

Dances With 'Religion'

A Critical History of the Strategic Uses of the
Category of Religion by the Government of
Canada and First Nations, 1885 to 1951

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Abstract

This thesis examines the historical record of the late 19th and early 20th century Canadian law against indigenous ceremonies, such as the potlatch and the sun dance, in order to investigate whether an alternative narrative of this history is possible. The main source of data is the archive of the Department of Indian Affairs, containing all the official correspondence that the department sent and received regarding these ceremonies during the time that the law was in effect. Classifying these practices as religious ceremonies, I will argue, was not an obvious or necessary classification, but a strategic move that was beneficial in the short term, both for First Nations advocates of the ceremonies and for their federal government opponents. This research sheds light on the political relationships between Canada and its First Nations, as well as clarifying the ways in which 'religion' is a strategic, rather than an absolute, category.

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Introduction

In the autumn of 2013, Canadian media outlets devoted considerable attention to the protests and blockades by the Elsipogtog First Nation in New Brunswick against the project of energy company SWN Resources Canada to extract natural gas from the land through hydraulic fracturing. On October 17th, the Royal Canadian Mounted Police was called in to remove the blockades and disband the protesters. There were over 40 arrests. After this clash with police, intellectuals, activists, and concerned citizens began publishing their views on the incident. One notable opinion was given by veteran columnist Rex Murphy on October 19th in *The National Post*. Entitled “A Rude Dismissal of Canada’s Generosity,” Murphy’s column expresses disappointment that First Nations peoples continue to refer to Canadians as “settlers” or “colonialists.” Such labels are inappropriate, Murphy claims, because the attitudes of the majority of Canadians toward indigenous peoples have become

much more positive and respectful than they were in previous centuries. One example Murphy gives of such respectful attitudes is “the honour given at various times to native ceremonies.”¹

By focusing on ceremonies, attitudes, and symbolic gestures, Murphy is drawing on a dominant narrative about the relationships between Canada and its First Nations. This narrative states that the problem with colonialism is an attitude of intolerance toward difference; the solution, therefore, is to improve “our” attitude and learn to appreciate people who differ from “us.” Canada may have treated its indigenous people badly in the past, but, so the narrative goes, the wide range of positive representations of indigenous culture, traditions, and religions that we can see today shows the great progress we have made in this relationship. The now-defunct law against indigenous ceremonies is a key component of this narrative. From 1885 to 1951, certain ceremonies performed by the First Nations of western Canada were illegal under federal law. The ceremonies of the potlatch on the west coast and the sun dance on the prairies are the two most commonly mentioned as being the targets of this law, though ceremonies with different names were affected as well. This law, it is said, was the result of an intolerant attitude toward indigenous religions, but once Canada saw the error of its ways, it repealed the law, and now First Nations peoples are free to practice their religions in peace. For Rex Murphy and many other Canadians, this is an attractive narrative, because it allows Canadians to celebrate our progressive outlook and our ability to resolve harmful conflicts.

The narrative is problematic for two main reasons. In a theoretical sense, it is unsatisfactory because the term “religion” is often applied uncritically to the ceremonies of

¹ Rex Murphy, “A Rude Dismissal of Canada’s Generosity.” *The National Post*, 19 Oct 2013, accessed 28 Feb 2014. <http://fullcomment.nationalpost.com/2013/10/19/rex-murphy-a-rude-dismissal-of-canadas-generosity/>.

the potlatch and the sun dance. Usually, there is no explanation of what “religion” means in reference to First Nations or why the potlatch and sun dance ought to be classified as religious ceremonies. Many academic studies of religion in colonial contexts have argued that “religion” is not a useful term in such circumstances, because the word is too imprecise to tell us anything relevant about the beliefs and practices to which it is applied. Some of these studies argue that the category of religion is in fact a colonial tool, used by colonizers to control and manage colonized groups against their wishes and interests. In the field of religious studies, we need to be mindful of such arguments, and be clear about how and why we are using contested terms like “religion.” The common narrative about Canadian history should not be adopted by those engaged in the academic study of religion without first examining the analytic usefulness of the term “religion” and the potential political implications of using it. In a more practical sense, the common narrative paints an overly positive picture of the relationship between indigenous and settler Canadians, and cannot account for ongoing conflicts between these groups. Murphy’s column is a response to a conflict between police and protestors, portrayed as a conflict between First Nations and the Canadian government. Murphy mentions a number of similar recent conflicts as well. If the attitudes of settler Canadians toward indigenous people have improved so much, why do such conflicts continue? Perhaps attitude is not the most important element for Canadians to consider in these conflicts.

This thesis will examine parts of the historical record of the anti-ceremonial law of the late 19th and early 20th centuries, in order to investigate whether an alternative narrative of this history is possible. My main source of data will be the archives of the Department of Indian Affairs (DIA), the precursor to the present-day department named Aboriginal Affairs

and Northern Development Canada. These archives include files organized around the potlatch and the sun dance, containing all the official correspondence that the DIA sent and received regarding these ceremonies during the time that the anti-ceremonial law was in effect. These files are composed mostly of communication between government officials of different levels, although they also contain a substantial amount of communication between government officials and representatives of First Nations communities, churches, and other organizations, as well as newspaper clippings and excerpts from other published material. We can see in these files a long period of disagreement over what the ceremonies were, what was wrong with them, and whether or not they should be illegal. This thesis is a discourse analysis of such archival material, focusing on how the law was justified, how the ceremonies were described, how and why the category of religion was used, and how these discourses changed over the lifespan of the law. I selected this material because my main interest is how the Department of Indian Affairs saw the law and the conflict surrounding it, since the DIA was the institution with the most power to influence policy dealing with indigenous ceremonies. There are certainly other important perspectives on these laws, from chiefs and other leaders of First Nations, from missionaries and teachers, and from other settlers not directly affiliated with any government office. I will mention some of these perspectives in my analysis in order to present a more complete picture of the debates about the ceremonies, but my focus will remain with the DIA. The DIA most clearly represented the Canadian state's position on these matters, and as Rogers Brubaker puts it, "the state...has the material and symbolic resources to impose the categories, classificatory schemes, and modes of social counting and accounting...to which non-state actors must refer."² The way the DIA described and classified the ceremonies of the potlatch and sun

² Rogers Brubaker, *Ethnicity Without Groups* (Cambridge, Mass.: Harvard University Press, 2004), 43.

dance impacted everyone who was involved with these ceremonies, and anyone with a stake in the ceremonies tried to influence the DIA's perspective.

It would be, of course, overly simplistic to portray the conflict over the ceremonies exclusively as a dispute between Canada's First Nations and its settlers. There were many settlers who had no complaints about the ceremonies, and even enjoyed watching them. There were also many First Nations people who were upset with the ceremonies and appreciated the government's efforts to eliminate them. Many bands and nations in British Columbia voluntarily gave up the potlatch when the law was introduced. In most cases, though, when there was a clash over the value of the ceremonies and the justice of the law which prohibited them, the supporters of the law were representatives of the DIA (or the federal government more broadly), and the opponents of the law were representatives of First Nations. In British Columbia, the most significant level of opposition came from the Kwakwaka'wakw of northern Vancouver Island, with more periodic opposition coming from the Cowichan of the southern part of the island, and from the Nisga'a of the Naas River region of northwestern British Columbia. On the prairies, opposition was much more widespread, coming from groups all over Alberta, Saskatchewan, and Manitoba, representing Cree, Blackfoot, and Assiniboine nations. Throughout this thesis, I will use the term "First Nations" to refer to the indigenous groups to which the anti-ceremonial law applied. Some might argue that the word "Indian" is more appropriate, since the law was part of the Indian Act and specifically applied to people classified as Indians under Canadian law at the time. Others may say that terms such as "aboriginal" or "indigenous" are more general and therefore more accurate. I have intentionally chosen to use the term "First Nations" instead, because it includes the connotation that these people were organized politically, and it draws

attention to the ways our classifications of people affect the ways in which we understand our relationships and the ways in which we treat each other. The word “nation” implies a much different set of behaviours and relationships than, for instance, the word “religion” does.

Nations, in contemporary international politics, are often authorized to exercise sovereignty over the resources and populations within the territory they are seen to control; religions are usually not given such authority.³

When I have presented this research to academic audiences, I am often asked to describe what the potlatch and the sun dance are. I have decided not to include descriptions of the ceremonies, for a number of reasons. One simple reason is that there are already a number of studies that attempt comprehensive descriptions of these ceremonies. More importantly, though, I am skeptical about whether an accurate description is possible or desirable. The ceremonies have been undertaken by many different communities with many different variations. Additionally, there have been many disagreements about how the ceremonies ought to be described, and about what the ceremonies actually are. My object of study in this thesis is in fact those disagreements and discourses *about* the ceremonies, rather than the ceremonies themselves. Statements from settler Canadians about whether the potlatch and sun dance were religious ceremonies, and about how the ceremonies should be regulated, typically made little or no reference to specific elements of the ceremonies. When settlers did attempt to know and describe the ceremonies, such efforts were usually connected with attempts to control the First Nations. I am in agreement with Christopher Bracken’s position when he says, “I will not continue the colonial tradition of attempting to ‘know all’ about the

³ From time to time, I use the term “Native American” as well; I use this term simply to differentiate indigenous groups in the United States from First Nations in Canada. The different terms are not meant to imply any other differences between the various groups, and certainly should not imply any differences in their political organization.

potlatch. My aim is not to define it but to *read* a set of definitions deployed in a specific historical—and colonial—context of debate and contestation.”⁴

The argument of this thesis will unfold in four main sections. The first chapter will provide a brief outline of critical theories of religion, with special attention paid to theories about religion in colonial circumstances, and theories about the relationship between religion and politics. These theories provide the framework through which I will examine the archives regarding the potlatch and the sun dance. The second chapter will be an overview of the history of relations between indigenous peoples and European settlers in the territory which is now Canada. This historical account will focus on the changes in such relationships over time and discuss why the law prohibiting indigenous ceremonies came into effect in the particular place and time that it did. The following two chapters will consist of the direct analysis of the primary texts. Chapter three will focus on the archives about the potlatch and related ceremonies in British Columbia, and chapter four will deal with the archives about the sun dance and related ceremonies on the prairies. The thesis will conclude with a brief epilogue about how the anti-ceremonial law was dropped, and some thoughts about how critical theories of religion can be productively applied to this history. Classifying these practices as religious ceremonies, I will argue, was not an obvious or necessary classification, but rather became a strategic move that was beneficial in the short term, both for First Nations advocates of the ceremonies and for their federal government opponents. The ceremonies’ supporters benefited because calling the ceremonies “religious” made the law against them appear unjust, and contributed to their legalization. The government benefited as well, since making the ceremonies “religious” also meant removing problematic elements

⁴ Christopher Bracken, *The Potlatch Papers: A Colonial Case History* (Chicago: University of Chicago Press, 1997), 88.

that could be interpreted as a challenge to Canada's political and economic sovereignty in the west.

Chapter 1—Theories of Religion, Colonialism, and Politics

In recent decades, a major debate has developed over whether “religion” is a useful analytic category for scholars to use when studying individuals or groups. Those skeptical of the term’s value have often conducted inquiries into the history of the word itself, showing that its definition and deployment have shifted considerably through the centuries. Writers often point to Wilfred Cantwell Smith’s 1962 book, *The Meaning and End of Religion*, as a beginning for this type of investigation⁵. These studies really started to gain traction in the 1990s, when theorists such as Talal Asad, Russell McCutcheon, Timothy Fitzgerald, and Tomoko Masuzawa, among others, began to publish their analyses of the varied ways in which the word religion has been used⁶. Such variation not only presents a problem for the

⁵ Wilfred Cantwell Smith, *The Meaning and End of Religion* (New York: MacMillan, 1962).

⁶ Talal Asad, *Genealogies of Religion: Discipline and Reasons of Power in Christianity and Islam* (Baltimore: Johns Hopkins University Press, 1993); Russell T. McCutcheon, *Manufacturing Religion: The Discourse on Sui Generis Religion and the Politics of Nostalgia* (New York: Oxford University Press, 1997); McCutcheon, *The*

study of ancient religions, which could now be considered anachronistic, but is a problem for contemporary studies as well; the present-day colloquial usage of the word “religion” can be as variable as its use throughout history. Of course, this variability should be no surprise. All words and all languages are imprecise, with shifting and contested meanings providing the possibilities for change and growth; in short, variable meanings are what give life to a language. In the case of religion, though, the imprecision of meaning is particularly problematic because the word carries considerable authority in both informal cultural systems and formal legal codes. Because of the privileges given to anything recognized as religion, it matters who and what are included and who and what are excluded from the category. More to the point, it matters that more and more writers are pointing out that the definition of religion has no stability or consensus, that religion has no essence, and that there is no objective way to determine who is worthy of the privileges bestowed onto religions. Instead, the word religion has become a site of struggle, in which different groups compete for the authority that the category can offer⁷.

Religion and Colonialism

One of the areas in which this thinking about religion first became prominent was in the context of colonial and post-colonial studies. When searching for the meaning of the word “religion,” researchers started to notice that non-European languages did not have a word that corresponded to the Euro-western concept of religion, and that non-European groups did not divide up their social worlds in ways that adhere to the binary of religious versus secular;

Discipline of Religion: Structure, Meaning, Rhetoric, (London; New York: Routledge, 2003); Timothy Fitzgerald, *The Ideology of Religious Studies*, (New York: Oxford University Press, 2000); Tomoko Masuzawa, *The Invention of World Religions, or, How European Universalism Was Preserved in the Language of Pluralism*, (Chicago: University of Chicago Press, 2005).

⁷ Of course, groups deemed “religious” can be given disadvantages as well as advantages, but legal battles over the category of religion tend to be about legal privileges of religious groups.

these characteristics only emerged after extensive contact with European colonizers, if they appeared at all. Timothy Fitzgerald first makes such observations in his 1990 paper “Hinduism and the ‘World Religion’ Fallacy,” in which he argues that Hinduism cannot be conceived as a coherent entity, much less as a religion⁸. When asked to identify their religion, Fitzgerald claims, many people in India or of Indian heritage will respond with their caste affiliation, not with their identification as a part of some larger movement of Hinduism. Whether caste is a religious or a cultural institution has long been debated; certainly, these caste affiliations do not share most of the characteristics commonly associated with religions, such as beliefs about the supernatural or the cosmos, reverence for sacred texts, deference to an institution of male priests, etc. In Fitzgerald’s example, we can see how in a non-European social environment, it can be difficult (or impossible) to determine what or who is religious, and what or who is non-religious. Similar arguments have been made about Buddhists, Muslims, Chinese and Japanese civilizations, the indigenous peoples of Africa and the Americas, and other groups who were colonized by Europeans. Talal Asad, Richard King, and Tomoko Masuzawa have published some of the broadest and most influential studies of this kind, while Fitzgerald has expanded his earlier arguments in subsequent books, drawing on further examples from India, Japan, and elsewhere⁹.

If religion is a European category that does not readily apply to non-European groups, the obvious question becomes: why, then, do we so commonly describe virtually all non-European societies as having a religion? We may begin to find an answer in the work of

⁸ Timothy Fitzgerald, “Hinduism and the ‘World Religion’ Fallacy.” *Religion* 20, no. 2 (April 1, 1990): 101–18.

⁹ Asad, *Genealogies of Religion*; Richard King, *Orientalism and Religion Postcolonial Theory, India and “the Mystic East,”* (London; New York: Routledge, 1999); Masuzawa, *Invention*; Timothy Fitzgerald, *Religion and Politics in International Relations: The Modern Myth*, (New York: Continuum, 2011).

David Chidester, particularly in his 1996 book *Savage Systems*¹⁰. In the book, Chidester outlines the history of colonization in southern Africa, paying particular attention to the ways in which the colonizers conceptualized the religion (or lack thereof) of the indigenous peoples. He also relates this story to larger trends in the global history of colonization. For instance, Chidester claims that every time European explorers arrived in an inhabited land, they would initially declare that the inhabitants had no religion, but would eventually “discover” an indigenous religion after remaining in the territory for many years. He examines the colonial history of southern Africa in great detail, identifying a notable lack of consistency in whether the colonizers saw the locals as religious or not. Initially, the Europeans saw the Africans as non-religious, then made the discovery of African religions, then changed their minds and decided once again that the indigenous group in question had no religion, and so on. This inconsistency was repeated in all regions of southern Africa with respect to all the different indigenous groups encountered by the colonizers. Chidester was able to make sense of this variation in European perspectives by connecting it with the amount of control the Europeans had over the native inhabitants at any given time. When there was a lack of control over indigenous groups, the Europeans would see them as frightening, threatening, and without religion. Once the Europeans established colonial settlements and administrative institutions, and were able to exert a satisfactory measure of control over the Africans, then the religions of the Africans became apparent. As the frontier expanded, though, and the colonizers encountered more Africans who had not yet submitted

¹⁰ David Chidester, *Savage Systems: Colonialism and Comparative Religion in Southern Africa*, (Charlottesville: University Press of Virginia, 1996); see also Chidester, “Real and Imagined: Imperial Inventions of Religion in Colonial Southern Africa.” In *Religion and the Secular: Historical and Colonial Formations*, edited by Timothy Fitzgerald, 153–76, (London: Equinox, 2007).

to European authority, the colonizers tended to revert to their earlier description of the indigenous groups as having no religion.

What this correlation can tell us is that the classification of a group as either religious or non-religious tells us more about the colonizers than about the colonized; it tells us more about the group doing the classifying than about the group being classified. In the case of southern Africa, calling indigenous groups “religious” or “non-religious” did not tell us anything about who those groups were or what they were doing; the labels for the groups changed even though their symbols and rituals did not. Instead, classifying indigenous groups as religious reflected the situation and interests of the colonial powers. While Chidester does not claim that the Europeans intentionally chose the religious/non-religious labels in order to better control the indigenous population, he does suggest that this was the effect of such labels. Religion was thought to be connected to human civilization and progress; therefore, if the indigenous groups of southern Africa had no religion, they were an inferior society and the Europeans were justified in claiming authority over their territory, resources, and people. Once the Europeans gained that authority, they began to recognize indigenous forms of religion, which were framed as primitive or as less developed than the Europeans. Thus was the subjugation of the indigenous population justified. Other critical theorists of religion make arguments similar to Chidester’s with respect to different contexts. They claim that although the category of religion has no essential or consistent content, it serves to justify social and political systems that benefit some groups more than others.

