

INTERIM REPORT

ALLEGATIONS CONCERNING THE SLAUGHTER OF SLED DOGS

Submitted by:

The Honourable Jean-Jacques Croteau
Retired Judge of the Superior Court

To the

Makivik Corporation and the
Government of Quebec

Introduction

Mister President of the Makivik Corporation, as requested and agreed upon, I submit to your consideration and consideration of the Government of Quebec this interim report prior to the presentation of the final report to the Makivik Corporation and the Government of Quebec concerning the allegations of the elimination of Inuit sled dogs in the 1950s and the 1960s in Nunavik (at that time known as Northern Quebec).

In its final report concerning the same allegations, the RCMP disclaimed any responsibility and concluded that Inuit sled dogs had been killed by its members in accordance with the Law, and that the destruction of Inuit sled dogs, and other dogs, was undertaken by RCMP members for public health and safety reasons, in accordance with the law, to contain canine epidemics, and at times, at the request of the dogs' owners.

In this regard, I noticed at the reading of the final report of the RCMP (quoted below – RCMP p. XX) that the review team adopted an essentially “Law and Order” approach to reach its conclusions. This is not meant as a criticism, but simply stated as an observation.

On my part, I will adopt a different approach, another perspective to consider the events that occurred in the 1950s and 1960s based on the Canadian constitutional law and some Supreme Court decisions.

Aboriginal rights are at stake in the present affair. I will consequently examine which aboriginal rights are involved and what are the federal and provincial governments' obligations in such a context.

In *R. v. Sparrow* [1990] 1 S.C.R. 1075-1104, the court states, in reference to the *Quebec Boundaries Extension Act*, S.C. 1912, c.45, that the Inuit people and its aboriginal rights are expressly protected by a constitutional instrument.

It is important to remember that the boundaries have not always been as they are today. First, when the old territory known as Rupert's Land was ceded to Canada by the British Crown, the Order of her Majesty in Council dated the 23rd day of June 1870 stated that “it will be the duty of the Canadian Government to make adequate provision for the protection of the Indian tribes whose interests and well-being are involved in the transfer.” Under the *Quebec Boundaries Extension Act, 1912*, above mentioned, the Government of Quebec also takes responsibility without intent to infringe on the exclusive jurisdiction of the Canadian Government (s. 91(24) BNA Act) as it appears in s. 2(e):

“That the trusteeship of the Indians in the said territory, and the management of any lands now or hereafter reserved for their use, shall remain in the Government of Canada subject to the control of Parliament.”

During the 1950s and 1960s, prior to the signing of the James Bay and Northern Quebec Agreement that took place in 1975, both governments held fiduciary duties towards the Inuit rather than contradictory interests (*Sparrow*, above mentioned p. 1108)

In *Guerin v. The Queen* [1984] 2 S.C.R. 335-384, the court held that duties of a fiduciary character impose strict standards of conduct, as expressed by Mr. Justice Dickson:

“Where by statute, agreement or perhaps by unilateral undertaking, one party has an obligation to act for the benefit of another, and that obligation carries with it a discretionary power, the party thus empowered becomes a fiduciary. Equity will then supervise that relationship by holding him to the fiduciary's strict standard of conduct”

Terms of reference

The Makivik Corporation and the Government of Quebec mandated me to review the allegations concerning the destruction of Inuit sled dogs during the 1950s and 1960s.

In the report I have been requested to submit, I must provide a description of the sled dogs conditions as well as their use and importance for the owners in the 1950s and 1960s. The report must also include an overview of the reasons or motives raised by the authorities of the time to justify the destruction of the sled dogs, the manner the destruction took place and the number of dogs killed.

My mandate includes the visit of the 14 Nunavik communities or villages to examine the owners of the slaughter dogs and any other person who witnessed such events or suffered consequences of the killing, and to report back about my consultation with these peoples.

I have also been asked to examine interviews conducted in the past with dog owners and Nunavik residents, numerous archival and historical documents, police and administrative reports, opinions published in newspapers, press coverage, briefs submitted to the federal government, exchanges of correspondence, etc.

Finally, they asked me to provide my opinion about the consequences of the destruction of the dogs for the owners and the Inuit population at large and to submit my conclusions and recommendations, if necessary.

For the purpose of my investigation, I visited the communities of Kuujjuaraapik, Umiujaq, Inukjuak, Akulivik and Puvirnituq in October 2008, Quaataq, Kangirsuk, Aupaluk and Kuujjuaq in November 2008 and Ivujivik, Tasiujaq, Salluit, Kangiqsujaq and Kangiqsualujjuaq in February 2009.

In addition to these visits in the communities, I met six witnesses in January 2009 at the Makivik Corporation office located in the borough of St. Laurent in Montreal.

I also read the RCMP final report entitled *The RCMP and the Inuit sled dogs (Nunavut Northern Quebec 1950-1970)* released on August 31, 2006. This voluminous report of 771 pages contains reports from RCMP regional managers and officers, exchanges of correspondence and various documents too numerous to detail here.

During the hearings held in the 14 villages I was accompanied by a team composed of Lucy Grey, coordinator of the three community trips, Robert (Robbie) Watt who was acting as interpreter, Charlie Annahatak, cameraman and Mark Poirier, film director.

We knew that members of the last generation of nomadic Inuit in Nunavik and their children born in the 1940s, 1950s and even in the early 1960s were scheduled to testify, so all hearing were to be filmed and testimonies recorded.

All the testimonies must soon be transcribed en English for the preparation of my final report.

Throughout the enquiry we have tried to respect Inuit customs and traditions. On that aspect I want to particularly acknowledge the excellent work of Lucy Grey and Robert (Robbie) Watt. The witnesses who were not familiar with the enquiry process received the assistance of Lucy Grey. During the interrogation process, Robert Watt translated my questions to the witnesses in Inuktitut and their answers in English. All along that process, a relationship of trust and openness was created between the witness and the interpret, both Inuit, while the whole process was filmed and recorded by another Inuk.

Several witnesses displayed deep emotions during their testimony and mentioned afterward that they felt relieved.

