Torchlight Prey: Night Hunting and Fishing by Aboriginal People in the Great Lakes Region

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Hunting and fishing at night with the aid of torches was widespread among the Aboriginal peoples of the Great Lakes region. European newcomers were impressed with this technology, and many marvelled at the efficiency of the nocturnal harvest of game and fish. The torchlight temporarily paralysed the prey and usually made the kill easy and safe. Night hunters often travelled in canoes along the edges of lakes and rivers to locate their prey, and the subsequent transportation of the meat to base camps was relatively simple. The importance of this traditional torchlight harvest was recognized in early treaties between Aboriginal Nations and the British. This was reflected in annual treaty gifts of iron light jacks and other implements designed for night hunting and fishing. However, by the end of the 19th-century night hunting and fishing was deemed to be a criminal activity by non-Aboriginal governments. The ban on traditional torchlight harvesting was publicly touted on safety reasons, but a closer examination of the historical records show that Victorian ideals of sportsmanship and a desire to limit Aboriginal harvesting were more important principles guiding the change in government policy.¹

GEOGRAPHIC DISTRIBUTION

The use of torches for hunting and fishing was common among Aboriginal peoples in the Great Lakes region and in other parts of the continent. However, not all Aboriginal people in North America practised the use of torches to illuminate the darkness of night for hunting and fishing. The Hudson Bay Lowland Cree, for example, did not hunt or fish at night with torches when first encountered by Europeans in the 17th and 18th centuries.² The reason for this is not clear, but the lack of suitable birch bark or other incendiary materials may have been a contributing fac-

¹ I would like to thank Rhonda Telford for providing information on torchlight hunting from her collection of Indian Affairs records.
² The author’s extensive review of Hudson’s Bay Company records indicate a complete absence of references to hunting or fishing torches.
Figure 1. Birch bark fishing torch from the Waugh collection of the Royal Ontario Museum.
tor. John Honigmann, who studied the Lowland Cree at Attawapiskat on the western coast of James Bay, made note of the absence of night fishing with torches in their Aboriginal culture. He explained that the use of fishing torches was “taught to the Indians by personnel of the Hudson’s Bay Company” (Honigmann 1956:37).

TECHNOLOGY

When burned, birch bark produced a bright light that could illuminate a fairly large area. The use of reflective devices enhanced the directional focus of the light rays and the ability to shine on the target prey. Descriptions of birch bark hunting and fishing torches can be found in the writings of many early observers. For example, Henry Schoolcraft provided a description of the manufacture of birch bark torches and the light jack that held the bark in place. Elm or cedar bark was used for the light jack pole that was fixed to the bow of the canoe. Black charcoal was rubbed on the pole to hide it from view and a sheet of white bark was placed behind the torch to reflect the rays of light forward. The torch itself was made of small rolls of twisted birch bark about two or three feet in length. Schoolcraft observed that the light from the torch, cast forward by the birch bark reflector, left the hunters in darkness and undetected by the prey (Schoolcraft 1852:53-54).

Johann Kohl’s description of birch bark torches provided additional details about their construction and operation. He wrote:

In the bows [of canoes] burns a light, or torch, which they make very neatly of birch bark. The strips employed for such torches are bound together with a quantity of rings. The flame burns down from one ring to the next, and bursts them one after the other, while the lower ones still keep the torch together. These torches are fixed in a cresset provided with a board behind, like a dark lantern. The light throws its beams forward, while the hunter cowers in the shadow of the board. [Kohl 1860:311-312]

Frances Densmore recorded several different types of bark torches used by the Ojibwa west of Lake Superior. She noted that hunting, fishing and travelling torches differed slightly in style and construction, but most depended on the bright burning birch bark as the means of illumination (Densmore 1929:149-150). Frederick Waugh, who collected artefacts

3. Frances Densmore explained that the traditional material for the reflector was made from a bent piece of ash board (Densmore 1929:150).
from Aboriginal craftsmen on Manitoulin Island and the north shore of Lake Huron in 1916 made similar observations about birch bark torches. He explained that travelers' torches were made of “Birchbark...simply rolled up into a roll abt. 2 or 3’ long & held in the hand.” Fishing torches, or “jack-lights,” were made from birch bark “rolled and stuck into a split stick, then set up in the bow of the canoe” (Waugh 1916:1). He recorded the name of the torch as “waswn ske’dowan,” meaning a light, and an example from the Waugh collection in the Royal Ontario Museum is shown in the photograph in Figure 1.