The work of Tisa Wenger helps to reveal more of the implications of this type of critical theory as it applies to religious studies. Wenger’s most notable writing has been about the debates over religious freedom in the southwestern United States, particularly the legal

battles regarding Pueblo Indian dances in the 1920s in New Mexico. In her book *We Have a Religion*, Wenger tells the story of the US government's attempts to suppress these dances, and how the Pueblos successfully argued that such oppression would be a violation of their religious freedom¹¹. The case hinged very much on whether or not the dances could be classified as religious. Those opposed to the dances claimed that they could not be called religious, since they promoted sexual permissiveness and hindered economic activity such as farming. Those in favour disputed these charges, but also claimed that the dances were the Pueblos' way of worshipping God and apprehending truth, and therefore were unquestionably religious. The courts ultimately ruled that the dances were religious practices and worthy of legal protection. There were, however, some unforeseen consequences of this ruling. While indigenous leaders had previously been able to compel all members of their communities to participate in the dances, such compulsion would now be seen as religious coercion and thus a violation of the religious freedom of individual members of the community. Furthermore, dances and other ceremonies could no longer be led by the same people who were responsible for making political and economic decisions on behalf of the Pueblos, since the law required that political and religious leadership must be separate, or rather, that political leaders not endorse any one religion over others.

Wenger's work is relevant to this thesis for several reasons. First of all, it presents a detailed example of the colonial negotiations about religion occurring in North America. Unlike many European colonies, North America has never moved from colonial to post-colonial political structures. That is to say, rather than having a colonized majority ruled by a colonizing minority that would eventually give up direct political rule, Canada and the

¹¹ Tisa Wenger, *We Have a Religion: The 1920s Pueblo Indian Dance Controversy and American Religious Freedom* (Chapel Hill: University of North Carolina Press, 2009).

United States are examples of countries in which the colonizers became the majority and continue to exercise political authority over a colonized indigenous minority. This situation creates a different discussion about indigenous religions than one sees in places where representatives of indigenous groups now control the apparatuses of state, such as former European colonies in Africa or Asia. Secondly, Wenger's description of the Pueblo case shows us the multiple and overlapping connotations of the category of religion, connotations that shift in weight and importance depending on the context. Without ever providing a definition of religion, different actors at different times in the Pueblo case imply that religion ought to be a method of worshipping God or a Great Spirit, a guarantor of morality (especially sexual morality), a promoter of capitalist economics, an individual choice or orientation, and an institution that does not overlap or interfere with political institutions, among many other things. These shifting connotations show us how the category of religion can do different work at different times, and perhaps it is this very flexibility which makes it so useful.

Most importantly though, Wenger's writings give us an example of how a colonized population can use the category of religion for their own ends, rather than passively accepting the classifications imposed upon them by a colonizing power. This angle has rarely been emphasized in earlier works, which tend to focus on how religion was a useful category only for colonizers. In her article "Indian Dances and the Politics of Religious Freedom,"¹² Wenger explains that for indigenous groups in the United States, arguments based on religious freedom were only one strategy among many used in attempts to keep control over their lands, resources, and customs. In other circumstances, it proved more

¹² Tisa Wenger, "Indian Dances and the Politics of Religious Freedom, 1870-1930," *Journal of the American Academy of Religion* 79, no. 4 (January 1, 2011): 850-78.

beneficial to portray ceremonies as social dances or Fourth of July celebrations, rather than as religious rituals. In this context, questions about whether the ceremonies were truly religious or not were irrelevant; Native American groups had their own words to talk about their practices, and did not need the European word “religion” to understand or explain them. The category of religion was merely seen as a tool, which could be used or discarded according to how helpful it was for achieving certain goals. In the case of the Pueblos, the goal was to continue practicing their dances without suppression from the US government, and “religion” was able to help accomplish that goal. Of course, while the Pueblos were able to use such tools for their own purposes, the success or failure depended on the US government’s acceptance of their arguments; the Pueblos were exercising agency with their use of the category of religion, but the limits of that agency were set by the colonizing authorities. Still, Wenger’s work serves as a good reminder that colonized populations are not passive receptacles of the colonizers’ classifications, but rather participate in a struggle over the meaning of those classifications. Speaking more directly to critical theories of religion, the approach of indigenous North Americans toward religious freedom can show us how the importance of religion does not lie in any inherent meaning of the term, but in the varied and contested ways in which the term is deployed.

Religion and Politics

While our understanding of Canadian history should be significantly informed by the history of religion and colonialism, it is also important to keep in mind the connections between the concept of religion and the idea of the nation state as the fundamental unit of political organization. While Talal Asad points out the colonial context of the development of definitions of religion, particularly with respect to Islam, he also traces a more general

history of the shifting meanings of “religion” and “the secular” in European history¹³. It is only with the rise of the nation state, in the 17th and 18th centuries, that “religion” begins to take on many of the characteristics we typically associate with it today, characteristics such as belief, conscience, and anything that suggests religion is a matter for the private realm and the individual, separate from public life and politics. This observation by Asad has been expanded upon by many writers in the decades since, and for various purposes. Brent Nongbri, for instance, uses Asad and others to argue against the usefulness of talking about ancient societies as having a religion or being religious. Nongbri thinks this terminology brings with it the connotation that things deemed religious in ancient cultures shared those characteristics mentioned earlier, that they were about the private sphere and individual belief—an assumption that distorts the ways such societies actually operated¹⁴. Timothy Fitzgerald makes a more far-reaching argument, claiming that scholars should do away with the categories “religious” and “secular” altogether¹⁵. Being skeptical of the category of religion because of its relation to the nation state, though, is not just a matter of encouraging more rigorous or accurate scholarship. More importantly, this relationship is problematic because it suggests that our modern notions of what religion is (or ought to be) may help to create or sustain unequal power relations in national and international politics.

William Cavanaugh spells out this problem with clarity and precision in his book *The Myth of Religious Violence*, in which he analyzes the commonly stated position that religious groups are somehow more likely than non-religious groups to resort to violence to achieve

¹³ Asad, *Genealogies of Religion*, 27-54.

¹⁴ Brent Nongbri, *Before Religion: A History of a Modern Concept* (New Haven: Yale University Press, 2013).

¹⁵ Fitzgerald, *Religion and Politics*, 233-265.

their goals¹⁶. While many recent books have tried to argue for or against this proposition, Cavanaugh undermines its very premise by claiming that the distinction between the religious and the non-religious is arbitrary and false. Like other authors already mentioned, Cavanaugh gives evidence of many instances in which definitions that try to separate the religious from the non-religious do not hold up: state institutions which are supposedly non-religious will commonly use myths, symbols, and rituals to support their authority, market economics is justified by appeals to a mystical invisible hand, and so on. The idea that religious groups have a special propensity to violence is also not supported by empirical evidence: so-called secular states are just as likely to engage in war and aggression as any group understood to be religious. Despite this lack of evidence, the narrative that religions are prone to violence persists. Violence committed by a group classified as non-religious is characterized as defensive, as regrettable but necessary; violence committed by a group classified as religious is characterized as irrational and aggressive. The violence of the secular nation state is justified, while the violence of the state's religious enemies is reprehensible.

The most relevant part of Cavanaugh's book is the application of his ideas to current conflicts between Euro-western states and Islamic institutions, particularly the wars involving the US in Iraq and Afghanistan. Perhaps the most interesting part, though, is the application of Cavanaugh's ideas to the so-called "wars of religion" in 16th and 17th century Europe¹⁷. As the name suggests, these wars are usually understood to have been caused by religious disagreements, and political theorists and historians often claim that the wars were resolved only when the secular state emerged to subdue the violent religions and relegate

¹⁶ William Cavanaugh, *The Myth of Religious Violence: Secular Ideology and the Roots of Modern Conflict* (New York: Oxford University Press, 2009).

¹⁷ *Ibid.*, 123-180.

them to the private sphere. Cavanaugh demonstrates many holes in this narrative. First of all, the different sides in the war did not break consistently along religious lines; Catholics fought other Catholics, Protestants fought other Protestants, and Catholics and Protestants sometimes fought alongside each other. More importantly, religion was not understood in this period to be separate from social and political order; thus, it is impossible to tell whether the wars were motivated by religion or by other social or political causes. A better way to understand these wars, according to Cavanaugh, is to see them as conflicts among a wide range of institutions, including church institutions and non-church kingdoms and principalities. One of the outcomes of these wars is that church institutions lost much of their power, and this new power structure was retroactively justified by the narrative that religion is particularly prone to violence and therefore should not be given too much power; it is the secular nation state which ought to be the highest authority in the land, as it has the ability to keep the threat of religious conflict in check. From this example, we can see how classifications of religion can naturalize power relations.

While Cavanaugh focuses specifically on violence and war, his perspective on distinctions between the religious and the non-religious can also be applied to more commonplace social and political contexts. Russell McCutcheon draws on a wide range of recent examples in *Religion and the Domestication of Dissent* to argue that the category of religion is an effective management tool for contemporary nation states¹⁸. All of these nation states have internal conflicts, and all of them have unequal hierarchies of power, with some groups occupying dominant positions and other groups marginalized (in the language of McCutcheon's subtitle, all nations are "less than perfect"). By classifying the marginalized

¹⁸ Russell T. McCutcheon, *Religion and the Domestication of Dissent, or, How to Live in a Less Than Perfect Nation* (London: Equinox Pub., 2005).

groups as religions, the dominant group can make their dissent into something non-threatening. Dissent is only allowed within clear boundaries; a person's religion grants her or him the right to express personal, individual dissent from the dominant group as long as it does not turn into a collective dissent that actually challenges existing social structures which the dominant group holds dear. As McCutcheon puts it, "[d]issent works...only if it is theatrical, pseudo-dissent"¹⁹. This form of dissent is not only tolerated by the dominant group, but celebrated. It allows members of the dominant group to think of themselves as reasonable people, able to accept the differences of others, while it also encourages those others to think of their differences only in ways that do not threaten the status of the dominant group. Thus, allowing minor, individual forms of dissent under the name of religion actually strengthens the hegemony of the liberal, democratic, free-market nation state.

Craig Martin looks at this same relationship from a different angle in his book *Masking Hegemony*²⁰. By accommodating minor differences in personal, private matters, Martin argues, the nation state actually recruits so-called religious institutions to be agents of socialization, helping to produce citizens who approve of the state's authority over political and economic matters. The notion of a separation between church and state, therefore, is misleading. Governments get to choose which institutions are legitimized as religions, and which are not. If an institution recognizes its subordination to the sovereignty of the state, the state will give that institution tax breaks, legal privileges, and an elevated status so that it can pass along its values—values which are necessarily compatible with the state's interests, such as the state's own authority and monopoly on violence. The cliché of the separation of

¹⁹ Ibid., 79.

²⁰ Craig Martin, *Masking Hegemony: A Genealogy of Liberalism, Religion, and the Private Sphere* (London: Equinox Pub., 2010).

church and state hides the symbiotic relationship between the two types of institutions. Beyond simply neutralizing dissent, then, the category of religion actually enables states to convince non-state actors and institutions to support the state's dominance.

Another important aspect of the arguments of both Martin and McCutcheon is that the lack of clarity or stability in definitions of religion is exactly what allows religion to be such a useful category for the nation state. If it is difficult or impossible to encapsulate all the uses of the word into a single definition, then people (or, more often, states) are able to define it in whatever way is useful in a given situation. Martin talks about this process as “displacement” or a “rhetorical shell game”²¹, in which the term “religion” can be transferred to new groups, objects, or practices, enabling all the assumed (but rarely directly stated) connotations of “religion” to be imposed upon them as well. For instance, if Christianity is understood to be a religion, and Christianity is believed to be private, individualized, and apolitical, then by calling the sun dance a religion, we imply that it also ought to be private, individualized, and apolitical (among countless other things). Because there is no clear consensus about the definition for religion, the term can carry these loaded connotations and normative assumptions without anyone's ever having to state them directly or defend them. States can impose the classification of religion, and the legal privileges that come along with religion, onto widely divergent groups, without having to explain or defend that classification. This process can be largely unconscious as well; government officials likely think there is a substantial definition of religion, and that they know religion when they see it, without considering that what they recognize as religious might be considerably different from what others recognize as religious. Therefore, it should not be surprising that one of the only shared characteristics among state-recognized religions could be deference to state

²¹ Ibid., 29.

authority, without anyone's even realizing that this is the case. The utility of the emptiness of religion can help us understand why the category has not been discredited or abandoned despite its inconsistency and illogic.

Many of these ideas about the relationship between religions and states have been expanded and synthesized by Naomi Goldenberg into an ambitious theory of what she calls vestigial states²². The main premise of the theory is that when a new sovereign power takes over a particular territory, it must figure out what to do with the previous institutions of sovereignty; if former sovereignties are not wiped out, they are typically incorporated into the new political order, but with limited powers and jurisdictions, as long as they support the legitimacy of the new sovereignty. Goldenberg names these former sovereignties "vestigial states," a term that is not completely satisfactory but conveys important aspects of the concept. She proposes that in many cases, it would be more productive to think about the institutions we usually call "states" and "religions" instead as dominant states and vestigial states, and that the category of religion has been used in recent centuries to claim that dominant states ought to be dominant, and vestigial states ("religions") ought to be subordinate. This terminology can be helpful in a number of ways. First of all, it gives us an analytical precision that is lacking in the category of religion; "vestigial state" refers unequivocally to an institution, whereas "religion" slips back and forth between connotations of cosmological beliefs, teleological projects, identity affiliations, and much more, sometimes bound to a particular institution but often individualized. Furthermore, the concept of vestigial states can help us to escape the assumption that state institutions and religious institutions are fundamentally different from each other, and instead focus on their

²² Naomi R. Goldenberg, "The Category of Religion in the Technology of Governance: An Argument for Understanding Religions as Vestigial States." Forthcoming, n.d.

interests, authorizing strategies, and effects on the people with whom they interact; these characteristics are often very similar among dominant and vestigial states, and can come into conflict during power struggles, or can be achieved in concert when power hierarchies are solidly established. This framework can help us to understand Cavanaugh's argument about the wars of religion. Instead of thinking of these wars involving two distinct types of institutions, religion and state, one of which (religion) is inherently irrational and prone to unnecessary violence, we can think of both types as simply institutions, competing for the same type of power in the same ways. The difference between religion and state is imposed retroactively, to justify the dominant status of the victorious institutions. Goldenberg's framework can also be productively applied to colonial situations. When Europeans travelled to new lands and attempted to appropriate the resources of those lands, they were met with opposition from indigenous institutions. After subduing those institutions, the Europeans needed a way to justify their position as the sovereign power with the right to allocate resources as they saw fit; the category of religion was applied gradually, selectively, and inconsistently, depending on how well it accomplished this justification. While the terminology of religion can often mystify such political and material relations, vestigial state theory has the potential to bring them to the foreground.

The theories put forward by these writers draw on many examples from different parts of the world and different times in history, but they have not yet been applied to the uncomfortable relationship between First Nations and the government of Canada. This thesis will present an initial attempt at such an application. I start from the claim that there are no essential or shared characteristics of all the things that are called religion, and that therefore the classification of objects, practices, and people as religious is the result of people's

decisions, and may be more beneficial to some people than to others. More specifically, I start from the claim that the classification of religions has been a way for state institutions and colonial administrations to consolidate their powers. The archival history of the regulation of the sun dance and the potlatch appears differently when viewed through this lens. This history is one case in which the definition of religion was contested, in a way that had implications for the future of Canadian sovereignty, legitimacy, and identity. By hypothesizing that there is nothing inherently religious about indigenous ceremonies (or about anything else), we can ask different questions of this history. We can ask why it seemed proper to some people, but improper to others, to call these ceremonies religious; we can ask what the consequences were of such a change in classification; we can ask who benefited and who suffered from this change in classification. Asking such questions can accomplish two things. First of all, these questions enable us to further test critical theories of religion, to see if such theories make sense in a political and cultural context where they have not yet been applied, and possibly to modify and refine the theories to make them more useful for interpreting the messy data of diverse human societies. Perhaps equally important, these questions may also help us to develop a deeper and more nuanced perspective on the history of First Nations and the state of Canada, to uncover aspects of this relationship which have been hidden or ignored, and potentially to stimulate new ways of thinking about how to repair the many dysfunctions that persist in this relationship.

Chapter 2—Colonialism and Religion in Canadian History

I will now turn to the archival material surrounding the regulation of the potlatch and sun dance ceremonies in western Canada from 1884 to 1951. A substantial amount of historical context is helpful when trying to interpret the discourses found in this material. In 1884, parliament passed a law which specifically named the potlatch and the tamanawas as illegal ceremonies, with a penalty of 2 to 6 months in prison for anyone convicted of organizing or participating in such a ceremony. The law was added to the Indian Act in 1885 as section 114. Very quickly, the law was found to be too unclear to enforce, and in 1895 the law was amended to remove the names of specific ceremonies, and instead gave more general descriptions. The 1895 law read:

Every Indian or other person who engages in, or assists in celebrating or encourages either directly or indirectly another to celebrate, any Indian festival, dance, or other ceremony of which the giving away or paying or giving back of money, goods, or articles of any sort forms a part, or is a feature, whether such gift of money, goods or articles takes place before,

at, or after the celebration of the same, and every Indian or other person who engages or assists in any celebration or dance of which the wounding or mutilation of the dead or living body of any human being or animal forms a part or is a feature, is guilty of an indictable offence and is liable to imprisonment for a term not exceeding six months and not less than two months; but nothing in this section shall be construed to prevent the holding of any agricultural show or exhibition or the giving of prizes for exhibits thereat.²³

Though the placement and numbering of the section within the Indian Act would vary over the following decades, the wording of the law remained until 1951, when it was dropped from the Indian Act altogether. While it was in effect, the law was understood to refer specifically to the potlatch and tamanawas on the west coast, and to the sun dance and thirst dance on the prairies, even though these ceremonies were not named in the text of the law itself. Today, this law, and the ceremonies it tried to eliminate, are commonly understood as being about *religion*; we see this description from scholars of religion, anthropologists, government publications, mass media, and sometimes from First Nations groups themselves²⁴. The motivation for the law is thought to be simple religious intolerance; because the lawmakers and other settlers felt uncomfortable with the differences between indigenous religions and their own, they outlawed the practices. The text of the law, though, along with not naming the specific ceremonies it was targeting, makes no mention of religion either. Without knowing which particular ceremonies were implicated in the law, it would be easy to conclude that the law had nothing to do with religion, but was instead banning gift exchange, trade, and various forms of violence.

