash registers, the robots, and the telecommunication terminals at the leading edge of capital formation today). But in our Leisure time, we see growing evidence of the managed

recreational experience. Disneyland may be the extreme, but in our national and provincial parks we are told more and more where and when to go, how to conduct ourselves, and hou to interpret what we see. Many anglers today are told, as a condition of their licence, what lake to fish, what day to fish, what time to fish, what gear to use, how many fish to catch or possess, and what they may and may not be used for. I do not dispute the need for some such direction where property is common and community is absent. But native northerners see more and more examples of detailed regulations on how to go about their business. They are assumed to be as personally incompetent and as socially unrestrained as the rest of us. True, not aLl of these regulations are zealously enforced. But one has only to peruse, for exampLe, the Seal Protection Regulations. under the Fisheries Act to imagine what it would mean to Inuit hunters in Labrador if they were. Excessive management seems liable to lead to the deskilling of native hunters and, as in the factory, to Less rather than more responsible attitudes towards resources which are quite correctly perceived to be under the control of management.

5. Is There a May Out?

X have emphasized the differences between our two traditions in the North, but I also think that it is possible to bridge them. These bridges can only be built on firm foundations, however. Are the institutional and ideological. foundations of the native tradition are still sufficiently intact to provide that foundation. I think there is good evidence that they are,

and further, I believe that we would be well advised to shore them up rather than continue to erode them.

The directions I propose are in keeping with some general principles to which, I think, all interested parties currently subscribe, aLthough I have not seen such a list written down in any one place. At a minimum, these principles would include the following:

1. There exists in law a category of rights known as aboriginal rights.

2. Uhatever these rights might be understood to encompass, they most certainly have included the right of native people to hunt and fish in their traditional territories, and this right has been recognized by the Crown in every major proclamation, treaty and statement with respect to native people.

3. One of the objectives of settling native claims is to make these aboriginal rights recognizable to the legal and institutional arrangements of Canadian society, whether in the end these rights are entrenched or extinguished, for once recognized, even extinguishment requires compensation.

4. Whatever arrangements emerge must be consistent with the conservation of biological resources and of their environments.

In the modern day, native hunting rights must in a practical way accomplish three things. One is to provide native people with a proprietary interest which constitutes an enforceable claim against all others. A second is to provide a fair and effective system for compensation in the event of nuisance or trespass by a third party, or expropriation by the Croun. A

third is to provide a framework within which Local customary law can operate with respect to resource harvesting and management and within which native people can have effective input to policies and administration which affect their interest in the resource base.

A proprietary interest need not require full ownership in the form of fee simple title. A licence to engage on certain activities on Crown lands, in this case hunting, trapping, and fishing, would suffice. But these licences must carry with them something akin to a right of profit a prendre. This means not simply a right to hunt and fish, nor even the sole right to do so in the licenced area, but also a right to expect a material benefit (or "profit") from these activities, which is in principle measurable and predictable.

Such an interest is an enforceable claim on that land, which cannot simply be ignored when the Crown expropriates the interest, or grants a competing interest to a third party, or when a third party interferes with the interest. It puts the native hunter or fisherman on an equal footing with the holder of an oil and gas exploration permit or a mineral claim (for a discussion of profit a prendre interests in traplines, see . Sutton 1980).

Obviously this arrangement is in stark contrast to the conventional system of hunting and trapping rights in which, as we have seen, the Licence holder (whether native or non--native) is deemed to have no interest in the land or resources as such, but a property right only in a fish or animal once it has been

taken. If there are no longer any fish or animals to be taken, no right has been interfered with. What is proposed here is simply to raise hunting and trapping rights from the lowest form of interest in land to a higher proprietary one.

There would be two important differences, however, between what I am suggesting, and a conventional profit a prendre Licence. Because native peoples' use of fish and game is not exclusively or even Largely commercial, the notion of profit a prendre must also encompass the subsistence interest. There must be a recognition that subsistence resources have value to native people, and that their loss has consequences which are at Least in part measurable and compensable.

The other difference is that these licences uould be granted on the basis of traditional use and occupancy (aboriginal title), rather than the Crown's prerogative to maximize the revenue from its assets. These Licences would be the means by uhich a particular group is entitled to pursue its legitimate interests as recognized by the Crown, rather than the means by which the Crown implements economic development policy. Consequently these licences would carry neither the relatively short time limit nor the annual performance criteria for their maintenance in good standing, that other types of profit a prendre licences normally do. The only appropriate performance criteria such licences could carry would be those related to conservation, not maximization --- in other uords, the use of the licence must be consistent with the principles of conservation.

The implications for compensation are significant. At present, compensation to harvesters need be paid only if they have legal standing by virtue of a commercial trapping or fishing licence, and then only to the *extent* of actual property damage, i.e., traps, cabins, or animals actually caught. Some companies also pay a nominal sum for the fur bearer that could have been caught in a damaged trap, but this is not a legal requirement unless specified in a contract between the parties.

Under the proposed system, not only commercial but subsistence harvesting would be eligible for compensation, and in the amount of what could have been taken in the area. The amount of compensation would be related not to actual previous harvests, but to potential ones on a sustainable yield basis, in the same way that payment of fair market value for expropriated land is based on its potential productive value to others, not what the particular owner did with it in the past.