In areas where birch bark was unavailable, other tree bark was substituted for the torch fuel. For example, hickory bark was used by Aboriginal night hunters on the Thames River (Howison 1821:182). In the Montreal area, pitch pine knots were the source of illumination (Johnson 1962:197, and Anonymous 1872:243). European products were also incorporated into the making of torches. Frances Densmore described a deer hunting torch made of tightly wrapped cloth coated with layers of pitch (Densmore 1929:149-150).

Canoes were the most common mode of conveyance for hunters and fishermen using torches. The canoe was easily manoeuvred along the shallow edges of lakes and rivers where fish and game could be easily located. Johann Kohl believed that the mosquito was an important factor in hunting deer at night. At night, deer were driven out of the bush and into lakes and rivers for relief from the tormenting insects (Kohl 1860:311). Sometimes rafts were used to convey large parties of night hunters. John Howison described a large raft on the Thames River in 1821 that carried five hunters and a blazing fire of hickory bark. Alongside the raft was a small canoe with two dogs that were used to chase down the prey if a quick kill was not made (Howison 1821:182-183).

Deer were most commonly hunted at night, but other animals were also taken by torchlight. Schoolcraft noted that swans were hunted by torchlight (Schoolcraft 1852:54). Most of the written records describe night hunting with firearms, but it is evident that hunting at night was also done with traditional weapons. George Copway recalled a night hunting expedition with bow and arrow when he was a boy. He remembered that they were able to manoeuvre the canoe to within 10 or 15 paces of a deer that was killed by an arrow (Copway 1850:28).

4. Frederic Baraga’s Ojibwa dictionary recorded the word wâssewâgan for torch (Baraga 1878:266).
European newcomers often marvelled at the efficiency of night hunting. In 1755, Colonel James Smith was a captive among the Wyandot near Detroit and wrote about a night hunting expedition in a canoe. The hunting party traveled in a canoe camouflaged with bushes and bark, and a boy held a torch to illuminate the shoreline. Smith noted that they were able to approach the deer within close range and killed three in the course of part of the night (Smith 1907:49). In 1821, John Howison witnessed a night hunting expedition on the Thames River and observed that “The brightness of the fire allures the deer, and several other kinds of game, to the sides of the river, where they are so much exposed to the shots of the hunters, that they very rarely escape.” He also noted: “This kind of hunting is practised, I believe, by the North American Indians only” (Howison 1821:183). Johann Kohl, who traveled among the Ojibwa south of Lake Superior, also believed that night hunting was a North American invention. He noted that hunters were able to approach deer at very close range, shoot and easily make the kill. Kohl was impressed with the efficiency of night hunting, and concluded that: “There is no sort of hunting in which a man can approach the game with equal security, and nearly all the Indians in North America seem to be acquainted with this novel mode of hunting” (Kohl 1860:312).

Night fishing often involved large groups of people when fish congregated for spawning in the shoals of lakes and rivers. The sight of many canoes with torches blazing as fish were being speared was spectacular. In 1832, T.W. MaGrath visited the north shore of Lake Huron and witnessed a large party of Aboriginal people spearing whitefish at night. He wrote: “the shore was brilliant with the fishing lights in the canoes” (MaGrath 1833:215).