²³Canada, Indian and Northern Affairs Canada, Corporate Policy, Research Branch. *Indian Acts and Amendments, 1868-1975*. Edited by Sharon Helen Venne (Saskatoon, SK: University of Saskatchewan Native Law Centre, 1981), 158.

²⁴ A good overview of the different groups using the word “religion” in reference to these ceremonies and to indigenous groups in general is James Cox, *From Primitive to Indigenous: The Academic Study of Indigenous Religions* (Aldershot: Ashgate, 2007). Every secondary source which is cited in this thesis, and which mentions the potlatch or the sun dance, refers to them as religious and/or spiritual ceremonies at least once.

History of Indigenous-Settler Relations

If the law was not motivated by religious intolerance, then what was the motivation? Why did Canada pass the law, and why at this particular time? To answer such questions, we must start from a basic level of knowledge of the history of relations between the indigenous peoples of Canada and European settlers. This is a history that has unfolded over hundreds of years, involving numerous nations in numerous locations within a vast territory, and deserves much more attention than I am able to offer in this thesis. This section, then, will provide simply a brief and generalized overview, to demonstrate the variability of such international relations in Canadian history, and to show the importance of context in our considerations of the laws against ceremonies. I will focus on the political and economic contexts of a few broadly defined periods in Canadian history, not because these are the only important or most important aspects of the relationships between indigenous peoples and settlers, but because they can help us to understand the political and economic context of western Canada in the 19th and 20th centuries, upon which the bulk of this thesis will focus.

Europeans have had a permanent settlement presence in North America since the 16th century, and settlers have been aware of indigenous ceremonies since that time, but it was not until the end of the 19th century that settler governments saw some of these ceremonies as a problem that needed to be regulated. Generally speaking, when French explorers started making regular contact in the 16th century, and once the new neighbours moved beyond their initial suspicions of each other, a co-operative relationship emerged based on shared knowledge and goods. The indigenous peoples enjoyed the European materials and products which were new and useful to them, but more importantly, the Europeans relied on

indigenous knowledge to survive. Canadian winters are harsh, and it is quite likely that the first French settlers would have been wiped out if not for the local indigenous people teaching them how to find proper nutrition and shelter²⁵. There were some conflicts over the control of land and resources, as well as over differences in social and economic structures; Europeans disparaged the indigenous societies' lack of property and accumulated wealth²⁶. Such conflicts, however, did not quickly result in the dominance of one group over the other, and did not eliminate the need for cooperation. The settlers knew that they were a minority in an unfamiliar territory and therefore needed the approval and support of the local inhabitants if they were to build a viable life and find any economic success in their new home.

While the initial economic activity of the settlers was fishing for the abundant Atlantic cod, they soon realized that they could diversify such activity by trading with the locals. Indigenous groups were quite interested in European products such as kettles, and would offer furs and clothing to the settlers in return, which the settlers could then sell to buyers back in Europe²⁷. As demand for Canadian furs, particularly beaver, increased in Europe, the fur trade quickly became the primary economic activity for the settlers. The French were the first to take advantage of this opportunity, but the Dutch and the British soon emerged as competitors. Each group laid claim to their own trade routes and established networks with different indigenous nations²⁸. These relationships were dominant throughout the 17th century, and during this period, indigenous lifestyles were not much modified by the

²⁵ J.R. Miller, *Skyscrapers Hide the Heavens: A History of Indian-White Relations in Canada* (Toronto: University of Toronto Press, 1991), 27.

²⁶ *Ibid.*, 28.

²⁷ Arthur J. Ray, "Fur Trade History as an Aspect of Native History." In *Readings in Canadian History: Pre-Confederation*, edited by R. Douglas Francis and Donald B. Smith, 6th ed., 51–60 (Toronto: Nelson Thomson Learning, 2002), 53-54; Alan D. McMillan and Eldon Yellowhorn, *First Peoples in Canada* (Vancouver: Douglas & McIntyre, 2004), 121.

²⁸ Miller, *Skyscrapers*, 41-43, McMillan and Yellowhorn, *First Peoples*, 120-122.

presence of settlers. There was not yet a major agricultural presence in the territory that is now Canada. The settler population was small and did not interfere appreciably in indigenous societies. There were exceptions, such as the Jesuit missionaries, who did live with indigenous communities and try to convert them to Catholicism²⁹. Missionaries tried to convince indigenous converts to give up their traditional ceremonies, but this concern was not shared by the majority of settlers, who saw indigenous groups as, among other things, useful trading partners³⁰. In fact, some accounts from traders mention that indigenous groups would sometimes perform ceremonies as part of the transaction when goods were exchanged, and it does not appear that these ceremonies were seen as distasteful or problematic for the European traders³¹. Converts to Catholicism did tend to enjoy a privileged trading relationship with the French, but this was not necessarily accompanied by any push to convert *more* of the indigenous population, and probably simply reflects a vague sense that the converts were more “like us” and more trustworthy. Some settlers may have wanted to change the lifestyles of their indigenous trading partners, but such aims had to be considered in the context of maintaining a productive trading relationship³².

As the fur trade prospered and expanded, more European settlers began to arrive in North America, at the same time that furs were becoming scarcer due to excessive hunting. European groups wanted control over a wider scope of resources in a larger area of territory in North America. This objective created conflicts and led to a number of wars beginning in the 18th century, at first mostly between the English and the French, and later between the

²⁹ Roger E. Rienneau, *A Brief History of Canada* (New York: Facts On File, 2000), 36-38.

³⁰ *Ibid.*, 34

³¹ Miller, *Skyscrapers*, 26.

³² For a much more nuanced discussion of this period, see Richard White, *The Middle Ground: Indians, Empires, and Republics in the Great Lakes Region, 1650-1815*, 2nd edition (New York: Cambridge University Press, 2001); see also James S. Frideres and Lilianne Ernestine Krosenbrink-Gelissen, *Native Peoples in Canada: Contemporary Conflicts* (Scarborough ON: Prentice Hall Canada, 1993), 16-18; Miller, *Skyscrapers*, 54.

English and the newly independent United States of America. The European perception of First Nations peoples changed; indigenous groups were seen as less valuable as trading partners, but more valuable as military allies. Alliances with indigenous nations were indispensable for the Europeans in these wars, because the population of European settlers was still not particularly large at this point, and also because much of the fighting took place on territory that indigenous groups controlled and knew³³. The First Nations had a stake in the outcome of the wars as well. The British were seen as more of a threat, as they were trying to rapidly increase settlement and agriculture, and therefore were more likely to intrude on indigenous territory and disrupt indigenous lifestyles. The French, by contrast, were still more focused on trade, and were therefore more inclined to treat the First Nations as autonomous partners³⁴. When the British finally defeated the French in 1760, the French view of the First Nations was defeated as well. The British could still not simply dominate the indigenous peoples, because they knew they might still need indigenous co-operation in future wars against the thirteen colonies/United States. Nevertheless, they did institutionalize their imperial treatment of First Nations. With the Treaty of Paris and the Royal Proclamation (both in 1763), the British established a policy of treating First Nations not as autonomous nations, but as conquered nations (paying no attention to the fact that they had not actually been conquered)³⁵. First Nations were not involved in the negotiations or productions of these documents, and any provisions offered to First Nations within the documents, such as land allowances and trade policies, were ignored whenever it was

³³ Miller, *Skyscrapers*, 63.

³⁴ There were certainly exceptions to these rules, and the English would be allied with some First Nations from time to time as well. See W.J. Eccles, *The Canadian Frontier, 1534-1760* (Albuquerque: University of New Mexico Press, 1983), 157-185.

³⁵ Miller, *Skyscrapers*, 71-74.

beneficial for the British to do so³⁶. There were still elements of a nation-to-nation relationship in place, but language in the Royal Proclamation referring to “Nations or Tribes...who live under our Protection” in “Our Dominions and Territories”³⁷ made it clear that this was now a paternalistic, imperial relationship, not a relationship between equals.

After the War of 1812, relations between the British and the Americans calmed down, and the ensuing period of peace led to a dramatic increase of immigration to Canada. First Nations were no longer needed as military allies, and their population was becoming increasingly smaller compared to the skyrocketing population of settlers. Thus, the British felt freer to expand their empire without regard for the interests of the First Nations. To the west, in what was then called Rupert’s Land and is now western Canada, the indigenous peoples were able to hold onto their autonomy longer, as there was still little settlement by Europeans for much of the 19th century. The fur trade was still viable in the west at this time as well. Thus, the relationship between indigenous groups and European settlers resembled that of eastern and central Canada in the 17th century: both sides benefited from trading with each other, and while some evolution of culture occurred on both sides, there were few attempts to coerce or impose any changes in customs or lifestyle³⁸. As the century progressed, though, more Europeans started to move west, and the indigenous-settler relationships changed much as they had in the east. The gold rush in British Columbia brought relatively large numbers of prospectors to that region, and new immigrants were encouraged to start farms on the prairies because Ontario and Quebec were filling up. In both cases, indigenous groups and lifestyles were seen as incompatible with the interests of

³⁶ Miller, *Skyscrapers*, 73-74.

³⁷ “Royal Proclamation, October 7, 1763 (Extract),” in *Canadian Indians and the Law: Selected Documents, 1663-1972*, ed. Derek G. Smith (Toronto: McClelland and Stewart, 1975), 2.

³⁸ Gerald Friesen, *The Canadian Prairies: A History* (Toronto, ON: University of Toronto Press, 2002), 66.

the settlers, who increasingly saw the First Nations as simply a nuisance, as people who got in the way of settler ambitions to start a prosperous new life. The missionaries (both Protestant and Catholic) who moved west shared this view of the First Nations, and proposed that the solution would be to convert them to Christianity. If the indigenous people became Christians, the missionaries argued, they would no longer be an obstacle to the settlers, but would be helpful, because they were working on the same projects toward the same goals³⁹. Christianity, then, was thought to be synonymous with European economic activity, so much so that “the Bible and the plough” became something of a catch phrase to describe the missionary strategy. Other settlers, though, were not optimistic about the possibilities of conversion, and were more inclined to simply remove the indigenous groups from the territory they wanted for themselves⁴⁰.

Political and Economic Issues in Late 19th Century Canada

Such was the state of indigenous-settler relations at the time of Canada’s confederation in 1867. This increasingly tense situation in the west, combined with the power dynamics of the newly formed state institutions in the east, formed the context of the many laws and policies implemented in subsequent years to regulate the behavior of the First Nations. After 1867, Canada had to figure out what its identity was. Previously, Upper and Lower Canada had simply been part of British North America, overseen by Britain and populated mostly by British loyalists who did not want to join the United States of America, with a substantial minority of conquered French *Canadiens*. Now, with Britain distancing itself from the administration of its North American colonies, some in the four provinces of the new Dominion of Canada began to talk about themselves as a new nation. Yet, it was not

³⁹ Ibid., 96; Miller, *Skyscrapers*, 130.

⁴⁰ Miller, *Skyscrapers*, 131.

clear what made them a nation: Canadians were not united by a common language, a common church, common national symbols, or even by a history of unity⁴¹. It was not even clear whether new nations were possible. The United States were the obvious example, but their union had almost been dissolved by civil war in the years immediately preceding Confederation. In some ways, the divisions among Canadians were more apparent than reasons for unity, most notably the divisions between English and French, which were not simply cultural, but were institutionalized: French Canada had different political institutions from those of English Canada, as well as its own church, and even a separate system of law⁴². Economically, it was not certain whether Canada would have the resources to survive without the previous levels of support from Britain⁴³. In many ways, Canadians were caught between two empires—the older, retreating British empire, and the new, ambitious US empire—and Canadians did not agree on how they ought to relate to these two powers⁴⁴.

While some Canadians argued for increased integration with the US, prime minister John A. MacDonalld insisted on keeping Canada distinct from its southern neighbor. In order to do this, Canada needed economic self-sufficiency, which MacDonalld addressed with his famous National Policy. The plan was for Canada to acquire territory to the west, and use the resources of that territory to support the economy for the population further east. MacDonalld promised to build a railroad to the west coast to transport the raw materials (particularly grains and textiles from the prairies, and lumber from British Columbia) back to the heartland of Ontario and Quebec. The goods produced from these materials could then be

⁴¹ Desmond Morton, *A Short History of Canada* (Toronto: McClelland & Stewart, 2001), 10.

⁴² *Ibid.*, 26.

⁴³ *Ibid.*, 107, 110-112.

⁴⁴ Carl Berger, *Imperialism and Nationalism, 1884-1914: A Conflict in Canadian Thought*. (Toronto: Copp Clark, 1969), 1-6.

sent back west for the people working on extracting the resources⁴⁵. Basically, this was an imperial strategy, taking resources from a far-off land to increase prosperity back home; the National Policy could be seen as an attempt by Canada to start its own empire rather than being a colony for the British or US empires⁴⁶. To implement this strategy, officials in MacDonald's government had to move quickly, because they were not the only ones interested in claiming the territory in the northwest region of North America. In the same year of Canada's Confederation, the US had purchased Alaska from Russia, and was also showing interest in the Red River region in present-day Manitoba⁴⁷. The government of Canada wasted little time in acquiring Rupert's Land from the Hudson's Bay Company and making British Columbia a province. Finally, perhaps the most important part of the plan was to encourage immigration, in order to settle the west before the Americans could get there⁴⁸.

One main problem for imperial economies and governments is that minority groups within the territory claimed by the empire are often unhappy with their lack of autonomy and lack of control over land and resources. There was notable tension between Canada's English-speaking majority and the Francophone minority concentrated in Quebec. In the west, the Canadian government ran into similar problems with the First Nations and Métis. Despite the legitimate claims such groups may have had to self-determination and control over the territory where they lived, the Canadian government generally saw them as an obstacle to the implementation of the National Policy⁴⁹. Building a nation and an economy

⁴⁵ Morton, *Short History*, 115.

⁴⁶ "Empire" and "imperial" are complicated and contested concepts. For my purposes, an empire is a political system based on expansion of sovereignty, subjection of peripheral populations, and pervasive, coercive order. For more, see Alejandro Colás, *Empire* (Cambridge, Mass.: Polity, 2007), particularly pages 5-11.

⁴⁷ Morton, *Short History*, 100.

⁴⁸ *Ibid.*, 105.

⁴⁹ Miller, *Skyscrapers*, 189.

in a territory as vast as present-day Canada is expensive, and Canada was spending a lot of money on infrastructure (particularly railroads) to support the plan; the government needed high levels of productivity to recover the costs of such planning⁵⁰. From the government's perspective, the First Nations of the west were often in the way, because they were not contributing to the urgent development of the Canadian economy. The frustration of this disconnect between Canada and the First Nations can be seen in the stereotypes many Canadians expressed regarding indigenous people: they were often described as lazy, immature, and without the capabilities to manage money, property, or business⁵¹. Rather than understanding that First Nations people might not want to participate in the new Canadian economy, Canadians instead seemed to assume that they did not know how to participate, or were simply bad at it. Such stereotypes are often seen as simple prejudice or intolerance, but in this instance they quite clearly relate to an economic problem. Canada needed to figure out how to build productive farming, logging, and fishing industries in the west despite the presence of an indigenous population that seemed uninterested in, or suspicious of, the government's plans.

When the United States moved west, the same problem arose. The US saw it as a military problem, which led to a number of wars between the US military and Native American nations. Canada may have seen the problem in the same way if it had a military as large as that of the US; Canada did not have anywhere near the same amount of resources as the US to dedicate to warfare. Canada had to look for other solutions⁵². Instead of taking the territory by force, the Canadian government decided to negotiate treaties with the First

⁵⁰ Morton, *Short History*, 115-119.

⁵¹ Daniel Francis, *The Imaginary Indian: The Image of the Indian in Canadian Culture*. 2nd edition (Vancouver: Arsenal Pulp Press, 2011), 219, 227-230.

⁵² *Ibid.*, 213-214.

Nations of the west, a process started just a few years after Confederation. While the act of entering into a treaty might make it seem as though Canada was treating the First Nations as independent states, the reality was more complicated. In brief, it is reasonable to say that Canada recognized the rights of indigenous people to use the land where they lived, but did not acknowledge any sort of indigenous *ownership* of the land or *sovereignty* over it⁵³. Furthermore, Canada did not make treaties a comprehensive strategy for dealing with First Nations. All the land in the Canadian prairies was eventually covered by the various treaties, but in regions where Canada did not encounter any initial resistance (such as in most of British Columbia), the government did not attempt to negotiate treaties with the local indigenous populations. A better indicator of Canada's view of First Nations, and the strategy regarding First Nations, is the collection of laws leading up to and culminating in the Indian Act. A trend in Canadian law, seen particularly in the Gradual Civilization Act of 1857, the British North America Act of 1867, and the Gradual Enfranchisement Act of 1869, portrayed "Indians" as inferior to settler Canadians and described Canada's role in teaching them how to become civilized. The rights of citizenship were withheld from Indians until they could prove their worthiness⁵⁴. These laws anticipated the Indian Act of 1876, which laid out a comprehensive description of Canada's paternalistic regulation of Indians and famously described them as wards of the state, not as equal nations with independence and autonomy. Assimilation was the goal of the Indian Act, which offered the rights of full citizenship as the prize to Indians who could assimilate properly (which meant, among other things, giving up indigenous land rights)⁵⁵.