Overall, I examined 179 witnesses and read the transcript of 76 interviews.

Legal and historical context

In the Supreme Court decision *Reference as to whether the term "Indians" in Head 24 of Section 91 of the British North America Act, 1867, includes Eskimo inhabitants of the Province of Quebec*, known as *Re Eskimos* [1939] S.C.R. 104, the point at issue was to clarify the legal status of the Northern Quebec Inuit – now the Nunavik Inuit. The court held that the exclusive legislative jurisdiction of the federal government under s. 91(24) of the B.N.A. Act over Indians extends to “Eskimos” (the Inuit).

In that decision, the court establishes clearly the historical and legal context and the obligations of the federal and provincial governments towards the Indians and the Inuit.

In another decision that indirectly lead to the signing of the James Bay and Northern Quebec Agreement, *Gros-Louis v. Société de développement de la Baie James* [1974] R.P. 38, Mr. Justice Albert H. Malouf also looked at the legal and historical context through reference to the *Re Eskimo* decision above mentioned.

For the purpose of this report, I am including a brief summary regarding the historical and legal context extracted from Me Renée Dupuis book *Le statut juridique des peuples autochtones en droit canadien*, Carswell ed. p. 29.

“1868, the Imperial Parliament had adopted a Law accepting the surrender of Rupert’s Land held by the Hudson Bay Company. In 1870, an Imperial Order-in-Council (R.S.C. 1985, App. II No. 9) transferred Rupert’s Land to Canada. The Order-in-Council states that any claims of Indians to compensation for lands required for purposes of settlement shall be disposed of by the Canadian Government ... (further down). The 1870 Order-in-Council contains in appendix the addresses and resolutions of both Houses of Canada and the deed of surrender. The first address from the Senate and the House of Commons was requesting, in 1867, to unite Rupert’s Land and the NorthWestern Territory and was addressing the issue of claims by the Indians ... (further down) (which is of interest for the Inuit). In addition, the resolutions from both Houses (Senate and House of Commons) acknowledged the obligation made to Canada to protect the interests of the Indians (Inuit) as follows:

“That upon the transference of the territories in question to the Canadian Government it will be the duty of the Government to make adequate provision for the protection of the Indian tribes (I add the Inuit) whose interest and well being are involved in the transfer.” (Schedule B, p.13)

These commitments were reiterated in an agreement reached between the Government of Canada and the Hudson Bay Company and in the second address of both Houses of Canada in 1869.

“Upon the transference of the territories in question to the Canadian Government it will be our duty to make adequate provision for the protection of the Indian tribes (I add the Inuit) whose interest and well being are involved in the transfer, and we authorize and empower the Governor in Council to arrange any details that may be necessary to carry out the terms and conditions of the above agreement.” (Schedule B, p.16).

A similar provision was included in 1912 in the legislations extending the boundaries of the Province of Quebec through annexation of part of the Rupert Land (*Quebec Boundaries Extension Act*, S.C. 1912, 2 Geo V c. 32 and the Act respecting the extension of the Province of Quebec by the annexation of Ungava, Que. 2 Geo. V, c. 7)

Aboriginal rights

Approximately 4000 years ago the territory was occupied by Paleo-Eskimos who settled on the east coast of the Hudson Bay and Ungava Bay and inhabited the region for 1500 years.

Later, about 2000 years ago another group, the Dorset Eskimos, occupied various areas of Nunavik for over 1000 years harvesting marine wildlife for the most part.

Around 1000 A.D., the Thule, ancestors of the modern Inuit inhabited the Hudson Strait and the east coast of the Hudson Bay.

The Inuit, as they are known today, were a nomadic people of hunters and gatherers. They were able to produce by hand all the tools, weapons and implements essential to them with raw material such as walrus ivory, animal teeth, whalebones, grass, animal skins, drift wood or flint.

Their culture was adapted to the climate and the Inuit livelihoods. The Inuit were a community well established long before the first encounter with the Europeans.

Since the beginning of their occupation of the territory, nomadic Inuit have been hunting, trapping and fishing for their subsistence, long before the first encounters with the Europeans approximately 150 years ago. They were entirely dependant on the natural resources found on the Nunavik mainland, in lakes, streams and rivers as well as in the waters of the Hudson Strait, Hudson Bay and Ungava Bay, or in the Nunavik offshore islands.

Since as far as we can go back in the history of the occupation of Nunavik, the Eskimos (Inuit), a nomadic people until approximately the mid-1960s, were mainly or in many cases exclusively living from the harvesting of wildlife resources found on the mainland, in the adjacent waters and in the offshore islands, a situation that continued even after their settling in the villages. They were travelling to the interior of the land to hunt caribou, arctic fox, polar bear and other wild animals. They were hunting in coastal waters sea mammals – ringed seals (natsiq), bearded seals (ujjuk) – walrus (aiviq) and other marine mammals essential to their subsistence. They were also hunting beluga whales (qilalugaq) they were sharing with the community.

Prior to contact with Europeans, by the passage of time immemorial, Inuit became the beneficiaries of territorial rights including land, water (ice in winter), offshore islands and islets.

For the period 1950 to 1970 covered by this inquiry, consequently after contact with Europeans, the nomadic owners of sled dogs continued to hunt, trap and fish for their subsistence, retaining their aboriginal right on the whole above mentioned territory.

In order for them to exercise their aboriginal rights to hunt, trap and fish, the use of sled dogs was essential. The dogs were an essential component of the survival of a people. During summer, some owners were pursuing their activities with their harnessed dogs.

During winter, sled dogs were the only moving force that could be used to go hunting, trapping or fishing and bring back games and fishes to the camp. During the expeditions dogs were the eyes, ears and smell of their master.

From time immemorial, the use of sled dogs has always been an integral part of the distinct culture and survival of the Inuit. During winter storms, without any visibility of the sky or the land, the dogs were leading their master back to the camp.

Consequently, the destruction of these sled dogs, in whole or in part, was causing a serious breach to their capacity to exercise in full and complete manner hunting, fishing and trapping rights benefitting from an express constitutional protection.