By the mid-19th century, European manufactured light jacks came to replace traditional implements, as birch bark became scarce and iron goods more available. These new wares were easily incorporated into the practise of torch light harvesting. In 1837, an article in the Penny Magazine described spearing fish by torch light in the Niagara River. The correspondent observed:

5. While Kohl was of the opinion that night hunting with torches was a North American invention, he noted night fishing with the aid of torchlight was also practised by Scandinavian fishermen (Kohl 1860:311). A Canadian Illustrated News article in 1872 on night fishing with torches referred to a similar depiction in the writings of Sir Walter Scott (Canadian Illustrated News 1872:243).
The mode I adopted was that of the Indians. Accompanied by another person to steer my canoe, with a few blazing pine-knots in an elevated basket of iron wire fixed in the bow of the vessel, we would launch ourselves on the eddies and slack waters of the river, and drift silently with the current. My steersman would sit with his paddle in the stern of the canoe, while I stood, spear in hand, as near the blazing fire as practicable. (Anonymous 1837)

HUNTING AND FISHING GIFTS FROM THE CROWN

The British who negotiated treaties with the First Nations of the Great Lakes region recognized the importance of hunting and fishing to the subsistence and economy of Aboriginal people. It was also in the interest of British commerce to facilitate Aboriginal hunting and fishing to supply home markets. The first treaties were peace and friendship agreements, or "Covenant Chains," which secured British political, military and economic relations with First Nations. After the defeat of French military forces in 1760, the British sought to achieve peace with the First Nations who had been French military allies. These included many of the First Nations in the Great Lakes area who had also been economically and politically connected to the French. In order to bring the French allies into the Covenant Chain, Sir William Johnson called the nations to a great peace treaty council at Niagara in the summer of 1764. Gifts and wampum belts were exchanged to symbolize the peace. Johnson calculated the value of British gifts at £38,000, which included hunting and fishing equipment.

The British continued to give annual gifts to the First Nations of the Great Lakes region in recognition of their continued alliance. A 1795 list of "Indian Goods" in the Indian Department Store at Detroit included 3,220 pounds of gun shot, 5,350 gun flints, 100 fishing lines and 56 pounds of twine for seine nets (NAC, RG 10, v. 9:8,893). Gifts of hunting and fishing equipment figured prominently in the goods provided at Treaty Councils. For example, in 1796, the British Crown and the Chippewa Nation agreed to a Treaty setting apart a tract of land known as the Chenail Ecarté Reserve. The British gave Treaty gifts valued at £1,200 (Quebec currency), including 15 Chiefs Guns, 11 rifles, 278 pounds of gunpowder, 1,440 flints, 2,100 pounds of gun shot, and 1,440 fish hooks (Canada 1891:18-19).

The British government also provided blacksmiths to furnish and repair iron implements such as spears and light jacks. The use of iron light jacks became more important as traditional implements became more dif-
difficult to procure. Superintendent of Indian Affairs James Givins reported in 1824 that repairing “Spears & Light jacks are as absolutely necessary for the subsistence of the Indians during Summer, as fire arms are during Winter.” Givins also provided the following description of two different kinds of light jacks:

The Blacksmiths of this place distinguish a Double from a single Light Jack as follows. The Double is Swinging upon a hoop through which it traverses freely. The Single has merely a pivot at the bottom by which it is affixed to the Socket of the handle. The former is only applicable to Birch Canoes, the latter being subject to spill the fire. (NAC, RG 10, v. 16:12,799-12,800)

When Givins was asked to explain why light jacks were being furnished and repaired by the Indian Department at York [later called Toronto], he stated:

Adverting to that part of the Military Sec’s [Secretary’s] letter which notices the practice of the Indians in other parts of America making use of Torch Light [i.e., Birch bark torches] I beg to observe the same practice formerly prevailed with the Indians here; but of late years they have become encircled by the White settlers and can no longer procure Birch Bark for Canoes or torch lights, and like their white neighbours they use small Boats called Skiffs with a Light Jack fixed in the bows and Pine knots are substituted for Birch torches. (NAC, RG 10, v. 22:24,857).