⁵³ J.R. Miller, "Canada and the Aboriginal Peoples, 1867-1927." In *Reflections on Native-Newcomer Relations: Selected Essays*, 171-92 (Toronto: University of Toronto Press, 2004), 176-180.

⁵⁴ Derek G. Smith, *Canadian Indians*, 50-54, 62-64, 73-78.

⁵⁵ *Ibid.*, 111-114. Ss. 86-94, pp. 47-50.

The clearest indication that First Nations and Métis were not considered by Canada to be independent nations is the Canadian response to the Métis rebellions of 1869 and 1885. The circumstances of these two rebellions are complex. The most important aspect to note is that these incidents were considered *rebellions*. While the aim of the Métis was not necessarily to create their own independent state, they did frequently refer to themselves as a nation, and in both cases set up provisional governments that claimed to operate independently of Canadian sovereignty. In the Red River valley in 1870, after the Métis government had executed a Canadian prisoner, the Canadian government sent military troops and negotiators to deal with the situation. While Canada did agree to many of the provisions demanded by the Métis, including the creation of Manitoba as a province, the resulting agreement (as well as the military presence) re-asserted Canadian sovereignty over the territory⁵⁶. The 1885 rebellion on the Saskatchewan River did not end as peacefully; the Canadian army defeated the Métis by force in the Battle of Batoche. Once again, the conflict was not seen by Canadians as a war between Canada and a rival nation, but as the quelling of an uprising. The Métis leader, Louis Riel, was executed for treason, even though he had citizenship in the US, not Canada⁵⁷. Although the Métis behaved like a nation state, this was not enough for Canada to treat them like a nation state. Instead, Canada reacted to this conflict by intensifying the policies it already had in place to deal with indigenous peoples on the prairies⁵⁸. The government practice of creating reserves that were far apart from each other, the pass system that restricted the travel of status Indians, and the expansion of the laws against ceremonies to

⁵⁶ Friesen. *Canadian Prairies*, 125-128.

⁵⁷ Some argue that the charge of treason was valid because Riel was in Canadian territory; either way, an execution of a non-citizen for treason is a complicated and controversial matter at best. See Friesen, *Canadian Prairies*, 233, and Miller, *Skyscrapers*, 185.

⁵⁸ While historians now generally agree that the 1885 rebellion was undertaken almost exclusively by Métis, the perception of Canadian officials at the time was that Cree and Blackfoot nations had joined forces with the Métis, which had an effect on subsequent government policy toward First Nations.

include the sun dance and thirst dance of prairie First Nations were all justified by the idea that indigenous groups would quickly turn violent if Canada did not regulate them strictly⁵⁹.

Religion in Late 19th Century Canada

At the same time, while Canadians were growing increasingly suspicious of First Nations people, they maintained a generally positive view of religion. The word “religion” in this period typically referred only to Christian churches. These institutions were seen as important for the reinforcement of social values and order, for the creation of good citizens, and for the safeguarding of national peace and prosperity⁶⁰. In the 18th century, the status of churches and clergy was even enforced by Canadian law, which set aside land for church use and protected the rights of churches to collect tithes from parishioners⁶¹. These laws disappeared in the 19th century, because the emergence of more Christian denominations made it impractical for the government to provide resources for all of them. Nevertheless, there remained a perception of churches as valuable institutions for the progress of the Canadian state. To ensure they maintained this status in the minds of Canadians, churches became more involved in the provision of social services, particularly education. In Quebec, where the population was predominantly Catholic (as opposed to the Protestant majority in the rest of Canada), the Catholic Church aimed to prove its legitimacy by educating its students as well as, if not better than, the Protestant schools in English Canada. Among other things, proper education meant cultivating a sense of morality and responsible citizenship

⁵⁹ Keith D. Smith, *Liberalism, Surveillance, and Resistance: Indigenous Communities in Western Canada, 1877-1927* (Edmonton: AU Press, 2009), 63-64.

⁶⁰ Kenneth L. Draper, “Finishing Badly: Religion, Authority, and Clergy in late-Victorian London, Ontario.” In *The Churches and Social Order in Nineteenth- and Twentieth-century Canada*, edited by Michael Gauvreau and Ollivier Hubert, 151–74 (Montreal: McGill-Queen’s University Press, 2006), 153-156.

⁶¹ Terrence Murphy, “The English-Speaking Colonies to 1854.” In *A Concise History of Christianity in Canada*, edited by Terrence Murphy and Roberto Perin, 108–189 (Toronto: Oxford University Press, 1996), 134-136; Richard Moon, *Freedom of Conscience and Religion* (Toronto: Irwin Law, 2014), 4.

among the students⁶². In the other provinces as well, Catholics fought for their own separate school systems, with the same purpose in mind. Various Protestant denominations did not create their own separate schools, but they did look for other ways to prove they could develop good citizens, one of which was sending missionaries to the Canadian west to teach the indigenous peoples how to become Christians and Canadians. Because the Canadian government wanted the indigenous peoples to assimilate into the Canadian political and economic system, missionaries were generally seen as allies. Religion, then, was not seen primarily as an expression of cultural diversity or individual conviction, but rather as a tool for building a civilized society.

Any discussion of freedom of religion in 19th century Canada must be undertaken with this understanding of religion in mind. Today, we tend to think about religious freedom as a human right, protected by the Canadian Charter of Rights and Freedoms, but for much of Canadian history, religious freedom was a political compromise. The first provision of religious freedom in Canadian history was in the Treaty of Paris in 1763, after the British had conquered the French in North America. The treaty stated that the conquered French would still be allowed to practice the Catholic religion under British rule, as long as they submitted to British sovereignty and did not disobey British law⁶³. This concession was reasserted in the Quebec Act of 1774, which also allowed the French to maintain their language and their system of civil law. These provisions were not based on any respect the British had for religion in general or the Catholic religion in particular, but were instead an attempt to ensure

⁶² Brigitte Caulier, "Developing Christians, Catholics, and Citizens: Quebec Churches and School Religion from the Turn of the Twentieth Century to 1960." In *The Churches and Social Order in Nineteenth- and Twentieth-century Canada*, edited by Michael Gauvreau and Ollivier Hubert, 175–94 (Montreal: McGill-Queen's University Press, 2006), 179-185.

⁶³ Jacques Lacoursière, *Histoire populaire du Québec, v.1* (Saint-Laurent (Québec): Septentrion ; Diff. Dimedia, 1995), 345-346; Moon, *Freedom of Conscience and Religion*, 2.

Quebec loyalty in the event of a conflict between the British and the Americans of the Thirteen Colonies⁶⁴. Religious freedom, then, existed only to the extent that it was politically useful. The end of the establishment of the Church of England can be seen in a similar way. Other Protestant denominations, such as Methodists and Presbyterians, argued against the special privileges given to the Anglicans by asserting their own groups' capacities to provide social services⁶⁵. Because the Canadian government recognized these denominations' usefulness to Canadian society, they were given a legal status equal to that of the Anglicans. Later, in the late 19th and early 20th centuries, religious freedom was extended to groups such as the Mennonites and the Hutterites in exchange for their willingness to settle on the prairies and establish farms, because this furthered the goals of the government's National Policy⁶⁶. In these cases, what counts as a religion, and what qualifies for the legal protection of religious freedom, depends on how well a group can show its compatibility with the aims of the Canadian government.

In this context, what does it mean to say whether or not the potlatch and the sun dance were *religious* ceremonies? In the first place, it is difficult to define these ceremonies with any clarity or certainty. They took different forms in different times and places, with different groups adding or subtracting or modifying elements as they saw fit. The potlatch and sun dance might involve activities that are commonly considered religious today, such as ritual dancing and the retelling of myths. They could also involve activities such as feasting and delivering speeches, which are seen as religious acts in some contexts but not in others.

⁶⁴ John Dickinson and Brian Young, *A Short History of Quebec* (Montreal: McGill-Queen's University Press, 2008), 55-58.

⁶⁵ Marguerite Van Die, *Religion and Public Life in Canada: Historical and Comparative Perspectives* (Toronto: University of Toronto Press, 2001), 7; Draper, "Finishing Badly," 153-154.

⁶⁶ John Webster Grant, *The Church in the Canadian Era*, 2nd edition (Vancouver: Regent College Pub., 1998), 33.

Additionally, the ceremonies commonly involved the exchange of property and the entrenchment or rearrangement of hierarchies, titles, and power. These activities are typically seen as economic or political, and not religious⁶⁷. The ceremonies did not fit neatly into the categories the settlers wanted to use for classification. In the context of 19th century ideas about religion and Canadian sovereignty, it is not difficult to see why Canadian authorities viewed these ceremonies with suspicion. The political status of the churches at this time was based on their ability to develop good citizens and encourage loyalty to the Canadian state. This task was a key factor in what made the churches “religions.” Although indigenous ceremonies may include many characteristics that are now associated with religions, they did not include the characteristics that made religion a relevant *legal* category in 19th century Canada: they did not encourage their participants to submit to Canadian authority and become obedient citizens. The question is not whether these ceremonies were “actually” religious or not, but rather whether it was beneficial to the Canadian government to grant them the legal protections and privileges of religious freedom. With this context in mind, we can now take a closer look at the documentary evidence surrounding the Canadian government’s regulation of the ceremonies.

⁶⁷ Many descriptions of both the potlatch and the sun dance have been published. George Hunt, Franz Boas, and Marcel Mauss wrote some of the most notable accounts of potlatches. Valuable discussions of the sun dance have been written by Clyde Holler, Joseph Jorgensen, and Manny Twofeathers. None of their accounts are exhaustive, but they show the variety of forms that the ceremonies can take. Marcel Mauss, *The Gift: Forms and Functions of Exchange in Archaic Societies*, translated by Ian Cunnison. 1954 (Reprint, London: Routledge and Kegan Paul, 1974); Franz Boas and George Hunt, *The Social Organization and the Secret Societies of the Kwakiutl Indians*. 1895 (Reprint, New York: Johnson Reprint Corp., 1970); Clyde Holler, *Black Elk’s Religion: The Sun Dance and Lakota Catholicism* (Syracuse, N.Y.: Syracuse University Press, 1995); Joseph Jorgensen, *The Sun Dance Religion: Power for the Powerless* (Chicago: University of Chicago Press, 1972); Manny Twofeathers, *The Road to the Sundance* (New York: Hyperion, 1996).

Chapter 3—Regulating Ceremonies in British Columbia

When the law against indigenous ceremonies was first passed in 1884, it was only applicable in British Columbia. Thus, that province is the appropriate place to start an investigation into the dynamics of the law. In the late 19th century, enough settlers had arrived in British Columbia for conflicts to arise between them and the indigenous groups of the region. Settlers became upset that First Nations did not respect their claims to land ownership. Although the Canadian government had not negotiated treaties with the British Columbia First Nations as they had with those on the prairies, there was no problem segregating the First Nations onto reserves to solidify the property rights of the settlers. At this time, British Columbia did not have a large enough settler population to support a substantial police force. Thus, the regulation of the First Nations fell to a group of 20

federally-appointed officials, known as Indian agents, who were each given a territory to oversee. Without a police presence to enforce their rule, the agents relied heavily on Catholic, Anglican, and Methodist missionaries to interact with the First Nations and persuade them to recognize Canada's authority. These missionaries were the first people to pressure the government for a law banning the potlatch and tamanawas ceremonies⁶⁸.

Strategies of Enforcement

While many have claimed that the missionaries opposed these ceremonies simply because they represented a non-Christian religious tradition, their correspondence shows a more complicated picture. The policy of the Department of Indian Affairs at this time was to assimilate the First Nations so that they would eventually lose their Indian status and become normal citizens of Canada⁶⁹. The missionaries were a key component of this assimilation strategy, and saw their task as not only Christianizing the First Nations, but also civilizing, educating, and industrializing them—tasks that were thought to go hand in hand. In fact, the letters sent by missionaries to the Indian agents and to officials of the DIA in Ottawa usually did not focus on Christian conversion specifically, but argued for the ban on ceremonies for more practical reasons. Among the most common arguments were: that the gatherings caused the spread of disease, which led to severe population decreases among the First Nations; that the ceremonies caused an attitude of indifference to church education, because children were pulled out of school for extended periods to celebrate the ceremonies; that the ceremonies encouraged immorality, particularly drunkenness and promiscuity; that the ceremonies encouraged laziness and vagrancy among the First Nations instead of ambition

⁶⁸ Jean Barman, *The West Beyond the West: A History of British Columbia* (Toronto: University of Toronto Press, 1991), 162-187.

⁶⁹ *Ibid.*, 165-170.

and industriousness (they were a “waste of time”); and that the ceremonies created poverty because they validated traditional economies that were not as profitable as the industries set up by settlers⁷⁰. These arguments were quickly accepted and repeated by Indian agents and DIA officials, and were quoted in parliamentary committees and debates preceding the creation of the law against the ceremonies⁷¹. Once the law was passed, the same reasons for opposing the potlatch were cited regularly, but they were also commonly summed up by simply describing the ceremonies as “demoralizing.”

Another argument in favour of the law was that the potlatch reinforced the authority of traditional First Nations leaders and therefore undermined Canada’s sovereignty and control over the indigenous population. This argument was not particularly prominent before the law was passed; as time went on it became the primary justification for the law. I.W. Powell, the Indian Superintendent in Victoria at the time the law was passed, was one of the first vocal proponents of this argument. He recommended that along with banning the potlatch and tamanawas, Indian agents should establish “Indian Councils” within First Nations communities that would be friendly to the Canadian government and combat the power of the traditional chiefs⁷². Powell also stated in 1887 that the purpose of the law was the “improvement *and control* of Indians.”⁷³ When difficulties arose in the enforcement of the law in the 1890s, Powell’s successor, A.W. Vowell, consistently emphasized that all decisions should be made with the goal of compelling the First Nations to “respect the law”

⁷⁰ Douglas Cole and Ira Chaikin, *An Iron Hand Upon the People: The Law Against the Potlatch on the Northwest Coast* (Vancouver: Douglas & McIntyre, University of Washington Press, 1990), 15.

⁷¹ Canada. House of Commons Debates, 7th Parliament, 5th Session, volume 2 [July 4, 1895]. http://parl.canadiana.ca/view/oop.debates_HOC0705_02/748?r=0&s=1

⁷² All primary source citations from this point on, unless otherwise noted, come from the Department of Indian Affairs Record Group 10, Western (Black) Series. I will specify the volume and file number for each citation. This citation is from Volume 3628, File 6244-1.

⁷³ *Ibid.*, emphasis added.

and the government⁷⁴. This aim of the DIA was repeated often enough that it seems to have eventually superseded the other aims for suppressing the potlatch. As James Benjamin McCullagh said in a letter to Vowell in 1896, “To my mind it is not so much a question of suppressing the potlatch as of establishing the supremacy of the law and civil authority.”⁷⁵ In later decades, as more First Nations people were being arrested for hosting or facilitating potlatches, government officials often assumed that such people were motivated by a desire to defy Canadian law, not a desire to hold a potlatch for its own merits. In a 1913 letter from Indian agent William Halliday to DIA Secretary J.D. McLean, Halliday states that the “Indians have determined to put the matter to the test,” and that they will have no respect for the government if they are not prosecuted⁷⁶. A few years later, in 1921, Inspector of Indian Agencies W.E. Ditchburn claimed that the purpose of holding a potlatch was “to see if they could beat the Department.”⁷⁷ The pragmatic arguments against the potlatch still lingered in the background, particularly among missionaries, but for most DIA officials the primary reason to enforce the law was to assert Canadian sovereignty.

Of course, the law never was enforced consistently. One reason was that there was little agreement on what the potlatch was. The potlatch had so many elements, and varied so much among different people in different times and places, that it was difficult for government officials to determine whether a potlatch had actually taken place in any particular instance. Even after the law was changed in 1895, there was still a great deal of confusion among Indian agents over which ceremonies were illegal and which were acceptable. From time to time, government officials disputed all of the initial reasons for

⁷⁴ Ibid.

⁷⁵ Ibid.

⁷⁶ Volume 3629, File 6244-2.

⁷⁷ Volume 3630, File 6244-4.

passing the law. Many changed their minds repeatedly on its importance. As much as Powell wanted to assert control over the First Nations, he also argued for leniency in the law's enforcement, claiming that many indigenous groups were "industrious [and] self-sustaining" despite their potlatch ceremonies⁷⁸. Others claimed that the potlatch did not actually cause the health or economic problems attributed to it; several agents called the ceremony a "harmless custom." Still others pointed out that many First Nations groups were loyal and law-abiding, and used the potlatch to express their loyalty to Canada. In an 1890 letter, Indian agent W.H. Lomas mentioned a potlatch being held on a Cowichan reserve in honour of Queen Victoria's birthday, and expressed his wishes that all potlatches could be celebrated for such reasons⁷⁹. As new Indian agents were appointed over the decades, many of them found it necessary to write to the DIA in Ottawa for clarification about what exactly was wrong with potlatch ceremonies, and asked how they were supposed to handle them.

The general settler population of British Columbia was confused and uneasy about the law as well. Letters to the editors of newspapers often expressed doubts that the law was necessary at all. Letters from Indian agents commonly reported that they had trouble enforcing the law because they did not have the support of the general public. In 1897, the British Columbia legislature passed a motion to conduct an enquiry "into the origin, nature, and meaning of the custom,"⁸⁰ but the enquiry led only to a number of conflicting opinions and resulted in no conclusive findings. Even when arrests were made for potlatches, the confusion among the public made it difficult to convict the accused. One case in May 1914 was dismissed because the jury could not agree on whether a gathering hosted by the accused was a "festival" or a "ceremony" (in the end, a second trial was held in which the accused

⁷⁸ Volume 3628, File 6244-1.