In the first chapter of the James Bay and Northern Quebec Agreement entitled *Philosophy of the Agreement*, dating from a period rather close to the period subject to the present enquiry, it is stated that the Inuit “have, since time immemorial, been practicing a way of life based on hunting, fishing and trapping throughout the territory” (p. XIV). It is also acknowledged on p. XXI that Inuit do have a different culture and a different way of life from those of other peoples of Quebec.

Agricultural Abuses Act, Q.S 1941 c. 62

The legislative standards (sections 11 and 12) contained in that legislation are the main sources of the existing conflict between sled dog owners and government authorities. The enforcement of these standards by the authorities either restrained or completely incapacitated the dogs' owners who could no longer practice their hunting, trapping and fishing activities (mainly during the winter on the ice).

Prohibition between May 1st and December 15th

- S. 11 Every owner, possessor or the custodian of a dog is forbidden to allow it to wander in territory which is not organized, between the first of May and the fifteenth of December.

As it appears from the evidence, in certain villages, it was even mandatory to tie the dogs all year round.

- S. 12 Any person may destroy a dog found wandering in violation of the provisions of the previous section.

In the 1950s, the RCMP cannot intervene under these provisions during the period from December 15 to May 1st. During winter the owners may let their dogs wander, which does not please the federal authorities taking into consideration that serious incidents involving dogs occurred in Kuujuaaraapik, Inukjuak and Salluit during the 1950's.

On November 15, 1958, the minister of Northern Affairs and National Resources wrote to Quebec Premier requesting an amendment to the law in order to enable the RCMP officers to kill stray dogs all year round and not only at a certain time of the year (RCMP p. 51-52). According to him, such an amendment would solve the problem.

After a reference to the incidents, he wrote:

“Most of these dogs are owned by Eskimos to whom they are necessary in pursuit of food from the Land. We have tried every means of educating the Eskimos to the danger of loose dogs but we have regretfully concluded that there is no possibility of solving the problem without legal sanctions.”

Further down in his letter, he notes:

“I think you will agree that the enforcement of Agricultural abuses Act in unorganized territory of Quebec might be more effectively pursued if there were justices of the peace permanently resident in the main communities. Infraction could rapidly be dealt with and the appropriate penalties applied.”

We can note that, like the administrators in place, the Minister adopts a strictly legalistic approach, even though he acknowledges that sled dogs are an essential tool for the survival of the Eskimos.

The Government of Quebec will not comply with his request.

However, on February 23, 1965, an Order-in-Council (no 332) suspending the application of sections 11 and 12 (above mentioned) for a period of ten years was adopted.

“It is forbidden to persons owing, having or harbouring any dog to let it run at large on penalty of a five dollars fine the least or twenty-five dollars the most.

Any person may, without incurring any responsibility, kill any such dog found so unlawfully running at large, hunting or coursing in any such localities”
(Quebec Official Gazette, March 13, 1965, vol. 11)

These localities are Poste-de-la-Baleine, Inukjuak (Port-Harrison), Povungnituk, Ivujivik, Salluit, Baie-Wakeham, Quaqaq, Baie-Payne, Fort-Chimo, Port-Nouveau-Québec (George River).

The Provincial Police (Sureté du Québec) took over the responsibility of the RCMP in early 1960. The problem of stray dogs remained the same. It even increased, and police authorities are killing a larger number of dogs. From Montreal – in charge of criminal investigations – Chief Inspector F. de Miffonis wrote to the Commanding Officer of the Hull Subdivision at the Sureté du Québec:

“Re: Stray dogs – Unorganized territory / Port Harrison (Quebec)

In reference to your letter dated October 21 regarding stray dogs in the Port Harrison district:

“I wish to highlight the existence of various sections of the *Agricultural Abuses Act*, c. 139, Q.R.S. 1941 concerning dogs and actions that may be taken by the interested parties.

To simplify the enforcement of said Law, please find enclosed copies of the summary of the sections concerning dogs and destruction powers that may be exercised in that district. (sic).

You can inform Mr. Elbecque that we had the same problem in Fort-Chimo and that it was only by:

1. requesting the collaboration of all citizens, natives like non natives, to keep the dogs tied; and
2. through the implementation of the above mentioned sections, when they refuse to collaborate, that the problem can be resolved.

The only solution of the problem is shooting the dogs instead of trying every means of educating the Inuit to the dangers of loose dogs.

We note again a law and order approach.

That approach developed in the South and imposed by the South is obvious. It negates or does not understand the northern reality, to the point that it leads to an uprising of the “Eskimos” in October 1967. Quebec is requesting a suspension of the law enforcement “to prevent antagonizing the Eskimos.” The problem cannot be resolved, it amplifies.

Now, there is that letter which is creating some confusion regarding the validity of the enforcement of the *Agricultural Abuses Act* in Nunavik where there are no farmlands or agricultural activities of any kind.

On June 21 2000, the Minister delegate to Native Affairs, Guy Chevrette, presents the position of the Ministry in a reply letter addressed to Mr. Pita Aatami, president of the Makivik Corporation.

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Your letter is referring to the *Agricultural Abuses Act* that authorises the killing of stray dogs. This was not applicable in Nunavik because there are no farm animals requiring protection. In addition, the role of dogs in Nunavik has always been known (transportation, survival, companionship) by police officers stationed in Nunavik. On the other hand, some communities (Puvirnituq as an example) were taking care of the stray dogs’ problem by bringing them on an island during summer and bringing back the survivors in the fall. (RCMP p. 473)

(My underlining)

The parties

The RCMP was providing police services in Nunavik in the 1950s. It closed its Port-Harrison (Inukjuak) detachment on October 31, 1961, its Great Whale River (Kuujjuaraapik) detachment on July 14, 1959 and its Fort-Chimo (Kuujjuaq) detachment on January 20, 1961.

