

Food-Fish Fable Reeled Us In

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It's hard to imagine it nowadays, but there was a time in British Columbia when non-native people could get "food fishing" permits and aboriginal communities sold their fish legally and without controversy. Local anglers, homesteaders, and fisheries guardians routinely joined forces with native people to defend traditional fisheries, and canneries paid rent to the tribal groups in whose territories they operated. Even the daily newspapers took a dim view of interference with aboriginal fishing rights.

For the past 10 years, though, a recurring narrative has unfolded in the news media. Sometimes it's set on the banks of the Lower Fraser, sometimes on the Somass River on Vancouver Island, and sometimes on the Skeena. But always, its characters include shadowy native poachers, inept fisheries officials, and non-native fishermen protesting what is usually described as Ottawa's politically correct agenda of allocating commercial fisheries based on race.

The way such an absurd fiction has come to inflame public anxieties about aboriginal rights is a long story, but a recent book, *Fish, Law and Colonialism in British Columbia: The Legal Capture of Salmon in British Columbia* (University of Toronto Press, \$27.95), by UBC assistant law professor Douglas Harris is a good place to start.

These days, you could be forgiven for thinking it's always been simply an us-versus-them affair – us being the taxpaying public and them being the Indians, with them winning, lately, more often than not. But a far more interesting story emerges from Harris's book. Most importantly, what *Fish, Law and Colonialism* shows is that non-native British Columbians have never shared a monolithic antipathy to "commercial" aspects of aboriginal fisheries.

From the beginning, the story has been rather more nuanced. Henry Holbrook, a New Westminster salmon canner and a member of the colonial legislative council, proposed that a clause be inserted into the 1871 Terms of Union (which ushered British Columbia into Canada) that would have stipulated specific constitutional protections for aboriginal interests. In the 1870s, BC Attorney General G.A. Walkem favoured an expansion of distinct aboriginal fisheries to include major commercial operations "profitably conducted and controlled by themselves". Even Chief Justice Sir Mathew Begbie argued for aboriginal fisheries in 1878.

Around the same time, Alexander Caulfield Anderson, BC's first fisheries overseer, insisted that natives should be allowed to persist in their traditional fisheries and to sell their fish, if they wanted – which is precisely the idea behind the current federal policy that these days is routinely dismissed by the punditry as some sort of weird new-age idea foisted upon us by the federal Liberals.

If there was one single thing that made everything go wrong, it was that most of the early salmon-cannery owners wanted aboriginal fisheries eliminated and aboriginal people rendered as mere labourers beholden to the canneries, with a food-fishing privilege the only vestige of aboriginal custom they were prepared to allow.

The “Indian food-fishery” was invented by cannery-friendly federal bureaucrats in 1894, and the first protracted showdown between Ottawa and native fishermen was an assault upon the Babine Lake people and their commercial fishery, conducted as a series of fence-like weirs along the Babine River, during the 20th century’s first decade. The assault came close to provoking a full-scale uprising.

Ottawa’s aboriginal “food fish” policy was by no means universally accepted, even among the bureaucrats themselves. Indian Affairs officials regarded native people as being entitled to fish in their accustomed ways, not only for food but for sale and trade. The mainline Christian churches were openly and unapologetically opposed to the “food fishery” rules: the Oblate intellectual Adrian Gabriel Morice insisted that Ottawa’s actions would end up depriving aboriginal people of “their chief means of support, in order to enrich a few cannerymen”. Even the *Province* newspaper agreed, calling the federal government’s actions on behalf of the canneries “the most treacherous and tyrannical conduct”.

Initially, the Indian food fishery was so widely opposed in BC that it was practically impossible for fisheries officers to convince justices of the peace to accept charges against aboriginal people for selling fish. Aboriginal people were almost universally against the policy. The BC government was against it too. But the canneries and the feds were determined.

The second major conflict over the food-only rules involved the Cowichan tribes, who had maintained salmon weirs on the Cowichan River for thousands of years and had provided a regular and welcome supply of fresh fish to local settler communities for half a century. When federal fisheries officials first moved against the Cowichan fisheries in the late 1800s, local settlers came to their aid, as did local anglers, the BC Fishermen’s Union, the Catholic Church, Cowichan municipal council, and local MLA W.H. Hayward.

Arrayed against the Cowichans were the canneries, well-heeled fly-fishermen who wanted unimpeded access to the river’s steelhead, and luminaries such as the mayor of Victoria, who wanted to promote Vancouver Island as a gentleman angler’s paradise.

In 1914, a compromise was struck. The Cowichans could continue to operate three weirs, which had to be opened to allow fish passage at least three days a week. By 1925, fisheries officials had imposed new regulations, trumping the pro-Cowichan forces by making it unlawful for non-natives to buy fish from the Cowichan. Three Cowichan villages – Khenipsen, Comiakien, and Clemclemeluts – favoured submission to federal authority, which granted them opportunities to fish, with gill nets, for food only. The

villages of Cowichan, Quamichan, and Somenos, however, held out, but in 1936, Ottawa refused to issue the Cowichans any permits for their weir fisheries.

It wasn't until 1992 that the 19th century "food fishing" rules were revisited on this coast, and it's almost certain that this summer, native fishermen will again be granted exemptions to those rules, and non-native British Columbians will persist in their traditions of buying native-caught fish, and there will be protests by Alliance Party members who also happen to hold commercial fishing licences.

The cameras will roll. The headlines will blare. The pundits will thump their chests.

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