⁷⁹ Ibid.

⁸⁰ Ibid.

was convicted for hosting a “dance”)⁸¹. Certainly, there were some settlers who agreed with the missionaries that the potlatch was “demoralizing” and a hindrance to First Nations health and economic activity, but they could not present a coherent description of what the potlatch was and how it caused such problems. Thus, the law never gained consistent support among the citizens of British Columbia.

Another problem with the law, to which I have already alluded, was a disagreement over how it should be enforced, and by whom. As already mentioned, there was no federal police force in British Columbia when the law was passed, and the Indian agents did not have the resources to patrol the reserves regularly. In 1886, John A. MacDonald, who was not only prime minister of Canada but also superintendent general of the DIA, recommended that the provincial government of British Columbia supply the police resources to break up ceremonies and arrest offenders. The province refused, pointing out that Indian Affairs were under federal jurisdiction⁸². This problem became more worrisome for the DIA as they became more concerned with the law as a tool to maintain authority over First Nations in general: if the agents could not enforce the law, the First Nations might lose respect for all Canadian law and Canadian government. Eventually the DIA settled into a policy of enlisting missionaries to fight the potlatch through “moral suasion,” rather than backing up the law with force. This decision was seen by some as the only practical option, although many were not satisfied, and arguments persisted among the missionaries, the province, and the DIA over the best way to implement the law. None of these groups settled on a consistent position, because they all wanted to maintain their authority relative to the other groups, but they also did not want the financial responsibility that would come with such

⁸¹ Volume 3629, File 6244-2.

⁸² Volume 3628, File 6244-1.

authority. Missionaries who had once pushed for legislation to fight the potlatch now argued that the law was counter-productive. For instance, John Woolsey wrote a letter in 1895 to Prime Minister Mackenzie Bowell arguing that enforcing the law would cause an indigenous rebellion, and the best way to eliminate the potlatch would be through the persuasive abilities of the missionaries⁸³. Other missionaries began to make arrests on their own, a practice that was sanctioned by the province and the DIA, but with hesitation. The effect was that enforcement of the law was sporadic and rather unpredictable for decades. In the 1920s, the Royal Canadian Mounted Police were enlisted to handle such enforcement, increasing the number of arrests and giving a level of consistency to the process. However, this shift caused more confusion because many First Nations did not understand why they were now being punished for ceremonies that had previously been condoned.

Another point about these confusions and disagreements is that they did not follow predictable scenarios. The story is not one of straightforward conflict between First Nations on one side and white settlers on the other. As mentioned earlier, there was a level of support for the potlatch among the general population of settlers in British Columbia; a person's role in society did not seem to be predictive of how they would feel about the ceremony. Some provincial and federal legislators were in favour of the suppressive laws, while others were strongly against them; similar conflicts existed within the ranks of judges, lawyers, missionaries, and even among the Indian agents. The First Nations themselves were also not unified in opposition to the laws. While it is probably not true that all members of the younger generations were in favour of outlawing the potlatch (as several Indian agents claimed), there were petitions sent to the government by First Nations groups asking for the laws to be enforced more strictly. Many groups were convinced of the need to give up the

⁸³ Ibid.

practices altogether. Some missionaries tried to suggest that conversion to Christianity caused First Nations people to give up the potlatch. However, this claim was disputed by many letters from Indian agents who complained that some converts were continuing the practice as enthusiastically as ever. The only people who became more united in their position as time went by were the inspectors, superintendents, and secretaries of the DIA. The more they heard questions and concerns about the potlatch from all other segments of the population, the more these officials reiterated their position: the potlatch was against the law, and indigenous groups must learn to respect the law and the authority of the Canadian government.

Strategies of Opposition

Amidst all this confusion about what the potlatch was and how the government should deal with it, there was a persistent level of opposition to the law from within First Nations groups that continued for most of the lifespan of the law. Although many nations did decide to abandon the potlatch, several groups along the southern coast of British Columbia insisted on continuing the tradition. The Kwakwaka'wakw on Vancouver Island caused the most frustration for the DIA, and other groups followed their lead. These groups used a number of different tactics to oppose the law, starting with simple attempts to negotiate with Indian agents. When negotiations did not work, various groups moved on to other methods, including open defiance of the law, holding potlatches in secret, modifying the ceremonies to try to conform to the letter of the law, sending petitions to all sorts of government officials in British Columbia and in Ottawa (up to and including the prime minister and governor general), and eventually hiring lawyers to try to get the law amended or repealed. Most of these appeals started by expressing confusion about the law, saying that First Nations could

not understand why the potlatch was bad or why the DIA did not like it. Next, the appeals would present arguments about what the potlatch was and why the law was unreasonable or unjust. Although many different arguments were presented, they all fall into two distinct types: arguments that emphasize the similarities between settlers and First Nations, and arguments that emphasize the difference between the two groups.

The most prominent opposition argument put forward in the early years of the law was to simply state directly that the First Nations were loyal subjects of Canada. A collection of speeches and petitions sent to the DIA by Cowichan representatives in April of 1885 reflects this line of argument, including lines such as, “I have always supported the government and Powell,” “you know we are law keeping,” and “we are the only tribe who listened to your words.”⁸⁴ A few years later, the Naas River chiefs sent a petition to Vowell in which they proudly claimed to “observe the laws of our Great and Good Mother Queen Victoria whom we all love.”⁸⁵ It was common for such petitions to mention specific individuals such as Powell, as well as many different segments of the government. Letters affirmed First Nations’ support of the Indian agents, the courts, the prime minister, and the governor general (and, of course, the Queen). Sometimes groups would express their respect for the churches’ authority as well. This type of argument was included in most written appeals to the government, and was also mentioned by Indian agents in many letters written to their DIA superiors. Once the First Nations began hiring lawyers to dispute the laws, the letters from the lawyers also made sure to clearly state that the First Nations were not opposed to the government in general. In a 1924 letter from solicitors Dickie & DeBeck on behalf of the Kwakwaka’wakw to the DIA, the writers state that while the potlatch was originally a form

⁸⁴ Ibid.

⁸⁵ Ibid.

of governmental administration, it is “not in any way antagonistic or inimical to the Whiteman’s government of the Country today, nor his institutions.”⁸⁶ Clearly, the Indian agents had expressed to the First Nations that violation of this law was understood as an overall lack of respect for the government. Thus, the supporters of the potlatch wanted to calm those fears by expressing loyalty.

During the First World War, the First Nations expressed loyalty to Canada by declaring their support for the war effort. While the First Nations of British Columbia did not send any men overseas to fight, they found other ways to display their support. Some groups collected money to send to Ottawa in support of the war, while others agreed to stop holding ceremonies until the war was won. Even the Kwakwaka’wakw, with their reputation of being the most defiant of the British Columbia First Nations, expressed support for Canada during the war; when DIA deputy superintendent Duncan Campbell Scott sent a circular to British Columbia Indian agents in 1918 instructing them to allow no festivals during wartime, Alert Bay agent Halliday wrote back to Scott to praise the Kwakwaka’wakw for their cooperation and support⁸⁷. Of course, many First Nations were hoping that their support for the war would give the government proof of their loyalty and lead to a relaxing of the law. In March 1921, the Kwakwaka’wakw sent a petition to Prime Minister Arthur Meighen arguing, in part, that since they refrained from potlatching during the war, they should be allowed to potlatch freely now that the war was over⁸⁸. The petition was ignored; although some government officials were impressed by the First Nations’ war support, it was not enough to change the DIA’s position on the potlatch in general.

⁸⁶ Volume 3630, File 6244-4, Part 2.

⁸⁷ Volume 3629, File 6244-3.

⁸⁸ Volume 3630, File 6244-4.

Another way in which First Nations expressed their similarities with settlers was to compare the potlatch to innocent activities that settlers undertook regularly. In the early years of the law, this argument was not particularly common; there was some mention of the ceremony being similar to the harmless “festivals” and “habits” of the settlers, but no specific practices were named. By 1905, we can see evidence that First Nations were making more specific arguments of this type to their Indian agents. A letter from agent A.W. Neill in that year repeated First Nations claims that potlatches were like Christmas celebrations and masquerade balls⁸⁹; an article in the *Victoria Daily Times* by agent Thomas Deasy compared the potlatch to the stock exchange⁹⁰. In May 1913, Kwakwaka’wakw leader Jim Quatel sent a letter to McLean in Ottawa which claimed that the potlatch was just like the opera or the theatre enjoyed by the settlers⁹¹. In subsequent years, other First Nations leaders and representatives would argue that the potlatch was no different from settler feasts held at Christmas, or dances that settlers held throughout the year. The reasoning was that if these celebrations and amusements were legal and harmless for settlers, then the potlatch should also be considered harmless and thus legal. Some Indian agents and members of parliament were sympathetic to such arguments, and began to question the DIA about the usefulness of a law against harmless social gatherings. The head officials of the DIA though, such as McLean and Scott, apparently did not even consider such arguments. Whenever they received letters or petitions arguing for leniency, they would not respond to the specific arguments, but would simply quote the text of the law and declare that it was in place for the First Nations’ own good. Such responses have the tone of a father telling his child to obey

⁸⁹ Volume 3629, File 6244-2.

⁹⁰ Ibid.

⁹¹ Ibid.

“because I said so.” They do not try to convince the First Nations of the justice of the law, but simply to instill an obedient attitude.

The other type of argument that the law’s opponents made was that the First Nations and the white settlers were too different for the First Nations to assimilate. The law, then, was useless, because the First Nations could never learn to stop holding potlatches, or at least they could not be convinced by a law to change their ways. This form of argument was also used from the first days of the law, as can be seen from such lines as “we are not yet like white people” and “the white chief does not understand our ways” in the collection of Cowichan speeches from 1885⁹². These arguments tended to characterize indigenous groups explicitly as nations, and then claim that nations are naturally different from one another and will always behave differently. Jim Quatel’s 1913 letter devotes one section to arguing that nations do not have to act like one another; a subsequent letter he wrote to McLean a month later uses the same argument, saying that “all nations love their own ways.”⁹³ Another letter sent by Kwakwaka’wakw chiefs in Alert Bay to the DIA in the following year argued that nations have the right to continue their “ancestral traditions.”⁹⁴ Once the Alert Bay chiefs began to hire lawyers, they made an even stronger effort to push this argument, referring to the potlatch as a “national custom” in their petitions. One letter compared the potlatch to the customs of the Scottish, Irish, and French citizens of Canada, saying that if the government does not interfere with those customs, it should not interfere with the potlatch either⁹⁵.

Some opponents of the law went even further, arguing for the legitimacy of the potlatch not only as a national custom, but as a national system of law or government. This argument

⁹² Volume 3628, File 6244-1.

⁹³ Volume 3629, File 6244-2.

⁹⁴ Volume 3629, File 6244-3.

⁹⁵ Ibid.

was made early on and persisted for the duration of the law as well. The Cowichan speeches of 1885 call the potlatch “one of our laws,”⁹⁶ and there are multiple instances of the Naas River and Alert Bay groups using the word “law” to describe the potlatch and argue for its legitimacy. The potlatch is also described, by First Nations leaders and their lawyers, as a form of government and a way to install chiefs. Missionaries and Indian agents reported that they had heard this type of argument. The reasoning implies that nations should not only be allowed to follow their own customs, but also should be permitted to institute their own laws and governments as well. The First Nations do not want to violate the law of Canada, but also want to remain loyal to another law that requires them to hold potlatches. An 1896 petition circulated by the chiefs at Naas River claims that the group has the right to their own law, because of their ancestry and history, while still acknowledging that they respect the law of Canada and have no desire to disobey it⁹⁷.

Although these two types of arguments are different—on the one hand, claiming that settlers and First Nations are fundamentally similar, while on the other hand, claiming that they are fundamentally distinct—they were not seen as conflicting or contradictory by the people who were making the arguments. In fact, as I have already suggested, both types of argument were often found within a single letter or petition. From the perspectives of the people writing such letters, although the customs and laws of First Nations might differ from those of the settlers in their form or appearance, they were still compatible because on another level they were accomplishing the same thing. Both groups wanted to maintain peace and order, to repay debts, and to enjoy social gatherings; they simply had different ways of doing those things. To the DIA and others in favour of the anti-potlatch law, though,

⁹⁶ Volume 3628, File 6244-1.

⁹⁷ Ibid.

these differences were not acceptable. They believed the country had to be united under a single government and legal system, and that the potlatch represented a competing system that would always undermine Canadian authority. A group of British Columbia Anglican leaders stated in a letter to Scott in 1920 that “[t]he loyalty of the Indians to the potlatch means that they cannot give their true allegiance to any other system of government.”⁹⁸

Declarations of loyalty to Canada were not enough; those in favour of banning the potlatch saw all symbols of a separate national identity among the First Nations as a threat to Canadian stability.

First Nations groups in British Columbia tried to fight the law with many other tactics that are too numerous to mention in detail. Several of these tactics involved modifying the ceremonies in ways that they hoped would eliminate the elements that the Canadians found objectionable. For example, most groups eliminated any simulations of violence or cannibalism from their ceremonial dances. Some groups began to give gifts and repay debts on separate occasions, rather than including such exchanges in the same ceremonies when they would engage in feasts, dances, and speeches. Such adjustments were often undertaken on the advice of lawyers, who would explain that the law was specifically worded to criminalize violence and exchanges of goods. To the First Nations peoples, these modifications were generally understood as a show of loyalty, and as an attempt to conform to the law of Canada. Some Indian agents and missionaries approved of these changes, and from time to time allowed the First Nations to hold their ceremonies in their adapted forms. However, approval of these tactics never lasted, because the DIA officials saw such changes to the ceremonies as sneaky ways for the First Nations to continue to defy the Canadian government while obeying the letter of the law. After witnessing such a ceremony in 1931,

⁹⁸ Volume 3630, File 6244-4.

Halliday became upset and wrote a letter to Scott saying that “the lawyers are aiding and abetting [the First Nations] in trying to evade the law.”⁹⁹ Halliday, and the others who supported the law, saw defiance even when the First Nations were trying to show deference. Anything other than complete submission was seen in a negative light; the DIA, along with most of the Indian agents, continued to oppose all forms of indigenous ceremonies. This position meant that parliament would not seriously consider amending or repealing the law, despite any arguments in favour of such an action.

Deployments of ‘Religion’

Even before the law was even passed by the Canadian parliament, there were people claiming that the potlatch and tamanawas ceremonies were “religious.” When the bill to amend the Indian Act was being debated in the Senate, John A. MacDonald described the tamanawas as “a half religious half masonic ceremony.”¹⁰⁰ This description did not seem to affect MacDonald’s opinion of the value of the law, and the ceremonies’ potential religious status was never mentioned again during the debates. Most people ignored claims that the ceremonies were religious, and chose to describe them with other terms. In his earliest letters to other DIA officials about the ceremonies, Powell called them “heathen ceremonies,” “heathenish... customs,” “superstition,” and “heathen feasts.”¹⁰¹ The word “custom” was the most commonly used term by missionaries and Indian agents, sometimes qualified as “social custom.” It seems that these people would use the word “custom” when they wanted a neutral descriptive term; if they wanted a term with negative connotations, they would use “superstition,” or they would call the customs “pagan,” or “heathen.” These terms are not by

⁹⁹ Volume 3631, File 6244-5.

¹⁰⁰ Canada. Senate Debates, 5th Parliament, 2nd Session, volume 1 [April 15, 1884]. http://parl.canadiana.ca/view/oop.debat.es_SOC0502_05/622?r=0&s=1

¹⁰¹ Volume 3628, File 6244-1.

definition non-religious or opposed to religion, but they did indicate that the ceremonies were not valuable and ought to be eradicated. If the word “religion” had been used, other implications would have arisen.

When the missionaries and Indian agents did use the word “religion,” it was generally in relation to the churches and their missionary work. In this context, religion was a positive term, connected with progress and proper citizenship. They may not have stated directly that “religion” always meant “Christianity,” but the word was used in a way that implied Christianity as the only proper or acceptable religion. A letter from Methodist missionary Cornelius Bryant to the DIA in 1884 said the missionaries’ job was to “elevate the natives intellectually and religiously,” while also describing the potlatch as a “custom.”¹⁰² Decades later, in 1916, another Methodist named Albert Moore wrote to D.C. Scott to describe the missionaries’ responsibility to bring “religion, education, and industry” to the First Nations, in order to save them from a “degenerated paganism.”¹⁰³ In the same year, federal Minister of Justice Charles Doherty claimed that all “the various religious bodies” were opposed to the potlatch¹⁰⁴. These letters are a few examples of the typical view that the various churches had religion, while the potlatch participants did not. There are a couple of counter-examples of letters in which missionaries claim that the potlatch and tamanawas were religious ceremonies in order to argue that they fall within the missionaries’ jurisdiction. In 1895, John Woolsey’s aforementioned letter to Mackenzie Bowell argued that because the tamanawas was a “religious rite,” only the missionaries could eradicate it by converting the First Nations to Christianity. It was up to the missionaries, Woolsey argued, to turn the First

¹⁰² Ibid.

¹⁰³ Volume 3629, File 6244-3.

¹⁰⁴ Ibid.

Nations from “heathens” into “excellent citizens.”¹⁰⁵ A few years later, in 1901, the Anglican Church Missionary Society published a tract which described the indigenous “religion...of fear and spiritual powers,” and went on to celebrate the missionaries’ great accomplishment in converting many First Nations people to the better religion of Anglicanism¹⁰⁶. For all these settlers, the potlatch was an inferior form of ceremonial life that ought to be replaced by civilized, European, Christian practices; for most settlers, this meant that the potlatch was not religious.