The Provincial Police (Sureté du Québec) appears to already be informally present in the territory in 1960. There seems to be some overlap of jurisdiction. An RCMP report dated March 31, 1959 indicates:

“These detachments in Northern Quebec also do enforcement work which is the responsibility of the Quebec Provincial Police, although there is no agreement with the Province of this service, it is performed as assistance to that force.” (RCMP, p. 286)

The Provincial Police was already present in Nunavik in 1960, as it was confirmed by some witnesses. Minister Laing also made reference to that presence in a memorandum (NAC RG 22, vol. 546).

In a letter dated June 21, 2000, Minister Chevrette informs Pita Aatami that during the year 1961 the Sureté du Québec was present in Kuujjuaq with an officer based in that detachment, and that in 1963 it was present in Kuujjuaraapik with one officer based in

that detachment and 2 or 3 Inuit special constables working at different times in certain villages (RCMP, p. 472).

It is important to establish dates with precision regarding the presence of police forces in the region because several witnesses interviewed or interrogated about the killing of sled dogs indicated that such killing had been conducted by the RCMP. As I already knew the dates of closing and opening of the above mentioned detachments and the content of the memorandum written by Minister Laing, I was getting more specific in my questions regarding the identification of the police force involved. In most cases, because the RCMP had been present in Nunavik for decades, the witness, in good faith, was presuming that the RCMP had proceeded to the killing of the sled dogs. It was obvious that the witness had not been informed about the change of police forces that took place in 1960-1961.

The civil officers of the federal administration remained in their positions until 1964, when they were replaced by civil officers of the provincial administration. (History of Northern Quebec – Draft and final / L.B. Pearson and Jean Lesage, Éric Gourdeau is appointed Director of Northern Quebec).

Makivik provided me with several reports, exchanges of correspondence, memorandum and documents from regional administrators and RCMP officers that are also included in most cases in the final report of the RCMP (English version). My mandate is to proceed to the hearing of Inuit witnesses and the review of the evidence already on file, consequently the writings and documents that were provided to me and that are contained in the RCMP final report.

These writings and documents must, in my opinion, be admitted as having probative value. They contain material facts, opinions, comments and in some cases legal acts. They were written or issued as part of the normal activities of their signatories. They report the situation as it occurred in a village or another. They also provide a testimony of the state of mind of the Inuit owners of sled dogs, the “white peoples” who were residing in the region, and the signatories of the various documents.

We can use as an example a memorandum from W.G. Kerr addressed to Mr. Stevenson dated June 3, 1960, where the author writes:

“The construction of enclosures for dogs is not feasible as they would have to be tied up anyway to prevent fights between the different teams and at feeding time. The Eskimos or Indians, even if agreeable to having their dogs in an enclosure, would expect the White residents to feed them. From experience in the North, I personally do not think that wandering dogs create any greater hazard than do the normal automobile traffic of Southern Canada. In the South we warn our children of the necessary safeguards and there is no reason why we can’t do the same in the North. It is also my experience that a tied up dog if approached by children, is more dangerous than a “wandering” one.

However, the Law, poorly worded as it is in the case of the Quebec Dog Ordinance and ignoring the Eskimos (sic) and Indians (sic) right to an accepted (by them) traditional custom in their own land, should be enforced on the ground that it is the Law.

“I would suggest that some white person in each settlement be appointed a Justice of the Peace for Quebec and as such would have the power to assess penalties for infractions of the Dog Ordinance, and, perhaps, deputize others to act “as Dog Officers”. The “educating” period of respect of the Law has been of sufficient duration and the Eskimos and Indians should be notified of this and then made liable for any infraction of is.”

Further down

“Personally, I do not think the Quebec is as uncooperative as they appear from the above but they are definitely poor correspondents. I would suggest that some person in authority from our Department establish a personal liaison with the Attorney General in Quebec by a meeting than to discuss the general problem of Northern Quebec. Once a contact was made with the Quebec Provincial Authorities, I am sure we could have our problem funnelled through to the proper persons by good offices of the personal contact we had made.” (RCMP, p. 225)

He was not the only one to raise the problem existing with dogs that nobody appeared able to solve. Consequently, for Mr. Kerr and many others, in their technical and rational approach trying to find a miracle solution, there was no other mean than the heavy handed approach – the Law – “It is the Law” to force the sled dog owners to abide to the existing rules.

The other party – the Inuit

We have to put ourselves in the context of the 1950s and 1960s and think about the Inuit who were living at that time when there was no rigid rules. Nothing was forcing them to adapt to the Southern society. Their mind and spirit were not conditioned or influenced by television, ways of thinking of all kind, publicity and media of all kind existing in the South.

At the time, the oral heritage of the Inuit was based on the nomadic experience of the elders as well as their beliefs, myths and legends. Treating nature, animals, objects, wide horizons, the rigorous environment and the territory with respect, the elders were transmitting to younger generations customs and knowledge acquired through their life experience. The elders were also explaining that everything they were telling them was to be accepted as a truth transmitted by their ancestors that the younger generations had to accept.

The Inuit had a way of life associated with the use of sled dogs. They did not have the impression to be separated from them.

They had a way, a manner, a style of thinking gradually acquired since their birth, through the teaching of the elders and their own experiences. Their way, manner and style of thinking was dictating their existence, their life.

At the time, in the 1950s and 1960s, the Inuit community was identifying itself as a society built upon its relationship with the territory and its natural resources (unorganized), while the “white peoples” who were temporary residing in the territory where coming from an organized society with a different way of life and a different way of thinking.

Analysis of the evidence

The history of villages located of the east coast of the Hudson Bay is different from the history of the villages located on the Hudson Strait and Ungava Bay coasts.

From Ivujivik to Kangiqsualujjuaq, the settling process of sled dog owners and their families slowly took place starting in 1959 and during the 1960s. The dogs’ killing mainly took place during that period of time.