In 1844 the report of a Commission to investigate Indian Affairs, known as the Bagot Commission (after Sir Charles Bagot, former Governor General of Canada), recommended the discontinuation of gifts to Britain’s Aboriginal allies. In addition to other policy changes, the termination of gifts such as firearms, spears and light jacks signalled a move away from supporting traditional economic activities such as hunting and fishing. The underlying belief of British policy makers was to encourage Aboriginal people to become farmers, even though many of the Indian Reserves were unfit for agriculture. The report recommended: “That the Indians be discouraged from looking to Game as a means of support, and that all incentives to the chase be withheld from them” (CSP 1847, Appendix T). This policy was guided by a desire to “civilize” Aboriginal people and, in the process, turn them away from traditional harvesting activities. For example, in 1839, Indian Superintendent J.W. Keating responded to the Commission regarding the Aboriginal people in the St. Clair River area. He compared the conversion of Aboriginal people from traditional hunting and fishing to agriculture in the same terms of converting them from paganism to Christianity. Keating wrote:
I have heard many an Indian boast of his hunting exploits, of his unerring aim, of the meat and furs which had hung in his lodge; never of his crop; this of course refers to the Indian in his totally uncivilized state. [CSP 1847, Appendix T]

**BRITISH COLONIAL LEGISLATION**

Before the Bagot Commission, game and fish regulations in Upper Canada did not restrict Aboriginal harvesting activities. For example, the 1821 Act for the Preservation of Deer in the Province of Upper Canada, specifically excluded Aboriginal people from the application of the law. It stated: “Nothing in this Act contained shall extend or be construed to extend to any individual or individuals of the nations of Indians now or hereafter to be residents within the limits of this Province” (Upper Canada 1821). In 1843, an amended Act repeated the exemption of Aboriginal people from restrictions on hunting deer and other game (Upper Canada 1843).

After 1844, British colonial legislation in Upper Canada followed the recommendations of the Bagot Commission in implementing laws designed at restricting Aboriginal resource harvesting activities. The first move in that direction was to establish fishery regulations favouring non-Aboriginal commercial fishermen. The 1857 Fishing Act initiated the first comprehensive allocation of commercial fishery leases for the Great Lakes. Aboriginal fishermen received only 12 “Band” leases, while 14 leases were given to the Hudson’s Bay Company and 71 to “practical fishermen” (Lytwyn 1990:17). William Gibbard, the first Fishery Overseer for the upper Great Lakes, explained that the disproportionate allocation of fishery leases was for the benefit of Aboriginal people. In words reminiscent of the Bagot Commission, Gibbard wrote: “the Indians would be far better off if they attended to their farms instead of dabbling in fisheries” (NAC, RG 10, v. 250, pt. 1:12,153).

In addition to marginalizing the commercial opportunities for Aboriginal fishermen, the legislation moved toward restricting traditional technologies such as night fishing with torches. In 1863, a Select Committee

6. In 1807, the Province of Upper Canada passed the first legislation in British North America regulating fisheries. The Act for the preservation of Salmon did not contain specific reference to Aboriginal people, or limit night fishing (Upper Canada 1807:23-24). A revised Act to preserve salmon passed in 1821 was the first to prohibit fishing by “torch or fire light” within 100 yards of any Mill or Mill-dam. That provision of the Act was the only one to apply to “Indian fishing” (Upper Canada 1821:30-32).
was established to review the Fishery Act. William Gibbard appeared before a Select Committee in 1863, and recommended that:

Spearing should be prohibited altogether, unless in particular cases sanctioned by the Commissioner of Crown Lands. Indians under this clause give great annoyance to our lessees, as well as destroy fish in those places where they can spawn unmolested by nets, namely on honey-combed shoals and other places inaccessible to gill-nets or seines. The spearing is carried on at night, is difficult in consequence to detect. [CSP 1863:71]

After the British North America Act in 1867, the provincial governments in Canada began to enact their own fish and game laws. In 1869, the government of Ontario amended the “Act for the better protection of Game” and introduced, for the first time a regulation against the use of lights for night hunting. Section five of the amended Act prohibited the use of “night-lights” for hunting waterfowl (OS 1869).