After the law was passed, there were a number of people who tried to get it repealed by characterizing the potlatch as a religion, and appealing to principles of toleration. One of the first was C.W.D. Clifford, a prominent British Columbia merchant and businessman who traded regularly with First Nations on the Skeena River. Clifford wrote to Captain N. Fitzstubbbs, a magistrate in Hazelton, in 1890 to complain about the potlatch law, saying that the potlatch “is the religion of the Indians in which they are evidently sincere and as such we are bound to respect it, and be tolerant...tenacity to the religion of their forefathers is not a bad sign.”¹⁰⁷ By 1899, some of the First Nations had taken up this argument as well; a letter from Vowell to McLean in that year reports that the Nishga were complaining about being forced to stop potlatching and convert to Christianity, saying that “those who differ with them in matters of religion” should just leave them alone¹⁰⁸. In 1910, the description of the potlatch as a First Nations religious practice was common enough to be the subject of an editorial in the *Victoria Daily Times*. The column claimed that most dances associated with the potlatch were “religious in their character,” and that “the potlatch...is woven into the

¹⁰⁵ Volume 3628, File 6244-1.

¹⁰⁶ Volume 3629, File 6244-2.

¹⁰⁷ Volume 3628, File 6244-1.

¹⁰⁸ Volume 3629, File 6244-2.

religion and life of the Indian.”¹⁰⁹ When the potlatch was described as religious in these examples, its advocates argue that the ceremony is harmless and presents no threat to the Canadian law or government. Some even go as far as to say the potlatch was a Christian ceremony. In 1896, Chief Maquinna of the Nootka wrote a letter to the *Victoria Daily Colonist*, stating that “the first Christians used to have their goods in common and as a consequence must have given ‘potlatches.’”¹¹⁰ Jim Quatel also argued that the potlatch was the First Nations’ way of following Jesus’ words and actions, and described the story of Jesus feeding a crowd of 5000 as a potlatch. The same biblical analogy was drawn in a petition from a broader group of Kwakwaka’wakw in 1923¹¹¹. Using the language of religion in these instances was another way for supporters of the potlatch to argue that the First Nations and the settlers were not so different, because both groups were equally religious. Such language could also be used to acknowledge the differences between the two groups, and to describe the differences as akin to the differences among Catholics, Anglicans, and Presbyterians. In any case, whenever potlatch supporters described the ceremony as religious, it was a way of saying it was harmless, did not threaten Canadian sovereignty, and thus should not be prohibited.

For most First Nations in British Columbia, however, using the language of religion never became one of the more popular ways to defend the potlatch. It was more common, actually, for the First Nations to mention that the potlatch was *not* religious. The Kwakwaka’wakw in particular were more likely to characterize their ceremonies in this way, even though some of them did call their potlatches religious from time to time. The chiefs from Alert Bay mentioned in multiple petitions that their dances did not “interfere with

¹⁰⁹ Ibid.

¹¹⁰ Volume 3628, File 6244-1.

¹¹¹ Volume 3630, File 6244-4, Part 2.

religion.” This phrasing does not directly state that the potlatches are not religious, but does assert that the potlatch is something separate from religion. Once the Alert Bay Kwakwaka’wakw hired the firm of Dickie and DeBeck to represent their concerns before the government, the lawyers were quite clear in saying that “the potlatch was not a religious institution.”¹¹² The reasons for *avoiding* the category of religion when describing the potlatch seem to be the same as the reasons for *using* the category: the First Nations wanted to present their ceremonies in a positive, non-threatening light. If the missionaries saw the potlatch as competing with their teachings and rituals, and if few government representatives seemed convinced that indigenous religions deserved legal protections, then it made more sense for the First Nations to describe their practices as non-religious.

The officials of the DIA were opposed to the suggestion that the potlatch was a religious ceremony. In fact, the DIA rarely spoke of religion at all. When Vowell and Scott received letters and petitions arguing that the potlatch was religious, they did not disagree with such arguments, but simply ignored them. As suggested earlier, the responses to such letters would merely quote the text of the law, state that the law was intended to help the First Nations, and insist on obedience. There was no attempt to refute arguments based on religious freedom or to prove that the potlatch was not really a religious ceremony. Clearly the DIA did not consider this a controversial question. The officials did not offer any definition of “religion” or show how its meaning differed from terms such as “Christian” or “heathen,” but rather seemed to assume that these terms were straightforward descriptions. “Heathen,” “pagan,” and “superstition” were appropriate descriptions of potlatches, while “Christian” and “religious” were not, even though the DIA never explained why.

¹¹² Ibid.

One partial exception to this disregard of whether the potlatch was religious came in February of 1915. Scott had requested that Dr. Edward Sapir collect opinions from a number of anthropologists to determine what exactly the potlatch was. The focus was not specifically on whether the potlatch was religious, and most of the anthropologists' reports did not comment on that issue. The ones that did comment disagreed with one another. J.A. Teit claimed that "the potlatch has no connection with the old religion of the Indians," and would therefore not prevent the First Nations from becoming good Christians. Charles Hill-Tout argued that the potlatch was a key component of the religious life of various nations. Sapir himself was ambivalent about these characterizations, claiming that some religious customs *used to be* associated with the potlatch, but were not currently. Elsewhere in the same letter, he argued that potlatches should be tolerated for the same reasons that Catholic and Jewish customs are tolerated¹¹³. In each case, though, the anthropologists did not try to *prove* that the potlatch was or was not religious; they made such claims as if they were simply facts, and used them in support of more important arguments. All of the anthropologists attempted to argue that the potlatch was harmless and not a threat to the Canadian government.

The inconsistent and contradictory ways in which First Nations groups and government officials argued for religious or non-religious status for the potlatch makes more sense when we keep in mind that the core disagreement over the potlatch was not about whether or not it was religious. People on all sides of the conflict were concerned about whether the potlatch was *harmful*, or *threatening*. Religion only came into the conversation if it was a useful way to think about the potential level of threat represented by the potlatch. When people did invoke religion, they did not offer evidence or try to explain *why* the potlatch was really

¹¹³ Volume 3629, File 6244-3.

religious or not, and they did not try to convince anyone to change their minds about whether the potlatch was religious. Instead, they simply used the assumed religious or non-religious status of the potlatch to explain why it was harmful or not. There were, of course, many ways in which potlatches were similar to things that were (and are) commonly called religion. Potlatches would often involve dancing, the retelling of ancient stories, and appeals to the power and authority of deities or fantastic creatures. The exchange of gifts was certainly similar to settler practices at Christmas, which is typically called a religious festival. In other contexts, though, the same activities can be seen as non-religious. There were other elements typically associated with religion that were absent from potlatches, such as an institutional church separate from (and subordinate to) state authority, Victorian notions of morality, and written scriptures. Since religion is such an imprecise and over-determined word, people could find all sorts of reasons to believe that the potlatch was either religious or non-religious, and feel justified in their position. In the context of the anti-potlatch law, the important connotations of religion were the ones connected to its relationship, and potential threat, to government. Whether First Nations activists stated that the potlatch was religious, or if they stated that it was not religious, they were claiming the same thing, namely, the potlatch was harmless. The DIA and its allies, however, were convinced that the potlatch was a threat, and any claims that it was either religious or non-religious were treated as unconvincing or, more commonly, irrelevant.

Chapter 4—Regulating Ceremonies on the Prairies

While the laws against ceremonies had initially only applied to British Columbia, they were soon modified to regulate dances on the prairies as well, and the prairies quickly became an even more pressing area of concern for the federal government. The discourse about ceremonies on the prairies was similar in many ways to the discourse in British Columbia, but it also included some notable differences which can shed some light on how the government viewed the First Nations and their ceremonies. For one thing, the economic and political circumstances on the prairies were quite different from those in British Columbia. MacDonal'd's National Policy was more dependent on agriculture from the prairies than on resources from farther west, and the Canadian government aggressively promoted settlement on the prairies to maximize the output of crops. In the 19th century, the prairies were mostly encompassed by the Northwest Territories, not the provinces that

govern the region today. Thus, the federal government had more freedom to implement its policies there than it had in British Columbia, where it was sometimes opposed by provincial authorities. The North-West Mounted Police patrolled the prairies, giving the federal government some means to enforce its decisions. Perhaps most notably, the bison herds were rapidly disappearing from the prairie landscapes. As the economies of prairie First Nations depended overwhelmingly on the bison hunt, the disappearance of the bison created a desperate situation¹¹⁴. The Canadian government took advantage of this situation when it negotiated treaties with the prairie First Nations, gaining sovereignty over the territory and enlisting the First Nations population to contribute to the planned agricultural economy. The surrender of sovereignty may not have been understood by many of the First Nations representatives, and it was certainly not accepted by all of them. A few members of First Nations wanted to resist the Canadian settlers violently, and in 1885, a group of young Cree men seized the Hudson's Bay Company store at Frog Lake, killing nine settlers in the process¹¹⁵. This violent action coincided with the Métis rebellion at Duck Lake, and many settlers concluded that all First Nations were potentially violent, despite the commitment to nonviolence displayed by virtually all the prairie chiefs and most of the indigenous population¹¹⁶. Thus, at the time the law was introduced, the prairie First Nations were legally more subordinate than their counterparts in British Columbia, but were also perceived by many of the settlers (and certainly by the DIA) as more threatening.

¹¹⁴ Friesen, *The Canadian Prairies*, 129-131.

¹¹⁵ *Ibid.*, 152-153.

¹¹⁶ *Ibid.*, 153.

Strategies of Enforcement

Many of the justifications given by settlers and government officials on the prairies were the same as the reasons given in British Columbia. Missionaries and schoolteachers emphasized the negative impact that sun dances had on their students, causing them to neglect their studies. Father Joseph Hugonnard, principal of the Catholic school at Qu'Appelle, was the most vocal proponent of this argument. He wrote several letters to DIA officials in Ottawa to strongly voice his disapproval of children attending dances¹¹⁷. Missionaries also complained about the dances promoting immorality, just as they had in British Columbia. This argument seems to have been accepted by Indian agents more readily than the arguments about interference in education, because it was repeated in letters by agents A.E. Forget, William Sibbald, and J.P. Donnelly¹¹⁸. The agents rarely mentioned what such "immorality" entailed. Although there were a few references to a lack of interest in marriage among young First Nations men, and a tendency to wear little or no clothing during dances, usually the letters merely referred to immorality in general, without elaborating. Similarly, and more commonly, the agents and DIA officials would describe the sun dances as "demoralizing" and "unsettling," in the same way that people in the same offices would describe the potlatch in British Columbia. Once again, there was generally no explanation of what these terms meant, other than to say that the dances interfered with the "civilization" or "advancement" of the First Nations. From time to time, an agent would refer to the dances as "pagan" or "heathen." Nevertheless, such terms were not defined, and we cannot be sure how a "heathen" dance was different from a "civilized" one, other than the fact that indigenous people and not settlers were doing the dancing.

¹¹⁷ Volume 3825, File 60511-1.

¹¹⁸ Volume 3825, File 60511-2.

There were other reasons given for the laws, though, that might clarify what government officials meant when they used vague terms to denounce the dances. There was much concern among Indian agents and missionaries that the dances were an attempt to undermine Canadian sovereignty, or to express opposition to Canadian authority. For one example, in March of 1903, Father Hugonnard wrote a letter to David Laird, Superintendent General of the DIA in the Northwest Territories, claiming that leniency toward indigenous dancers would “greatly lessen their respect for the law, for the NWMP, and for those in authority over them.”¹¹⁹ As I argued in the previous chapter, this concern was also a key element in the suppression of the potlatch in British Columbia, but on the prairies it was connected with a much stronger fear of First Nations rebellion and violence. Much more than in British Columbia, settlers on the prairies associated indigenous ceremonies with ritual piercing of skin, which many associated with the practice of “making braves” or preparing for war. In 1909, Laird sent a memo to the DIA officials in Ottawa expressing concern about the “war paint” and “war bonnets” worn by First Nations dancers¹²⁰. Clearly, memories of the violence of 1885 lingered with many government representatives. As a result, many agents expressed a desire to assert control over the First Nations, regardless of whether or not they were breaking the law. J.D. McLean in particular was insistent on such a policy, encouraging agents in March of 1912 to bring dancers to trial “as a warning” even if they did not break the law¹²¹. Later that same year, McLean wrote to the NWMP comptroller, saying that “there is no legal means by which the Indians can be prevented from leaving their reserves, at the same time it was thought well to instruct the agents in order by persuasion or

¹¹⁹ Volume 3825, File 60511-1.

¹²⁰ Volume 3826, File 60511-3.

¹²¹ Ibid.

any other means within their power they might control the Indians.”¹²² In 1914, agent George Race wrote to McLean, bragging that he had withheld rations from a group under his jurisdiction in the Edmonton area because they were dancing without breaking the law, justifying his actions by saying “they seem to think we have no power to stop them.”¹²³ The fear that the First Nations could use dances to organize and violently oppose the Canadian government also led to the provision in the Indian Act that no Indian could attend a dance outside of his or her own reserve without special permission from the DIA. When settlers complained that dances made the First Nations “unsettled,” they probably meant that they were afraid of some violent uprising.

Unlike in British Columbia, however, the overwhelming majority of justifications for the laws against the sun dance had to do with encouraging the First Nations to become better farmers. These concerns were prominent before the law was amended to apply to the prairies, and were probably the main reason the law was amended. In 1889, before the amendment, A.E. Forget broke up dances while serving as Indian Commissioner in Regina, saying he could not allow any dances “until their fields were in good condition.”¹²⁴ Agent D.L. Clink complained in 1893 that dances were causing “discontent among our Indians and many of them [left] their work for a time.”¹²⁵ Such arguments continued after the law was amended. At the May 1903 trial of a Plains Ojibway man named Etchease, Indian agents and farm instructors testified that dances made the First Nations neglect their farm work¹²⁶. Later that year, Father Hugonnard reported to Laird that on the reserves where dancing was suppressed, “more farming is being done, cows are being milked and butter made, and the

¹²² Ibid.

¹²³ Ibid.

¹²⁴ Volume 3825, File 60511-1.

¹²⁵ Ibid.

¹²⁶ Ibid.

Indians are accumulating individual property.”¹²⁷ Throughout the duration of the law against ceremonies, concerns about the output of First Nations farms outweighed all other justifications for the law. In some DIA circulars, such as the one from D.C. Scott to all prairie Indian agents in December of 1921, neglect of farm duties was the only justification for the enforcement of the law¹²⁸. Other reasons for supporting the law, such as discouraging “immorality,” were regularly tied to farming outputs. A correspondence between Scott and Donnelly in October of 1914 affirms that stopping the dances will encourage young men on reserves to get married. Their motivation for encouraging marriage, however, was not that marriages were ethical or would reduce promiscuity, but that married men were more likely to settle down and attend to their farms¹²⁹. When the word “demoralizing” was used to describe the dances, it was usually accompanied by a report of First Nations people ignoring their farm work, or refusing to work as hard as the agents thought necessary.

It is not clear from the correspondences between government officials, though, to what extent dancing actually affected the harvests of the First Nations farms. While many letters mention concern that First Nations crops will suffer if the people stop working to attend a dance, hardly any point to particular evidence to show that plants died or harvests were smaller, or that reserves suffered from food shortages as a result of dancing. The most specific problem mentioned by agents occurred in 1922 and 1923 when W.M. Graham and George Gooderham wrote to Scott to complain about the excessive number of weeds that grew in First Nations fields when they left to attend a dance. At first, both men treated the weed problem as if it were a threat to entire farms. Gooderham threatened to depose chiefs who did not punish their communities for allowing weeds to grow, and Graham claimed that

¹²⁷ Ibid.

¹²⁸ Volume 3826, File 60511-4A.

¹²⁹ Volume 3826, File 60511-3.

because of the weeds, “we will either have to give up farming and allow the Indians to carry on their dance, or stop the dances and carry on farming.”¹³⁰ By the end of 1923 though, Gooderham had to acknowledge that although the fields got very weedy while the dances were going on, the people worked very hard after they had finished dancing and the weeds did not cause any serious problems¹³¹. From this example, then, it seems that the DIA was not simply concerned with getting high agricultural outputs from farms on reserves. As Gerald Friesen points out, sales of crops and purchases of farm equipment by First Nations were mediated by the Indian agents, in order to reward farmers who held property individually rather than groups who pooled their resources to farm collectively¹³². The government wanted the First Nations to farm in a way that would allow the government to keep control of the economy, and not in a way that encouraged co-operation and organization between First Nations bands and communities.

As in British Columbia, it was not clear to everyone what the sun dance was, or how much of a threat it was to these larger aims of the Canadian government. The government institutions on the prairies were able to avoid the jurisdictional conflicts that occurred in British Columbia, because the federal government had negotiated treaties with the prairie First Nations, had a police force, and did not have to compromise with provincial authorities. However, other conflicts and confusions emerged. By the late 19th century, a number of Indian agents were convinced that the sun dance was problematic, but were unsure about what exactly the problem was or how to deal with it. D.L. Clink sent a number of letters and telegrams in 1893 to Hayter Reed, the Deputy Superintendent General of Indian Affairs, for clarification of these questions. Clink said that he thought the sun dance was “in the main the

¹³⁰ Volume 3827, File 60511-4B.

¹³¹ Ibid.

¹³² Friesen, *The Canadian Prairies*, 159.

same” as the potlatch, but could not determine for sure. He told Reed that he wanted to punish the leaders of the dances, but did not know which section of the Indian Act would allow him to do so¹³³. Such confusion led to the 1895 amendment of the law, but the confusion continued. Part of the problem was that the prairie First Nations had a number of different dances, or at least a number of different *names* for dances, and the Indian agents and NWMP had trouble determining which dances were “demoralizing” and which were “civilized” and “harmless.” At different times, sun dances were distinguished from Cree dances, Sioux dances, tea dances, dog dances, give-away dances, circle dances, pow-wow dances, thirst dances, rain dances, war dances, cotillions, eight hand reels, and quadrilles. Sometimes some of these dances were permitted, but at other times all dancing was forbidden. It was not clear if the agents were expected to stop all dances among First Nations, or only dances that involved certain objectionable features. The law only mentioned specific features of the dances, but correspondence from the DIA repeatedly claimed that the goal of the law and of the department was to eliminate dancing entirely within First Nations communities. The DIA would receive letters from Indian agents, from NWMP (and later RCMP) officials, and from First Nations representatives asking for clarification on which dances were illegal, but such letters never convinced the DIA to come up with a consistent enforcement policy to apply across the territory.