The settling process on the east coast of the Hudson Bay, more specifically in Kuujjuaraapik, Inukjuak and Puvirnituk, had begun on its part in the early 1950s. In these villages, dogs’ killing occurred from the early 1950s until 1970, but the number of dogs killed is smaller taking into consideration the longer length of time involved. A larger number of “white peoples” were residing on the Hudson Bay coast, and their relationship with the Inuit was not always harmonious due to concerns about the health and safety of the dogs, the lack of food for the dogs and the general behaviour of these animals. Incidentally, it must be said that in 1963 “white peoples” met the Inuit, in the absence of police force and the administrator Pat Furneaux in Puvirnituk, and they solved together the dog problem (Anita Vallée letter dated February 15, 1963 – RCMP p.474-475). She indicated in her letter that the Inuit were also concerned about another important issue.

“Apart from the topic of rabid dogs, the only hot item of local conversation has to do with the impending take-over from the federal government of the administration of this part of the Arctic by the Quebec Provincial Government. The air is full of dire prophecies and sarcastic comments...” (RCMP p. 476)

In the whole Nunavik, the attacks of dogs on peoples mainly took place in the villages and not in camps. Children were most often the victims of these attacks.

The lack of communication between the two groups was also a major problem during the 1950 to 1970 period. Open and frank communication could have brought the truth between the stakeholders – white peoples and Inuit.

After review of the whole file, I do note two ways of thinking totally different, two perceptions diagonally opposed regarding sled dogs which are for the Inuit a component of their culture. Each group, white peoples and Inuit, had differing rules and beliefs regarding the dogs that led to animosity between the two groups.

On the sole issue on stray dogs, one of the main reasons used to justify the mass killing of dogs – through the use of firearms, poisoning or suffocating gases in Kuujjuaq – each group had firm opinions on the subject. In order to solve the problem, it would have been more beneficial for the white peoples to consider a broader range of solutions and to look at the issue on a broader scope.

The Inuit

It was standard practice in the camps to let the dogs run freely to the best of their capacity. For the Inuit, tied dogs tend to adopt wild behaviours with the peoples. They become aggressive and threatening. They are less vigorous and actives.

Those are some of the points raised by dogs' owners to refuse to tie the dogs.

White peoples

Stray dogs can carry canine sicknesses that can be a threat to other dogs and citizens.

They can be a threat for the population and school children. As a matter of fact, few dogs attacked children, some of whom died or were seriously injured.

Dogs' owners do not want to abide by the rules of good neighbourliness and civicism that must be observed in semi-urban communities.

Generally, I was able to note during the examination of the Inuit and through the reading of interviews that white peoples were perceived with distrust by them. In fact, white peoples, with their way of seeing thing and their rules, wanted to set aside their oral tradition. With their rules, the white peoples wanted to regulate their life, their activities and their beliefs. They had the impression that their culture and their lifestyle was threaten.

It is difficult to communicate when the white peoples, coming to reside on their ancestral land, do not display towards Inuit an open mind, patience, tolerance, a proper understanding of their culture and way of life. Nomadic dogs' owner did not know how to read or write. They could speak neither French nor English.

Police officers were on some occasions accompanied by Inuit assistants who were asked to interpret their instructions. Police officers often felt that the interpretation was short in comparison with what they had said, and that the Inuit interpret had not repeated everything.

Documentary evidence shows that two important disease outbreaks occurred among Northern Quebec dogs caused by rabies, canine distemper and canine virus hepatitis.

In the Kuujjuaq region, a large part of the canine population was decimated by a disease outbreak that took place in 1959 and 1960. The same situation occurred on the Hudson Bay coast in 1961 and 1962. The federal government then undertook an important immunization program to protect the dogs and prevent the spreading of the disease. Immunization doses were sent to Kuujjuaraapik in 1961. Subsequently, 300 doses were sent in 1963-1964 to Salluit, 125 doses to Ivujivik, 500 doses to Inukjuak, 350 doses to Kuujjuaq, 350 doses to Kuujjuaraapik,

500 doses to Puvirnituk, 500 doses to Kangiqsualujuaq, 175 doses to Quaqtaq and 125 doses to Kangirsuk.

In 1966, a new disease outbreak decimated the canine population in certain Nunavik communities, as it appears from a letter provided by the Makivik Corporation dated February 10, 1966. In order to control or prevent a dog disease outbreak, it is first necessary to identify the disease, which is often a difficult task, like in Kuujjuaraapik in 1961. After the identification of the disease, the regional administration must submit a request to Ottawa, but the passage of time becomes an important factor that is not always respected. Instructions are given on how to proceed with the immunization. Per example, for rabies the vaccine must be administered over a 14 days period, a procedure not always followed.

In addition, some dogs' owners refused immunization for their dogs based on their distrust for white peoples.

I heard a dog owner say in tears that his healthy dogs had been inoculated by force and without explanations, and they subsequently all died. Where they sick before? The file contains no expertises regarding the health status of the dogs before and after the inoculation. Despite that fact, I can consider the witness trustworthy. In fact, there is a memorandum on this issue addressed by L.G. Beauchamp to the regional administrator on April 1, 1964.

“This refers to your memorandum concerning the missing Wakeham Bay vaccine and the dog diseases at Payne Bay and Koartak. The subject was discussed with all the teachers in these settlements and it seems that the problem was due to the fact that no one had warned the Eskimos that some of the dogs may be sick or die after receiving the inoculation and it therefore came as a shock to them when some of their dogs did die.

We have now explained to Mrs Cassidy, Baldwin and Little that in Chimo two men were sent to make a dog count as well as to explain to the Eskimos the risk involved. No one here refused the vaccine and less than 10 dogs died after inoculation.” (RCMP, p. 247)

Despite this, I find in the evidence that the dog population is decimated by the illness, but is regenerated over a period of several years. Reproduction is so important that it occasionally exceed the number of Inuit living in a community.

Systematic elimination

Nothing in the file leads me to believe that it occurred.

Two witnesses in Kuujjuaq alleged that federal authorities would have give order to provincial police officers to destroy all Inuit sled dogs.

The allegation of a fact does not necessarily mean that it has been proven. At the time the federal authority would have supposedly give the order to destroy Inuit sled dogs, it was sending to Nunavik more than 3000 doses, as established hereabove, to immunized the dogs and prevent the spreading of dog's diseases.

The slaughtering of sled dogs

It has been well established that the RCMP was present in the region until 1960.