In order to avoid the uncertainties, expense and delay of court proceedings, which would be the normal recourse of parties whose property rights have been violated, there should be an administrative system of compensation. Aside from property values, a compensation board could base its awards on such considerations as the additional costs to harvesters incurred by the need to travel further in search of fish and game, or the need for increased protection from vandalism; the impairment of the quality as uell as the quantity of the harvest, due for example to pollution; and the impairment of physical and mental health, and of the social uell--being of native people and their

communities. A compensation fund could be estabLished in part, at least, from the posting of performance bonds by those gra'nted competing land use interests. While some of these arrangements could also be effected by specific agreements between licenced operators and affected communities, a no--fault compensation system is necessary for two reasons. One is that certain types of damage may be neither acknowledged by nor Legally attributable to a particular operator, the other is that uith some fly--by--night or offshore operators, a damage award might prove unenforceable.

An appropriate compensation regime should accomplish tuo things. One is to deter both those granted competing land use rights by the Crown, and unauthorized trespassers, from taking the destructive risks of their activities lightly. The other is to ensure that if damage does occur, the losses and grievances of the affected individuals and communities are dealt uith fairly, quickly and effectively.

Finally, there must be more than advisory status granted to native harvesters. A system of licenced areas, uithin which each community can be guaranteed a resource base appropriate to its needs, provides defined geographical territories within which there is much scope for local management, on a customary basis if that is desired. It may well be that this system could only uork by assigning verifiable harvest quotas to each licenced area. The determination and verification of these quotas might thus be the key link between LocaL management authorities and territorial or provincial authorities. Within

that system, however, the licence holders could be largely or entirely responsible for non-quota limitations. It could be up to them to set seasons, size, sex and gear restrictions. As well, they could determine the use and disposition of the harvest. Within the quota allocation, local harvesters could consume or sell their catch, or assign the right to hunt or fish to others, as they pleased. Whether Local communities or groups would wish to maintain their Licences on a group basis, or allocate them to individual members, could again be their decision.

What I am suggesting is by no means entirely novel, or without practical precedent. One need only refer to Suttoncs work on trappers' rights in Alberta (1980), Brody's proposals for Indian hunting areas in northeastern British Columbia (1981), and the Council for Yukon Indians' recommendations on trappers compensation (1979). Group harvesting rights based on traditional occupancy already exist in the group registered trapping areas in the NWT and Yukon, and in the band fishing licences in Ontario. The proposed Indian Fishing Agreement in that province is based on similar-principles. The Hunters and Trappers Associations in the N.W.T., and the Band fishing by-laws in British Columbia, suggest that there is already an institutional basis from which to begin.

These proposals are not inconsistent with either native or non-native property concepts and institutions. Whether they are the best means of bridging the" two traditions, is for others to judge. But if native and non-native people are to live

together in the North in any kind of harmony, some innovative proposals and serious negotiations on both property and management issues uill be necessary. Imposed solutions can not conserve fish and wildlife, if by their nature they replace security, confidence and responsibility with dispossession, anger and despair.

No amount of moralizing about what stake people should feel they have in naturaL resources uill affect their behaviour if the practical effects of the property system are to institutionalize a disproportionate flow of benefits. Sound management is not simply a matter of good science. Nor do I believe that management can be based on purely utilitarian considerations (in this regard I am sympathetic to the thought--provoking idea of Livingston 1981). It requires viable community institutions, a sense of dependence on the resource (perhaps I should say a sure recognition of the interdependence rather than the opposition of man and nature), and a system of ethics, uhether expressed philosophical, spiritual, or religious metaphor. Uherever these things already exist, it makes only common sense to foster them and build on them, instead of continuing to undermine them. A better understanding of both our heritages seems to me a good place to start.

footnotes

l(p.2) expand Pearses categories

2(p.lo) See for example, Brice Bennett 1977.

3(p.15) Grody 1981, Feit 1973, Freeman 1976, Ridinsion 1982, Tanner 1979. There is some evidence that justifying theories for differential access within native society are beginning to appear, in certain areas. See "transcript of discussion" on the reindeer industry in the Uestern *Arctic,* in Freeman (1981: 91--95), and La Rusic (1979) on the emergence of class interests with respect to land in James Bay.

4 For further disucssion of our western property systems in resources, see, for example, McPherson 1978, Naysmith 1975, Nelles 1974, and Young 1981.

5(p.18) commissioners special licences in NWT. In addition there was the special case in Quebec of private on Crown land.

6(p.20) I use industry, and industrial organization, in this context, to refer to the bureaucratic and hierarchical organization of society as a whole, or at least of its Large organizations and institutions, whether public or private, rather than specifically to blue collar work, production lines, or individual factories.

7(p.22) I use the term property here to refer to native title, although "proprietary interest" might be more appropriate. I take this interest to be no less forceful a title than freehold ownership, but unfortunately it is very difficult for non--natives to transcend ethnocentric connotations of property

which derive from an agrarian tradition of Land use and a political philosophy of possessive individualism. Indeed, it has been argued that native title is an allodial one, existing independently of sovereign grant, and consequently a higher order of title than freehoLd (COPE 1976).

8(p.26) provide some references

9(p.26) 1938 restrictions on GHL, the Arctic Islands preserve.

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