On top of this lack of legal clarity, there were a number of settlers who did not see any indigenous dances as harmful or threatening. For the duration of the law, the DIA had to struggle against organizers of fairs and farm exhibitions who would hire First Nations groups to perform sun dances and parades as entertainment during these public festivals. Evidently, these performances were popular among the audiences at these events, at least according to

¹³³ Volume 3825, File 60511-1.

the event organizers and local newspaper articles. When responding to the requests of the event organizers, such as when McLean wrote to exhibition managers in Alberta in 1911, the DIA would emphasize the potential harm to crops if First Nations groups left their farms to attend fairs¹³⁴. The government did not have a similar concern about settlers attending fairs, as pointed out by E.L. Richardson, manager of the Calgary Industrial Exhibition¹³⁵.

However, the department did not respond to such complaints. In the correspondence with agents and missionaries, the DIA put much more emphasis on the importance of controlling the First Nations, and the difficulties in maintaining control when they were gathered at a fair. Discussions in 1913 about whether First Nations groups should be allowed to perform at the Winnipeg Stampede were mostly about how the department could keep them under control while the festival was going on. The same year, Glen Campbell, Chief Inspector of Indian Affairs in Winnipeg, mentioned in a report to McLean that at the Brandon Fair there were “nearly 600 to 800 Indians absolutely uncontrolled until I heard of their presence and went and took charge of them.”¹³⁶ Also in 1913, Father Hugonnard wrote a letter to McLean to complain that some First Nations groups were making more money by dancing at fairs than by farming, and thus showed concern over the economic independence of such groups¹³⁷. Despite the DIA’s efforts, they were not able to convince fair organizers or audiences that the performances were dangerous. The fairs promoted a public image of the dances as harmless entertainment, which proponents of the dances would reference in their petitions against the anti-ceremonial law.

¹³⁴ Volume 3825, File 60511-2.

¹³⁵ Ibid.

¹³⁶ Volume 3826, File 60511-3.

¹³⁷ Ibid.

Strategies of Opposition

As we can see, the prairie correspondences show a picture of the sun dance and related ceremonies as being more closely regulated than were the west coast ceremonies. Also, on the prairies, there was a greater level of confusion over what was wrong with the dances. The government line connecting the dances to neglect of farming was well known, but a number of voices expressed the opinion that there was no proof that the dances actually led to poor farming practices, or in fact that the dances caused any harm at all. The resistance toward the dances and negotiations about them on the prairies were also more widespread; while resistance to the law in British Columbia was concentrated mostly among the Vancouver Island First Nations, and others in that region, resistance on the prairies could be found in all parts of present-day Manitoba, Saskatchewan, and Alberta. At the same time, though, the type of resistance on the prairies was more limited. While the opposition of the law in British Columbia emphasized at different times both the similarities and differences between the settlers and the First Nations, the opposition on the prairies focused almost exclusively on the similarities among indigenous and settler communities. There were a few exceptions to this rule. In 1908, Joe Ma-ma-gway-see of the Sampson Band in Alberta argued that First Nations should be allowed to live under a separate law than the one imposed by the settlers¹³⁸, as did the Cree Chief Thunderchild in 1914¹³⁹. In 1932, Chief Matoose of Indian Springs, Manitoba, wrote to Ottawa arguing that indigenous people were a nation separate from the settlers¹⁴⁰. These examples, though, were rare, while the claims that First Nations and settlers were similar were common and numerous.

¹³⁸ Volume 3825, File 60511-2.

¹³⁹ Volume 3826, File 60511-3.

¹⁴⁰ Volume 3827, File 60511-4B.

As in British Columbia, it was common for representatives of prairie First Nations to compare their dances to activities that settlers enjoyed in order to point out the similarities between the two groups. Chiefs from the Moose Mountain First Nations in Saskatchewan wrote to the DIA in 1909 to claim that their dances were simply a means of entertainment, just like dances held by settlers¹⁴¹. In 1912, a memo sent by Glen Campbell to McLean reported that Chief Masqua of the Saskatchewan Piapot Reserve was arguing that their dances were the same as the settlers' afternoon tea meetings¹⁴². Letters from the Assiniboine Reserve in Saskatchewan in 1917¹⁴³ and the Manitoba Swan Lake Reserve in 1925¹⁴⁴ claimed that dances were the same as sports organized by settlers, and that they would be celebrated along with many settler sports on the same day. Chief Panny Ermineskin of the Hobbema Reserve in Alberta wrote to Ottawa in 1926 to say that their dances were "just like some kind of Stampede or fair."¹⁴⁵ These comparisons with settler activities were often accompanied by the phrase "harmless amusement," to argue not only that First Nations people were the same as settlers, but also that their activities were equally non-threatening. If a dance occurred at an event attended by both First Nations and settlers, this fact would be emphasized too, as was the case in the letter from the Assiniboine in particular. In some cases, particularly at fairs and exhibitions, First Nations groups would be invited by settlers to perform their dances, and in return such groups would invite settlers to attend dances performed on the reserves. The DIA tried to discourage such invitations, but it appears they were common, and fostered a sense of hospitality and normalcy between settlers and First Nations.

¹⁴¹ Volume 3825, File 60511-2.

¹⁴² Volume 3826, File 60511-3.

¹⁴³ Volume 3826, File 60511-4.

¹⁴⁴ Volume 3827, File 60511-4B.

¹⁴⁵ Ibid.

Along with the efforts to display the similarities between the two groups, First Nations opponents of the law also went out of their way to display loyalty to Canada and the British Empire. One way to show such loyalty was to request a Union Jack from the DIA and to fly it during dances, as was done by Chief Masqua's Piapot band in 1912, as well as by the nearby Star Blanket Reserve in 1914¹⁴⁶. As in British Columbia, this type of argument became more popular during the years of the First World War. In 1915, members of the Peigan Reserve in Alberta expressed their commitment to the King of England in a letter to the DIA, and credited the King for creating peace between the various First Nations who were previously at war with each other (their dances, they said, were celebrations of this peace)¹⁴⁷. In 1916, Harry Hotani, a representative of the Marpiyaska people in Manitoba, wrote to Ottawa to argue that dances were beneficial because they were an effective means of raising money for the Canadian Patriotic Fund; he even included a \$40 donation to the fund with his letter¹⁴⁸. When the Assiniboine requested permission to hold a sporting day (including dances) in 1917, they argued that the purpose of the event would be to raise money for the Patriotic Fund, and declared their allegiance to "the Empire to which we belong."¹⁴⁹ Unlike their counterparts in British Columbia, First Nations on the prairies sent many of their young men to fight for Canada in the war. They felt that this contribution should entitle them to perform dances in honour of those men and the country for which they were fighting. This sentiment is made particularly clear in two 1917 letters from the Oak Lake and Pipestone Reserves in Manitoba¹⁵⁰. Both letters were drafted by lawyers hired to represent the reserves, and show that the reserves were acting strategically. The expressions

¹⁴⁶ Volume 3826, File 60511-3.

¹⁴⁷ Ibid.

¹⁴⁸ Volume 3826, File 60511-4.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

of loyalty may well have been sincere, but were probably also calculated to convince the government to treat the dances with more leniency.

Much more than in British Columbia, the prairie First Nations also drew attention to the ways in which they modified their ceremonies in order to comply with the law. As early as 1897, A.E. Forget was reporting that the Blackfoot of southern Alberta were willing to refrain from making braves or torturing participants in their dances, to stop giving away property, and to stop taking children out of school to join in¹⁵¹. When arrests were made at a dance at Rapid City in 1903, witnesses testified that “there was no...feasting on dogs flesh, giving presents of money or goods or cutting or wounding of the body.”¹⁵² The Moose Mountain letter of 1909 promised that the First Nations there would no longer eat dogs, dance naked, or give away property at their dances¹⁵³. These changes were in direct response to the law, as First Nations groups tried to eliminate any aspects of their dances that were objectionable to the government while continuing any practice which was not specifically mentioned in the law. In many cases, the DIA grudgingly accepted that these modified dances were not breaking any laws and could not be punished, though the Indian agents continued to watch for illegal practices so that they could make arrests and hopefully eliminate dancing altogether. A letter to Scott from agent J.E. Pugh in Alberta is the clearest example of this policy¹⁵⁴. Pugh reports that the Saddle Lake First Nation had consulted a lawyer who informed them that the government could not legally stop them from dancing if they did not exchange gifts or wound their bodies. The purpose of Pugh’s letter was to ask Scott if there was any legal technicality that would allow him to break up the dances anyway.

¹⁵¹ Volume 3825, File 60511-1.

¹⁵² Ibid.

¹⁵³ Volume 3825, File 60511-2.

¹⁵⁴ Volume 3827, File 60511-4B.

The typical directive from Scott was to make sure such dances were closely monitored and tightly controlled.

It did not take long for the First Nations to realize that the government often defended the anti-ceremonial laws by saying that dances interfered with farm work. Therefore, reports of changes to the dances were often accompanied by declarations from the First Nations about their commitment to farming. Forget's report of 1897 also included a promise from the Blackfoot that their dance would not interfere with farm work¹⁵⁵. Agent G.H. Wheatley, also working with the Blackfoot, wrote a letter to Ottawa the following year, reporting that some Blackfoot "wanted to try the white man's way" and owned "several head of cattle."¹⁵⁶ Later that year in another letter, Wheatley reported that Blackfoot leaders were claiming that their dances were directly supportive of farming, as part of their "seed festival."¹⁵⁷ In 1911, various First Nations made a few large-scale attempts to gain permission to dance, relying heavily on their stated commitment to farm work. On January 24th of that year, a delegation representing many prairie First Nations travelled to Ottawa to appeal directly the Frank Oliver, Superintendent-General of Indian Affairs. The delegation promised to dance only when there was no farm work¹⁵⁸. On February 16th, members of the Pasqua Nation sent a petition to Ottawa proposing conditions under which they might be allowed to dance: the first condition was that the dances would not interfere with farm work¹⁵⁹. The response to both of the actions was the same: the DIA admitted that only certain features of the dances were prohibited by law, but strongly discouraged any dances at all, and insisted that all dances be scrutinized by NWMP or DIA representatives. First Nations took these responses as

¹⁵⁵ Volume 3825, File 60511-1.

¹⁵⁶ Ibid.

¹⁵⁷ Ibid.

¹⁵⁸ Volume 3826, File 60511-3.

¹⁵⁹ Ibid.

permission to dance, but when they started to dance more openly, Indian agents felt their authority and control were being challenged. By the summer of 1911, dances were being broken up, organizers arrested, and chiefs deposed by the DIA, despite no evidence that the law was actually being violated.

Deployments of 'Religion'

On the prairies, opposition to the law took the form of appeals to religious freedom earlier and more frequently than in British Columbia. In many cases, these appeals were simply another form of showcasing the similarities between First Nations and settlers. In 1900, the Cree Chief Little Bear compared sun dances to the fasts, churches, sermons, and ancestral traditions of the settlers¹⁶⁰. Ma-Ma-Gway-See's letter of 1908 makes the same claim, comparing the sun dance to Christian worship services and quoting Christian scripture to support his arguments¹⁶¹. Other descriptions and petitions from First Nations groups would refer to the dances as their form of prayer or their way to celebrate Christmas. Taking this logic further, some groups would incorporate elements of Christian church rituals into their dance programs. Some dances were known to include praises to the "White Man's God," and some groups also added Christian hymns and stories or speeches about Jesus. These comparisons and changes did not constitute direct claims that the sun dance or related dances were explicitly religious ceremonies, but they did connect the dances with beliefs and practices that were commonly considered to be religious, thereby demonstrating the First Nations' similarities with settlers and their positive attitudes toward settler institutions.

More notably, First Nations on the prairies also called their dances religious, much more often than the British Columbia First Nations did, and in a more explicit and direct way.

¹⁶⁰ Volume 3825, File 60511-1.

¹⁶¹ Volume 3825, File 60511-2.

Legal arguments regarding religious freedom were used on the prairies to fight against individual punishments for dancing and against the existence of the law in general. The first use of such an argument shows up in the DIA archives as early as 1896, when an Ochapowace man named Kah-pee-cha-pees pleaded innocent to a charge of participating in a dance on the grounds of religious freedom¹⁶². His arguments were ignored by the court, but others soon began to make similar arguments. In a series of letters from 1897 and 1898, Wheatley tells Forget that several First Nations in his Agency are claiming that the sun dance is a religious ceremony. He reports that one man named White Pup told him that “it was their religion, and they had the same veneration for their religion as the white people have for theirs.”¹⁶³ Calling the dance a religion in this context would mean that the dance deserves legal protection, and also that indigenous people deserve the same level of respect and dignity as settlers enjoy. Decades later, once First Nations were hiring lawyers more regularly, these arguments continued with a renewed force. In May 1920, the people of Roseau Rapids Reserve in Manitoba wrote to Ottawa claiming that the sun dance was the ceremony of a legitimate church: “We wish to have the Sun Dance this June and to keep our own Church. We do not wish to be Catholics.”¹⁶⁴ In 1924, the law firm of Trotter and Co. wrote to McLean on behalf of the Muscowpetung, Piapot, and Pasqua Reserves in Saskatchewan, also arguing for the legality of their dances due to principles of religious freedom. The letter said that the people wanted to hold dances at “religious revival meetings” in order to “satisfy religious instincts.”¹⁶⁵ Panny Ermineskin’s 1926 letter which

¹⁶² Volume 3825, File 60511-1.

¹⁶³ Ibid.

¹⁶⁴ Volume 3826, File 60511-4A.

¹⁶⁵ Volume 3827, File 60511-4B.

compared the dances to stampedes and fairs also claimed that the sun dance was “some kind of our religion.”¹⁶⁶

Government officials initially dismissed these claims to religious freedom, just as they did in British Columbia. The courts were not persuaded by such arguments, as was seen in the case of Kah-pee-cha-pees. Many agents would acknowledge that some First Nations called the dances religious, but would not agree that there was anything truly religious about the ceremonies. They would use phrases like “its religious nature in their eyes,”¹⁶⁷ or “so-called religious gatherings.”¹⁶⁸ When the delegation of leaders tried to persuade Frank Oliver to allow the sun dance, he told them that “white people...do not regard it in a religious light at all, as the Indian does.”¹⁶⁹ In some cases, Indian agents would suggest that calling the ceremonies “religious” was a sinister ploy by First Nations to trick the government into allowing dangerous practices to continue. In February 1917, agent W.J. Dilworth of the Blood Agency in Alberta reported to McLean that the sun dance was “not the sublime religious festival it is pictured to be...the objects are mercenary.”¹⁷⁰ In 1921, McLean received a letter from agent T.H. Carter of the Fisher River Agency in Manitoba, saying that “the give away dance is deadly to all religion.”¹⁷¹ McLean tried to ignore all claims to religious freedom, usually choosing to not mention religion in his responses to any of the agents. In one letter to agent John Semmens, McLean said that the enforcement of the law had nothing to do with whether the dances were “sacred or otherwise.”¹⁷² At other times, McLean stated that the aim of the DIA was to convert the First Nations to Christianity, and

¹⁶⁶ Ibid.

¹⁶⁷ Volume 3825, File 60511-1, 1897 letter from A.E. Forget.

¹⁶⁸ Volume 3825, File 60511-2, 1910 letter from J.A. Markle.

¹⁶⁹ Volume 3826, File 60511-3, 1911 letter.

¹⁷⁰ Volume 3826, File 60511-4.

¹⁷¹ Volume 3826, File 60511-4A.

¹⁷² Volume 3826, File 60511-3, 1912.

therefore the people did not have the freedom to remain non-Christian. In these instances, McLean would call the dances “pagan superstitions,” terms that were used instead of “religion” by almost everyone who opposed the dances. A good summary of the opposition to dancing can be found in a July 1923 letter from a group of Alberta and Saskatchewan missionaries to D.C. Scott. The letter claims that the sun dance is not a religion or even a harmless amusement, but “evil paganism” that undermines the joint project of the churches and the state to Christianize the First Nations and make them “clean, thrifty, self-supporting citizen[s] of our Country.”¹⁷³ From the perspective of this letter, religions were institutions that worked with the government to promote mutual goals. Since the sun dance undermined the goals of the Canadian government and the churches, it was not a religion, but “evil paganism.”

Fairly early on, though, First Nations opponents of the law convinced one prominent settler that their dances were genuine religious ceremonies. John McDougall, a Methodist missionary who had worked all over the prairies, wrote an article in *The Winnipeg Free Press* on November 22, 1907, arguing that sun dances and other ceremonies should be legalized under the right to religious liberty¹⁷⁴. McDougall’s ideas were not popular among missionaries or Indian agents at the time. Shortly after the article was published, Gustave Simonin and Emile Legal, Catholic priests in Alberta, wrote to David Laird to let him know that “every missionary” disagreed with McDougall¹⁷⁵. Frank Pedley, Indian agent for the Blood Agency in Alberta, sent Laird a similar letter informing him that all the agents of the DIA were also opposed to McDougall’s position¹⁷⁶. McDougall did not let up, however, and

¹⁷³ Volume 3827, File 60511-4B.

¹⁷⁴ Volume 3825, File 60511-2.

¹⁷⁵ Ibid.

¹⁷⁶ Ibid.

continued to work with First Nations and publish articles in newspapers to advocate for the dances. In *The Morning Albertan* in October of 1910, McDougall claimed that he could not consider himself manly, British, or Christian if he did not advocate religious freedom for the First Nations¹⁷⁷. He was not in favour of all aspects of the ceremonies, and in another 1910 article in *The Winnipeg Free Press* he condemned the elements of piercing and mutilation that sometimes accompanied the dances. Nevertheless, he focused that article on establishing religious freedom for practitioners of the sun dance¹⁷⁸. McDougall was merely repeating arguments that First Nations had been making for decades, but his prominence in prairie churches, as well as his ability to use the press to publicize his arguments, meant that settler communities on the prairies would discuss the sun dance as a religion which potentially merited legal protection.