During the period from 1950 to 1960, some dogs have been killed by RCMP officers, as it has been admitted, but not to the extent, prima facie according to evidence on file, of infringing on the aboriginal right of the Inuit to hunt, trap and fish for their subsistence.

The important events reported par the Inuit occurred after the departure of the RCMP, consequently after the Provincial Police (Sureté du Québec) took over responsibility in the region.

The facts reported by the Inuit, led me to believe that the provincial authorities and officers had a total lack of awareness of the culture of the Inuit people and its relationship to natural resources, the land, the climate, the environment and finally to their companions, the sled dogs.

According to the general evidence, the police officer was arriving in the village without notice and was killing all the stray dogs. He was chasing them even under the houses, killing them for the sole reason they were wandering, without knowing if they were sick or dangerous, annihilating through these actions many tens of sled dogs.

As an example, two witnesses explained that two provincial officers arrived one day in Kangiqsujuaq by seaplane. They came out of the plane without saying a word to anyone and started chasing stray dogs in the village. They killed 32 of them and simply left thereafter without any explanation.

I examined dogs' owners and their children born in camps. In the 14 villages visited, witnesses were always roughly telling the same story. The officers had kill 6, 8, 10 or 12 of their dogs, even sometime those that were tied.

Many of these owners were living in camps where by custom dogs were not tied. The officers were not trying to find who the dogs' owners were before killing them. It also happened that dogs untied themselves. Without asking who could be the owner, the officer was killing the dogs.

According to witnesses, the two villages where the highest number of killings occurred were Kangiqsujuaq and Kuujjuaq.

Mr Johannes, the Inuit assistant to the provincial officer, explains that the radical elimination of dogs has created extreme violence.

“It got very serious and the meaning of it got lost. I was even shot at, we were shot at. People shot us.

Q. Because you were shooting dogs?

A. Yes, we got shot at when we just finished shooting dogs. They were supposed to tie up their dogs but they were not tied. The damn police and I were shooting dogs. That big damn police...we were driving. If they were really trying to shoot us, we would've probably shot back...

Q. You shot dogs that were loose?

A. Yes, when they seemed to have no owner. We would have to carry guns to be ready. I went through three guns mostly used to shoot dogs. Tapananginat (very harsh, will not compromise), I would try to convince my bosses sometimes and they would be very hard on me."

The day prior to the facts told by the witness Johannes hereinafter, a meeting had taken place with the police officer according to witnesses heard. The officer had asked them to get rid of their dogs, and they followed his instructions the day after.

Kangijsujuaq

"People brought us their dogs. I guess they wanted them that way because they were bringing us the dogs. I was shooting so many dogs. The ones we were going to burn on the ice. People brought us dogs that they did not want. All those dead dogs that piled up, I will never forget that in Kangijsujuaq. "

Further down in the interview

Q. What were the years that you started doing this?

Johannes:

"Like I said, with the RCMP in the beginning of 1960, we sometime had to shoot dogs, but it really started in 1961. We started then 1960, 1961 it just started accelerating."

Peter Stone, an Inuk, corroborates.

"As soon as the Quebec government police arrived they started slaughtering our dogs."

Several Inuit interviewed mentioned that it was an RCMP officer (perhaps they meant Quebec Police) who had asked them to get rid of their dogs. What was said by the witnesses during the hearings is rather similar that what is related in the RCMP final report (RCMP p. 45)

"The Inuit considered the "Mountie" to be an authority figure and usually did not overtly resist whatever direction was given by "the Mountie". It was assumed that he had the necessary power to enforce his decision and direction."

In Kuujjuaq, a mass slaughter of sled dogs occurred over a long period. I will address this issue at greater length in my final report.

However, it is interesting to note this April 1963 memorandum (RCMP, p. 243). It is not the legislator who is making the laws, but the Police.

“On March 14, while walking along the road, the five-year old daughter of Mr and Mrs Bédard was bitten on the leg by one of the dog of a passing team. Luckily the child was wearing heavy clothing and rubber boots and the bite was not severe. On March 20, Constable Belley of the Q.P.P. called a meeting of all the Chimo residents to discuss the dog situation. Little discussion took place. Constable Belley told the Eskimos that he was “making a new law” and that all dogs not tied would be shot. Most of the Eskimos resented this. The next day, Constable Belley called on the Northern administrator and said that because of the Eskimos reaction to his remarks he would not attend to shoot any dogs.

Other officers replaced him and continued the slaughter of dogs.

Tensions and animosity between the two groups did not occurred only in Kuujjuaq and on the Ungava Bay coast. It also happened on the Hudson Bay side. In Kuujjuaraapik the Crees also had conflicts with dogs’ owners.

Subsequent to the interviews and hearings held in the 14 villages, we can say that more than 75 sled dog owners could not fully exercised their hunting, trapping and fishing activities due to the total or partial loss of their dog team. We can estimate that approximately 1000 healthy dogs were killed. Several dog owners and their family where left without mean of subsistence. Others could be helped by family members and neighbours. Others felt devastated. They gave up and started to drink, as reported by several children of these owners.

During the examinations, I asked the witnesses if, subsequent to the dog slaughter, they had received any assistance from the federal or provincial governments. The answer was always negative. Nobody had shown concern about their interests and well-being according to the witnesses.

In 1965, only peoples who had money or access to credit were able to purchase a snowmobile, which was not the case of the nomadic dog owners. Several of them had to wait many years to be able to purchase a snowmobile.

In reference to the 1950 to 1970 period in Nunavik and Nunavut, the review team included in the conclusions of the RCMP final report the following comments regarding the events that occurred after 1950:

“The Inuit lifestyle was forever changed during the time frame in question. It is clear that some Inuit grieve the loss of their traditional semi-nomadic lifestyle and the pride and dignity which pertained thereto. A once hardy and independent people became dependent. Their lifestyle which was simple and unique as well as occasionally harsh and unforgiving to the point of death shifted forever into history. The RCMP members were partners with the Inuit during their period of transition and look back to the past with pride and sadness”. (RCMP p. 71)

This is one point of view. Nothing is said about what might have occurred after the RCMP departure. Reference is made to exchanges of correspondence with the Sureté du Québec (RCMP, p. 421) stating per example “SQ police officers at the request of the local Council”. It would have been nice for a lawyer to be able to conduct cross-examination to ask what was intended by “Local Council”, and to produce relevant documentation.