In 1894, Ontario’s Chief Warden A.D. Stewart reported that Indians were slaughtering deer but he could do nothing because they were wards of the federal government (OSP1895:8). Stewart’s successor, Chief Warden E. Tinsley, reported similar concerns in his 1896 annual report. Tinsley recommended appointing a warden fluent in the Indian language to convince Aboriginal hunters to curtail their “indiscriminate slaughter of game” (OSP 1896:9). In 1900, Tinsley advocated stricter game laws to curb abuses made by Indians and settlers. He suggested that “many half-breeds, trappers and others” engaged in selling meat to lumber camps and hides to tanneries (OSP 1900:11).

In the 19th century, governments were increasingly pressured by sport fishing and hunting lobby groups to enact stricter laws against traditional Aboriginal harvesting methods. The use of spears, torches and other traditional implements was characterized as barbarous and uncivilized. In one case, sporting groups lobbied successfully for the prohibition of all but fly-fishing in the Nipigon River. J. Michael Thoms pointed out that by the 1890s an Aboriginal threat to the fishery resource in the Nipigon River was “invented,” and “laws about technology would begin to be specifically amended to prevent Aboriginal fishing” (Thoms 1999:183).

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7. A jurisdictional dispute between the federal and provincial governments ended in 1899 after lengthy court challenges. Thereafter the provinces were given control over fishery regulations, but overall protection of the fisheries remained with Canada (see Telford 2000).
Laws against hunting at night with lights were strengthened in the early 20th century. In 1907, the government of Ontario introduced a new statute entitled: “An Act respecting the Game, Fur-bearing Animals and Fisheries of Ontario.” That legislation prohibited the shooting at any game at night (OS 1907). Amendments in 1938 included a prohibition against using artificial lights to take fish or frogs (OS 1938).

In other parts of the world, colonial governments adopted similar policy and legislative measures to marginalize native hunters. A major convention on African wildlife in 1900 included representatives from all European colonial powers, and British and German delegates eagerly adopted principles that clearly set out to exclude the African hunter (Mackenzie 1988:206). The 1933 Convention for the Protection of African Flora and Fauna introduced a prohibition against night hunting with lights. John M. Mackenzie noted that: “Night shooting (rendered easy by the use of flares, electric torches and lamps which attracted game) ought to be banned, as were poison, explosives, gins, traps, snares, set guns and missiles containing explosives. This suggested a much more comprehensive banning of African techniques than in 1900” (Mackenzie 1988:216-217).

In 1944, amendments to the Ontario Game and Fisheries Act included the prohibition against possessing “any device capable of throwing or casting rays of light upon an object” (OS 1944). The most recent Ontario Fish and Wildlife Conservation Act provided strict prohibition against night hunting.8 Section 20 prohibited hunting during the period from one half hour after sunset to one half hour before sunrise, and subsection C stated that a person shall not “shine a light for the purpose of hunting wildlife” (OS 1997).

ABORIGINAL AND TREATY RIGHTS

Long before the enactment of game and fish laws, Aboriginal people petitioned the British government to protect their hunting and fishing rights. For example, in 1835, the Chiefs at Walpole Island delivered a speech to Indian Superintendent William Jones, protesting against the encroachment of non-Aboriginal settlers on their hunting grounds. They pointed out that in their Treaties they did not agree to give their game animals to the British Crown. Recalling the words spoken by British Treaty

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8. An exception was made for persons holding a license to hunt raccoon at night.
Commissioners, the Walpole Island Chiefs stated that: “you said that you only wanted the soil that you could not take a gun, on your shoulder, and hunt the game as you Indians do, but we can raise our living ourselves, and the land only is ours, but not the game” (NAC, RG 10, v. 58:59,778).