While no representative of the government would become an outright advocate for legalizing the sun dance the way McDougall did, many others began to express confusion over the law's merits and the dances' status as religious ceremonies. The same year McDougall wrote his first column in support of the sun dance, some farming instructors on the prairies were beginning to report to assistant Indian commissioner James McKenna that the dances they saw no longer involved torture, but were "merely what are described as 'religious ceremonies.'"¹⁷⁹ Some of the Indian agents themselves became sympathetic to this view as well. In 1908, agent R.N. Wilson of the Blood Agency claimed that the sun dance had become "mostly religious" and should no longer be treated as a serious threat¹⁸⁰. John Semmens wrote a number of letters to McLean in 1911 and 1912 asking for clarification

¹⁷⁷ Ibid.

¹⁷⁸ Ibid.

¹⁷⁹ Ibid.

¹⁸⁰ Ibid.

about how strictly the DIA wished to enforce the law: he calls the dances “superstitions” but is confused because he had been hearing other people call them religious services¹⁸¹. In the 1920s, members of the RCMP start to investigate the meaning of the dances, and many of their reports conclude that the dances are religious. They could not always agree on which religion was represented in the dances—sometimes they say the dances are part of an ancestral or heathen religion, sometimes they say the dances are Christian, and one report speculates that the dances might be a remnant of ancient Jewish religion¹⁸². Despite these disagreements, every report from an RCMP officer that pointed out a dance’s religious character also mentioned that the ceremony was orderly and peaceful, that no laws were broken, and that no arrests were made. One report from a detachment in Shoal Lake, Manitoba, also mentioned that the First Nations “know that religious thought both Christian and heathen is a personal matter and not restricted by law.”¹⁸³

While there was much more discussion on the prairies than in British Columbia about whether indigenous ceremonies were religious, it was still not a central debate. The main concern for the DIA on the prairies was still whether the ceremonies were threatening to Canada’s political and economic goals. Just as in British Columbia, no one on the prairies tried to make an argument to convince the government that the sun dance or other dances were religious; instead, supporters of the dances used statements about their religious character as premises in an argument to convince the government that the dances were harmless. Arguments that used religion as a premise were more successful on the prairies than they were in British Columbia. In the 1920s and 1930s, while the DIA stuck to its policy of discouraging all dancing, the RCMP on the prairies were much more reluctant to

¹⁸¹ Volume 3826, File 60511-3.

¹⁸² Volume 3826, File 60511-4A. The report speculating on Jewish origins was dated June 1921.

¹⁸³ Volume 3827, File 60511-4B.

forcibly stop any dances or arrest anyone for dancing, and they often cited principles of religious freedom when they needed to justify their view that there was nothing illegal or dangerous about the dances. It appears, then, that the debate over whether the dances were religious is not best understood as the result of inter-cultural intolerance or as an inevitable conflict between competing religions. Rather, we can gain more insight into the controversy by viewing it primarily as an issue of governance and control.

Epilogue and Conclusions

In the 1930s and 40s, the Canadian government's treatment of the First Nations started to be criticized more frequently in public and political discourse. Many bands and reserves were beginning to organize and create formal political groups to lobby the federal government, and some settler activists also added their voices to the calls for reform. In 1946, parliament formed a Special Joint Committee of the Senate and House of Commons to conduct an inquiry into re-writing the Indian Act. The committee did not ask for much First Nations involvement in the deliberations, but some First Nations political associations submitted unsolicited briefs to inform the committee of their concerns. Religion and religious freedom were hardly mentioned in these briefs or in the committee's deliberations. The Protective Association for Indians and Their Treaties, a Saskatchewan organization, was the only group to connect religious freedom to ceremonies, asking for the freedom "to

practice [our] religion according to ancient tradition, without prosecution for the performance of rituals, so long as they do not offend against the general criminal or civil law of the land.” They also made a point in stating that “the Plains Indians were never pagans but had a religion of their own which they practiced in many cases with a great deal of devoutness.” They described the sun dances as “primarily religious celebrations and not for the purpose of mutilation.”¹⁸⁴ Other groups asked for religious freedom, but not in relation to their ceremonies. The Indian Association of Alberta argued for a reduced role of churches in the education system, saying that school admittance should not be based on one’s religious denomination¹⁸⁵. The Okanagan Society for the Revival of Indian Arts and Crafts named “freedom of religion” as one of their long-term goals, but later in their brief defined religious freedom as simply an end to church domination over First Nations education¹⁸⁶.

It was this concern about education that brought religious freedom into the discussions of the committee. The committee was upset that the various churches were demanding children officially become church members in order to attend school (and, in some cases, in order to receive medical care and other social services). When the committee recommended that parliament prohibit such tests of denominational affiliation, the recommendation was justified by the assertion that all British subjects had the right to religious freedom. Once this principle was established, the committee also recommended removing the ban on ceremonies. By this point, the committee assumed that the ceremonies were religious, and that there would be no harm in allowing them. Committee members did not debate whether the ceremonies were truly religious or whether any negative consequences would ensue if the ban was lifted. No one in parliament had any objections to

¹⁸⁴ Volume 6811, File 470-3-6.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

this recommendation; when the new version of the Indian Act was passed by parliament in 1951, the section that prohibited ceremonies had been removed¹⁸⁷.

Historians largely agree that the 1951 version of the Indian Act did not fundamentally change the relationship between the First Nations and the federal government. The view of First Nations as wards of the state had not changed, and the strategy of assimilation continued to guide the government's decisions and regulations. The government still wanted to control the First Nations, not to tolerate them or work with them as partners¹⁸⁸. Why, then, did the government decide to allow the potlatch and the sun dance, and to acknowledge them as religious ceremonies? The lack of debate over this recommendation means that we cannot see how government representatives justified their decision to remove the section banning ceremonies, but the discourse in the preceding decades can give us some clues. The DIA officials who had refused to call the ceremonies religious were concerned that the First Nations were actively opposing Canada's political authority and economic aspirations, and that the ceremonies encouraged or even caused such opposition. Members of the settler population who did see the ceremonies as religious insisted that the First Nations were not a threat to Canada's sovereignty. In the same brief in which the Protective Association for Indians and Their Treaties called for the legalization of the sun dance as a religious ceremony, they also pointed out that the First Nations in Saskatchewan paid taxes to the federal government and sent men to fight for Canada in wartime—acts that showed that they were loyal to Canadian authority¹⁸⁹. The most likely explanation for the change in the law is that by 1951, Canada's economic fundamentals and political sovereignty were stable enough

¹⁸⁷ Katherine Pettipas, *Severing the Ties That Bind: Government Repression of Indigenous Religious Ceremonies on the Prairies*, (Winnipeg: University of Manitoba Press, 1994), 209.

¹⁸⁸ *Ibid.*, 210.

¹⁸⁹ Volume 6811, File 470-3-6.

that potlatches and sun dances were no longer seen as threats. In 1885, Canada was a new nation, often unsure of what it was and how it would survive. By 1951, Canada had proven itself in two World Wars and survived a depression; the First Nations knew that Canada was not going away, and they showed a consistent degree of submission to Canadian institutions, even as they continued to protest the terms of their relationship with the government.

This explanation of the extension of religious freedom to First Nations ceremonies corresponds well with David Chidester's arguments about religion in southern Africa. Chidester claims that the European colonizers in southern Africa only acknowledged an indigenous religion when they felt they had a sufficient level of control over the indigenous population. This theory makes sense in the Canadian context as well, because settler claims that the sun dance and potlatch were religious ceremonies went hand in hand with claims that the First Nations did not pose a threat to Canadian sovereignty. Chidester's position can also help us understand the difference between the claims of religious freedom on the prairies and the relative lack of such claims in British Columbia. The prairies were monitored and regulated much more closely by the federal government in the late 19th and early 20th centuries than was British Columbia. The treaties, the formal reserve system, and the earlier and more established presence of the NWMP meant that Canadian sovereignty and control were enforced more strictly on the prairies. The collapse of the bison economy also meant that prairie First Nations were much more dependent on the Canadian government than those in British Columbia. All of these factors meant that Canada was able to control the First Nations on the prairies more effectively than in British Columbia, which, as Chidester shows, is a key condition for the recognition of indigenous religions by a colonial power.

As Tisa Wenger has shown, though, the recognition of indigenous religions sometimes requires more than just a high enough level of control by the colonizers over the colonized. The decisions and actions of colonized groups also play a role in the classification of their practices and organizations as religious or non-religious. In Canada, it was First Nations people and groups themselves who first made the push for their ceremonies to be recognized as religious. The Canadian government, and most settlers in general, were not trying to discover what the religions of the First Nations were, and only slowly began to discuss such issues after they had been raised repeatedly by the First Nations themselves. All the same, even among the First Nations, the question of whether or not their ceremonies were religious did not come up until after those ceremonies were made illegal. This does not mean that characterizing the ceremonies as religious was insincere, but it does mean that the question was not relevant until the answer had legal consequences. For First Nations groups who argued that the ceremonies were religious, the motivation was clear: they wanted their ceremonies to be legalized so that they could practice them free from the fear of harassment or arrest. Many other strategies were used as well; however, on the prairies, the religious freedom argument proved to be one of the most effective. This argument allowed these First Nations to achieve a clear goal: the law against their ceremonies was dropped.

In order for that law to be dropped, there must have been some benefit to the Canadian government as well. The theories of Craig Martin, Russell McCutcheon, and Naomi Goldenberg can help us to see what that benefit was. As we have seen already, the Canadian government was trying to establish its political and economic authority in the west at the time these laws were introduced. The government's fear was that the potlatch and the sun dance would undermine this authority, and that the First Nations would actively resist

Canadian sovereignty (as in the two Métis rebellions on the prairies), or hinder the economic plan of the National Policy, or both. With McCutcheon's theory, the potlatch and the sun dance can be seen as collective forms of dissent that had the potential to seriously challenge the social structures that the Canadian state was trying to implement. Even though the Canadian government had not been trying to convince the First Nations, or anyone else, that these ceremonies were religious, the religious classification eventually became a useful way to assert that the ceremonies were not meant to be political or economic in nature. In fact, by the 1950s, the potlatch and sun dance had not only been "domesticated" in terms of removing any features that could be seen as threatening, they had also become ways to promote support for the Canadian state. First Nations groups had begun to fly British flags, praise the British royal family, and raise money for the Canadian military at their ceremonies. These changes to the ceremonies are a great example of Martin's ideas about the symbiotic relationship between states and religions. If religion is a category created by the state to refer to groups that promote good citizenship and loyalty to the state (among other things), and also receive legal and economic privileges, then groups that want those privileges will begin acting like religions, whether the state tries to impose that classification onto them or not. We have seen how churches in western Canada argued for their own value to the Canadian government by emphasizing their ability to produce good citizens. In order to receive the same privileges that the churches enjoyed, First Nations also began to promote loyalty to Canada within these ceremonies. Once the government was satisfied that the ceremonies engendered a sufficient level of loyalty, they were rewarded with the classification of religion.

Naomi Goldenberg's theory of vestigial states gives us a new framework and a new terminology with which to view these ceremonies. Instead of seeing these ceremonies as

religious practices which were suppressed by an intolerant settler culture, we can think of them as the rituals of the political systems of the First Nations. When the new political system of Canada was introduced by the settlers who wanted control over the territory and resources of the west, they had to either eliminate the supporters of the old system, or make them subordinate. The settlers' tactic to achieve this subordination of the First Nations was to suppress institutions like the potlatch and sun dance that reinforced the old order. Those ceremonies were later allowed to reappear as religions; that is, they were allowed to reappear as vestigial states, or as institutions expressly and legally subordinate to the institutions of the dominant state, Canada. This case study of western Canada can shed light on Goldenberg's theory by showing how the colonized people are also actively involved in the negotiation of their status under the dominant state. The First Nations on the prairies, who were closely regulated by the colonizers and dependent on them for resources, started to call their ceremonies religious relatively quickly. In British Columbia, and particularly on Vancouver Island, where the First Nations maintained a higher level of autonomy, they preferred to describe their ceremonies as national customs and systems of law, implying a greater level of independence than using the term "religion" would. Applying Goldenberg's theory to these observations can provide a twist to Chidester's argument: while a greater level of control can allow the colonizers to more readily recognize the practices of the colonized as religious, a greater level of domination can also make a colonized group settle for the classification of "religion," rather than the more politically ambitious classification of "nation."

This perspective on the anti-ceremonial law can lead to many interesting areas of potential future research. Within the field of religious studies, taking this approach is one way to break out of the mostly fruitless discussions and arguments (and, perhaps, anxieties)

over definitions of religion. Courses on religion and books on religion often begin with an admission that academics cannot agree on how to define religion, and this problem often hangs unresolved over all the discussions that follow. In this study, however, adopting any particular definition of religion would be irrelevant. The object of study is itself a disagreement or negotiation over what the definition of religion ought to be, though in Canadian history this negotiation has occurred indirectly and implicitly, as opposed to the explicit form it can take in the academic field of religious studies. This thesis is certainly not the first study to take such a conflict as its object, but it does contribute to the growing body of work suggesting that *classifications* of religion could be a more productive object of study than religion itself (if such a thing can even be said to exist). This perspective could even help to put religious studies departments into more conversations with other disciplines, as issues of classification have relevance well beyond the study of religion.

This perspective on religion can also open new avenues of study by widening the range of comparisons we can make. The study of religion can sometimes be limited by the assumption that groups, institutions, or behaviours commonly understood as religious ought to be compared only to their counterparts that are commonly understood to be in the same category. By focusing on contested classifications of religion, though, we can start to see similarities with events and entities that do not normally fall under the rubric of religion, while also avoiding the unproductive and vague conclusion that everything is somehow religious. To take one example, the most obvious comparison to the situation of First Nations in Canada is, to my mind, the province of Quebec. Quebec and First Nations are both minorities within Canada that trace their identities to political entities pre-dating the Canadian state, and are in continual negotiation with Canada over how much sovereignty

they ought to enjoy. Quebec, though, is never described as a religion, and representatives of Quebec often go out of their way to emphasize that their symbols and practices are *not* religious¹⁹⁰. The differences between the cases of Quebec and First Nations in Canada could provide interesting insights into our understanding of how classifications of religion are deployed.

This example of a comparison between Quebec and First Nations points to a potential relevance for this study more immediate than theoretical questions about the definition of religion: the potential goal of reshaping debates about indigenous and Canadian politics. Undermining the supposed self-evidence and neutrality of conversations about indigenous religions can be one way to destabilize assumptions that the sovereign Canadian state in its current form is a legitimate authority, and can open space for conversations about better ways of organizing power. There are other discourses within indigenous and Canadian politics that could be similarly questioned, and the field of religious studies could be favourably positioned to move those discourses in positive directions. Two areas that immediately come to mind are conversations about gender and terrorism. Gender is a prominent category in many aspects of indigenous and Canadian politics, such as ongoing controversies about violence against indigenous women and discussions about the roles of women and men in former or alternative forms of indigenous government. This thesis did not focus on questions of gender, but the archive of correspondences regarding indigenous ceremonies does contain many instances where gender norms form part of the arguments against the legality of the potlatch and the sun dance. Gender is often seen as a category with particular relevance to

¹⁹⁰ Joseph Brean, "Controversial Quebec Charter Exemptions Based on Idea That Some Religious Symbols Have Become Purely Secular," *The National Post*, 10 September 2013, accessed 1 May 2015. <http://news.nationalpost.com/news/canada/controversial-quebec-charter-exemptions-based-on-idea-that-some-religious-symbols-have-become-purely-secular>.

religion, and researchers within the field of religious studies may be able to contribute useful insights and comparisons regarding the ways in which gender is deployed in Canadian political discourses about indigenous groups. Similarly, terrorism has become an especially hot topic within religious studies since the World Trade Center attacks of September 11, 2001. Since there is also a tendency within Canadian political discourse to characterize indigenous resistance groups as terrorists¹⁹¹, the potential insights from the field of religious studies about such classifications could prove useful for rethinking instances of overt conflict between First Nations and the Canadian state.

Applying critical theories of religion to the history of anti-ceremonial law in Canada can allow us to see how political hierarchies were solidified or challenged by the competing definitions, classifications, and regulations of ceremonies like the potlatch and the sun dance. These theories can also help us to see the conflicts of today in a different light. When conflicts such as the clash at Elsipogtog occur, mainstream media outlets and the federal government often frame the problems in terms of ceremonies, attitudes, and symbolic gestures, as Rex Murphy did in the column I mentioned in the introduction to this thesis. By claiming that a group is tolerated as a religion, that their ceremonies are honoured and their traditions respected, we hide the fact that the same group is not tolerated as a nation state. Theories of religion that contextualize religion in relation to state governments can allow us to cut through this language and focus on political considerations, such as who is able to control territories and resources. While Murphy talks about the labels and symbolic statements connected with the Elsipogtog conflict, he does not talk about the disagreement over who gets to make decisions affecting the natural resources of the community. When he

¹⁹¹ See Keith D. Smith, *Liberalism*, and also Pam Palmater, "From Savages to Terrorists: Justifying Genocide of First Nations," *Indigenous Nationhood*, 15 May 2011, accessed 1 May 2015. <http://indigenousnationhood.blogspot.ca/2011/05/from-savages-to-terrorists-justifying.html>.

talks about, “the deep wells of respect and decency of the majority of Canadians,” toward the cultures and religions of indigenous peoples, it is a way for him to avoid talking about the deep wells of *water* that the Elsipogtog nation is afraid will be contaminated by the proposed fracking by SWN Resources. Theories that emphasize the legal and political implications of the category of religion can bring these power imbalances to the fore and illuminate the ways in which seemingly benign classifications, such as what qualifies as religious, are in fact not neutral descriptions, but tools which can serve to legitimate the dominance of one group over others. From time to time, the battles between First Nations and the Canadian government are fought with sniper rifles and Molotov cocktails, but more often, they are fought with categories and classifications.

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