All the villages of the Ungava Coast and the Hudson Strait were legally incorporated after 1970. Reference is made to an interview that took place with former officer Marcel Vigeant who was posted in Kuujjuaraapik between 1967 and 1976. No reference is made to the intervention of officer Tourville who in a meeting held with the Inuit in 1959 gave them a 24 hours notice to tie the dogs otherwise they would all be killed.

Conclusions

A) An Act respecting certain abuses injurious to agriculture (Q.S. 1941, c. 42)

The review team determined that said Act was considered applicable in Nunavik territory, and that the RCMP officers rightfully relied upon it to kill the dogs. To that effect, they wrote at page 53 of their report:

“Because “any person” could legally destroy a stray dog between May 1st and December 15 in Quebec, the police authorities were naturally concerned that any such destruction could be undertaken in a manner that endangered public safety. The decision as to when to destroy a dog was left to discretion of the police officer, dog catcher or citizen who encountered a stray dog. Anecdotal evidence was reviewed that dogs were dispatched in circumstance that posed a potential hazard to human (too close to dwellings, bystander present).”

Finally, in the conclusion section, the review team wrote at p. 671:

“The RCMP did shoot stray and loose dogs, as well as starving and sick animal, that posed a public threat or safety hazard...”

Like the RCMP, the Provincial police (Sureté du Québec) relied upon the same Act to exercise its discretionary powers for the destruction of Inuit sled dogs.

On the other hand, there is that letter from Minister Chevrette, quoted in the RCMP report at page 471 and addressed to Mr. Pita Aatami, who for and on behalf of the Ministry of Native Affairs contends that the *Act respecting certain abuses injurious to agriculture* would not be applicable in Nunavik territory because there are no farm animals to protect.

I believe that this proposition submitted by a person in authority is serious. Therefore, it should have been taken into consideration by the review team, which was not the case. The very title of the Act is self-explanatory “Agricultural abuses”, in French “*Les abus préjudiciables à l’agriculture*”. I do not see how a stray sled dog in the arctic territory of Northern Quebec (now Nunavik) could be injurious to agriculture. In my opinion, the characteristics of the territory were a physical fact well known by the RCMP officers who travelled in the territory for decades.

In the *Traité de droit municipal: Principes généraux et contentieux* (Éditions Hébert Denault), the authors Jean Hétu, Yvon Duplessis et Dennis Pakenbam conduct a comprehensive study, with supporting jurisprudence, of the application of the *Agricultural Abuses Act* adopted on April 12, 1941 regarding stray dogs (pages 1092 and 55).

According to the authors, said Act creates a regime concerning stray dogs that could cause damages to sheeps or other farm animals. They confirm the position of the Ministry of Native Affairs. It is true that the same authors do not address the issue of the meaning of the expression “in territory which is not organized” found in the Act. In my opinion, when the legislator says “be forbidden to allow it to wander in territory which is not organized between the first of May and the fifteenth of December (section 11)” its refers to a territory that is not organized in an agriculture zone or environment in order to protect sheeps or other farm animals.

For the persons who may raise doubts about this interpretation. I refer them to a decision of the Supreme Court of Canada *Williams v. Box* (1910) vol. 44 S.C.R. p. 10, where Mr. Justice Idington rules:

“If we would interpret correctly the meaning of any statute or other writing, we must understand what those framing it were about and the purpose it was intended to execute.”

Consequently, according to the judge’s opinion, in order to interpret legislation, as in this case, it is necessary to understand what those framing it were intending to accomplish, and the purpose said legislation was intended to execute (P.A. Côté, *Interprétation des lois*, 2^e édition, p. 361).

In the *Traité de droit administratif* (second edition, vol. 1, Les Presses de l’Université Laval, page 270), the authors René Dussault and Louis Borgeat write:

UNOFFICIAL TRANSLATION

“The James Bay and Northern Quebec territories are an integrant part of Quebec since the adoption of the 1898 and 1912 Acts to extend the Boundaries of the Province of Quebec. These Acts gave to Quebec full jurisdiction on a vast northern territory much larger than the Province established by the Constitution Act, 1867. Although Quebec had obviously agreed to this cession, it did not fully understand immediately the importance of this new portion of its territory, and during several decades it let in practice the federal administration organize the social, educational and community services it deemed appropriate to provide to the Cree, Inuit and Naskapi populations living in the territory.”

In support of their assertion, the authors make reference to the *Rapport de la commission d’étude sur l’intégralité du territoire du Québec*, tome 4, Le domaine indien 1967, tome 5, les frontières septentrionales 1971, Office de planification et de développement du Québec, le Nord du Québec, profil régional 1983, p. 20

This suggests that the *Act respecting certain abuses injurious to agriculture* could not apply in Northern Quebec territory as it existed then. If the Government of Quebec had not fully

understood the importance of this region, leaving it virtually under the responsibility of the federal administration, it is hard to imagine that said Act could apply to the Territory.

In view of the foregoing, a court could easily come to the conclusion that a law such as the *Act respecting certain abuses injurious to agriculture*, as interpreted by the existing administrations and police forces during the period under consideration (1950 to 1970), was not applicable in Nunavik territory.

The Court could also decide that the federal and provincial administrations and the police forces had unlawfully relied upon such a law to slaughter the sled dogs. It might have been wiser for the federal and provincial administrations, in order to achieve the expected outcome and to cause minimal infringement to the aboriginal rights of sled dog owners protected by constitutional status, to negotiate directly with the Inuit, the elders and dog owners who are occupying the territory since time immemorial, and to seek their opinion and their advice about the rules that should have been put in place regarding the dogs, instead of trying to impose their rules (the Law) and trying to “educate” the Inuit in order for them to acknowledge their rules.