The enforcement of game and fish laws triggered complaints and protests by Aboriginal people who viewed the regulations as contrary to their Treaties and Aboriginal rights. For example, in 1907, Peter Stock a Wahta Mohawk wrote to the Department of Indian Affairs and complained that a provincial game warden had taken away some venison and a provincial magistrate at Bala had imposed a fine for breaking the game law. Stock sought the Department’s help, and asked whether “we Indians have the privilege to shoot any game at any time by means to support myself and family” (NAC, RG 10, v. 6,743:31,688-316,689). The situation at Wahta had not changed in 1937, when George Martin wrote a similar letter of protest to the Department of Indian Affairs. Martin complained that the provincial game warden had confiscated his fishing net and deprived him of his living. He explained that his Treaty “does not specify to how the fish and game to be caught” (NAC, RG 10, v. 6,747, file 420-8X-1:n.p.).

The situation in Ontario was not unique. Toby Morantz has pointed out that Aboriginal people in Quebec protested en masse against the imposition of provincial game and fish regulations. She also observed that some federal Department of Indian Affairs officials joined in protesting against provincial interference with Aboriginal and Treaty rights to hunt and fish. The federal government, however, did not vigorously defend Aboriginal people who were charged by provincial wardens. Morantz noted that the federal government “repeatedly refused to support, financially or legally, those charged by the Province...claiming the Indians were subject to provincial game laws” (Morantz 1995:285).

The federal government’s lack of support for Aboriginal people charged with breaking provincial game and fish regulations puzzled some Indian Agents who believed that Treaties had protected traditional harvesting activities. For example, in 1938 Indian Agent Godfrey reported on the case of John Candasse of the Michipicoten Band living at Chapleau. Godfrey complained about the actions of provincial game wardens and explained: “it seems unreasonable that Indians should have to be brow-beaten and starved by a paid servant of the Game Department” (NAC, RG 10, v. 6,747, file 420-8X-2:n.p.).
By the mid-20th century, provincial game and fish wardens routinely seized traditional hunting and fishing equipment such as spears and night lights and charged Aboriginal people with breaking the law. In most cases, these actions were taken without a proven risk to public safety or conservation. In 1964, the Supreme Court of Canada upheld the acquittal of two Aboriginal hunters from Manitoba who had been charged with night hunting. At trial the judge ruled, in the case known as *R. v. Prince*, “the Indians were entitled, in any event, to hunt in any manner they saw fit on land to which they had access” (SCR 1964:82). More recent court decisions have determined that Aboriginal and Treaty rights to hunt at night can be restricted if public safety is at risk. For example, a case involving an Aboriginal hunter in British Columbia known as *R. v. Seward* resulted in a conviction based on the Crown’s contention that “hunting at night with a light is inherently unsafe” (CNLR 1999:299). A case involving an Aboriginal hunter in Nova Scotia known as *R. v. Bernard* also dealt with the public safety factor, and decided that provincial regulation prohibiting night hunting with the assistance of light was a justifiable infringement of Treaty and Aboriginal rights (CNLR 2000:124). A similar finding was made in an Ontario court decision known as *R. v. Paul* (CNLR 2000:263).

**CONCLUSION**

Public safety and conservation are legitimate reasons for prohibiting traditional night harvesting activities by Aboriginal people. However, as outlined above, the development of restrictive provincial game and fish regulations was initially motivated by other reasons. These regulations were part of a policy aimed at “civilizing” Aboriginal people and allocating fish and game resources to non-Aboriginal people. The laws governing night harvesting were also implemented without any regard to the Treaty promises made by the British Crown to First Nations. These facts make it imperative that any future decisions restricting traditional night harvesting need to be based on indisputable public safety or conservation reasons.
REFERENCES


Canada. 1891. Indian treaties and surrenders. Ottawa: Queen’s Printer.

Canada Sessional Papers (CSP).

Canadian Native Law Reporter (CNLR).


National Archives of Canada (NAC). Record Group 10 Indian Affairs Records.

Ontario Statutes (OS).

Ontario Sessional Papers (OSP).


Supreme Court of Canada Reports (SCR).