B) Stray dogs

For discussion purpose, it is worth looking at the *Act respecting certain abuses injurious to agriculture* from a different perspective.

I will address the interpretation and the application of the *Act respecting certain abuses injurious to agriculture*, relied upon by the RCMP and the Provincial Police to kill sled dogs, and to which the Federal government had seek amendments in order for the Inuit to tie their dogs twelve months per year.

When we examine a law, it is relevant to try to determine the legislator’s objective at the time the law was adopted. In order to identify what best reflects its intent, one should know that the provisions of a law must be interpreted the one by the other, so far as possible.

In the RCMP final report, the review team often use the expression stray dogs. The Houfton Mifflin Canadian Dictionary defines the word “stray” as follows: “To wander from a given place or group or beyond established limits.” This definition fits in very well with the definition of “*errance*” in French.

According to the authors Héту, Duplessis and Pakenbam (above mentioned) it is possible to qualify as “wandering (*errant*)” a dog that is found outside the limits of the property of his master (P.G. Québec v. Noel, J.E. 97-255). The objective of said Act was to create a no-fault liability regime for any person who would kill a wandering or stray dog in an unorganized territory from May 1st until December 15. Said Act does not say that any person could go to their neighbour and kill the dogs that are not tied and/or that any person can eliminate dogs for health or public security reasons.

Section 412(17) of the *Cities and Towns Act* authorizes municipalities to regulate dogs running at large, their killing and the killing of dangerous dogs. The *Act respecting certain abuses*

injurious to agriculture does not go as far as that and contain no precision regarding stray dogs between May 1st and December 15.

In Aboriginal Law, the definition of property is different than the one established by the Civil Code of Quebec, and even by Canadian Property Law. The concept of these property laws is based on the existence of individual rights to exclusive enjoyment of real properties.

In Aboriginal Law, the territory or the land, for the Indians and the Inuit, belongs to the group or the Nation for its collective use and enjoyment. At the time, the Inuit were putting up their tents or building their igloos wherever they want on the land. They were on their land. Their territory was for them a wide living space.

There exists, in constitutional law, an overriding principle acknowledge and often quoted by the Supreme Court that can be summarize as follows: the legislator must give preference, among the means that can ensure the fulfilment of the legislative purpose, to the one which least infringe on aboriginal rights. It is a fiduciary relationship that must prevail between the legislator (the government) and the Aboriginal peoples.

In light of this, when a Provincial Police officer goes to a camp site and kills all or an important part of a dog team based on the pretence of applying the law, he then deprives the owners of the possibility to fully pursue their hunting, fishing and trapping activities. He abuses his power.

I can understand the Inuit who testified in front of me when they say that they did not considered their dogs running around in the camp or the house in the village as stray dogs as it could be argued in the South.

As a reference, according to the decision *Ayotte v. Péloquin* S.C. 286, a municipal inspector would not be entitled to kill a dog that would not be dangerous for the sole reason that it would be a wandering dog.

If such a requirement applies to an inspector, why could it not also apply to police forces acting in the Nunavik territory in order for them to abide to a rule that would infringe as less as possible on Inuit aboriginal rights, and go beyond the letter and the effect of the law (decision Guérin above mentioned). As it appears from the evidence, for reasons of order (health and safety), police forces, to the knowledge of both federal and provincial civil administrations, have taken upon themselves to exercise broad intervention powers that they did not have. We can understand the anger of some sled dog's owners, and even the sadness and the sense of injustice that they could experienced at the time and that many are still experiencing to this day.

C) Fiduciary obligations

As discussed previously, according to the decision *Re Eskimos*, above mentioned, Canada had an exclusive jurisdiction, meaning the exclusive constitutional authority on the Eskimos (the Inuit) according to section 91 (24) of the BNA Act (known today as Constitutional Act, 1867). Something that was acknowledged by Quebec under the 1912 *Quebec Boundaries Extension Act*, above mentioned.

In addition, Canada made a commitment towards the British Crown at the time of the transfer of Rupert's Land to make adequate provisions for the protection of Indian tribes (Inuit) whose interest and well being are involved in the transfer.

Quebec made the same commitment towards Canada when Quebec acquired a part of Rupert's Land (New-Quebec).

These two commitments from Canada and Quebec towards the Inuit must be considered by the latest as an express constitutional protection (Sparrow, above mentioned p. 1103-1104).

The fidelity of the two levels of government to keep their commitments is mandatory taking into consideration the vulnerability of the Inuit in their own view point. I elaborated at length on this issue in the sections "The parties" and "Analysis". In addition, their commitments was creating for them an obligation to maintain a healthy relationship with the Inuit and to support the stability of their culture and their hunting, fishing and trapping activities conducted for subsistence purposes.

In the present file, I am of the opinion, as mentioned in section B hereabove, that the *errance* (wandering) referred to in the *Agricultural Abuses Act*, a law of general application, is incompatible with the notion or definition of property as understood by the Aboriginal peoples, and also with the definition of *errance* generally acceptable in southern societies, but inapplicable in the Nunavik territory during the period covered by this enquiry, at least in the camps.

The evidence indicates that Northern Quebec Inuit were never consulted regarding the application of the *Agricultural Abuses Act*, a law totally inappropriate for them and in no manner supporting the exercise of their aboriginal rights.

After 1960, police forces actions and behaviours went overboard. It was beyond understanding. The officers displayed a total lack of awareness of Inuit fundamental rights, of their culture and the importance of the dogs for their subsistence. The behaviour of the police officers, that could not be ignored by the federal and provincial civil administrations, had for effect to put in distress the food subsistence of more than 75 dog's owners and their family.

On numerous occasions I asked the owners and their children if the federal or provincial authorities had offer some help following the slaughtering of their dogs. Each time they gave a negative answer.

As a consequence of all of the above, I have not other choice than to declare that there was a breach on the part of Canada and Quebec of their fiduciary obligations towards the Inuit.

Anjou, April 15, 2009

(s) Jean-Jacques Croteau

The Honourable Jean-Jacques Croteau
Retired Judge of the Superior Court