

Book Review*

Arctic Justice: On Trial for Murder, Pond Inlet, 1923. By Shelagh D. Grant.
Montréal: McGill-Queen's University Press, 2002. 368p. \$39.95 (Can.),
\$34.95 (U.S.).

Reviewed by Gilles Renaud**

¶1 Not unlike what one might imagine in a novel penned by Georges Simenon or Agatha Christie, the author stumbles across a plank near the shore of Pond Inlet and discovers that it is the marker for the nearby tomb of one R.S. Janes, the victim of a shooting in 1920 that was held by the non-Native criminal justice system to be manslaughter. The resulting trial of an Inuk, as we discover in *Arctic Justice: On Trial for Murder, Pond Inlet, 1923*,¹ a superbly written and meticulously researched book, ushered in Canadian sovereignty over much of the Arctic and marked the introduction of criminal law to this premodern society. But, of equal importance, it symbolizes much of what is discordant in the dyadic relationship between non-Native and Native communities, and serves as a signal reminder that although the law is an instrument of justice and enlightenment, it may serve base purposes at times, in keeping with the less than noble motivations of her servants.

¶2 Indeed, as noted by the book's author, Shelagh D. Grant, a professor of history at Trent University in Peterborough, Ontario:

In one sense *Arctic Justice* is a story of an Inuk who killed an abusive white man at the request of those who feared for their lives. Yet it is also about the introduction of Canadian law and justice to the Inuit of North Baffin where there had been no previous attempt to enforce colonial rule. The narrative gives rise to stark contrasts of imagery, ranging from images of diplomats debating the finer points of international law to fisticuffs between angry, knife-wielding fur traders.²

Professor Grant adds: "Throughout each story runs a common theme of fear—collectively or individually—in response to the unknown."³ Subsequently, we read that the author's objective was "to provide insight into the motivations and frustration of enforcing law and order on the Arctic frontier. Even then, *Arctic Justice* is ultimately a much broader study about human response to an alien culture."⁴

¶3 Although Grant indicates that her objective is not to establish whether there was a miscarriage of justice, it will be opportune to comment on the aspects of the case that are troubling. There are many, ranging from the initial investigation by a

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1. SHELAGH D. GRANT, *ARCTIC JUSTICE: ON TRIAL FOR MURDER, POND INLET, 1923* (2002).

2. *Id.* at 6.

3. *Id.*

4. *Id.*

police officer who then presided over the inquest and later over the preliminary inquiry, to a jury composed of a majority of non-English-speaking Francophones. The latter meant that the proceedings had to be translated into both Inuktitut and French, with a corresponding loss of fluidity and increase in confusion, leaving aside the absence of a jury of the defendant's peers, adequate time to instruct counsel, and the constitutional concerns rising from the appointment of a "special magistrate" to preside over a jury trial.

¶4 Our understanding of the background to the trial and of the milieu in which these events unfolded is enhanced by a helpful glossary of terms and a detailed index of the participants. The text is enriched by many photographs, including contemporary ones identifying the major protagonists, that serve to underline the tremendous disparities between the state and the accused.

¶5 It may prove of assistance to draw particular attention to the first chapter, "North Baffin Prior to 1905," as it serves to introduce the peoples and their unforgiving milieu, the better to underscore the lesson that survival depended on respect for the environment and a closely knit social cohesiveness. We gain a substantial understanding of the premodern formal legal system and the fundamental deference to authority that marked the rapport between the aboriginal population and the transient whalers and traders, albeit not to the point of not being determined to obtain fair value in trade. More important, we are made to understand that gentle measures of correction to modify unacceptable behaviors were employed, such as counseling, derision, gossip, and public confession. These elements of restorative justice sought to reestablish harmony within the community by means of consensual agreement. More serious wrongdoing might result in widely held consensual agreement to banish or to execute the party guilty of such deviant, insane conduct.

¶6 In general, traditional beliefs emphasized resolution of conflict rather than European-inspired punishment and deterrence. Such a focus might motivate "sparing" one "guilty" of a serious wrong if the loss of that person's contribution to the community as a hunter was feared.⁵ On the other hand, actions that threatened the group, such as the threats to shoot the dogs that were essential for hunting which were ascribed to the victim of the shooting in Pond Inlet, might result in a deliberative consensus that decisive action was required. This is fundamental to our understanding of the actions of the accused against the unforgiving background of the milieu and the imperative of survival by emphasizing the safety of the group, and as the book reveals, this was overlooked almost wholly as imperatives of imperialism, or nation-building if you prefer, and coercive law enforcement dominated

5. Although it is beyond the scope of this review to discuss restorative justice, it will be useful to emphasize the belief held by many that most consensual forms of alternative dispute resolution involve an element of coercion. Accordingly, the North Baffin communities could count on the implied threat of recourse to the ultimate weapon of banishment or execution to ensure compliance with the lesser methods of social correction. See Anthony Bottoms, *Some Sociological Reflections on Restorative Justice*, in *RESTORATIVE JUSTICE & CRIMINAL JUSTICE* 79, 88–91 (Andrew von Hirsh et al. eds., 2003 (discussing Dogrib community's mechanisms of justice)).

the decisions of non-Natives! It is from this perspective that we must judge the title *Arctic Justice*. Both groups of protagonists believed (and ultimately continue to believe) that what occurred was just. On the one hand, the killing was just to protect the nuclear community and its ability to hunt; on the other, the trial and conviction were justified to protect the greater community from any traditional exercise of might.

¶7 The sources uncovered by historian Grant include newly discovered primary records, notably diaries of police officers associated with the investigation, and oral histories contributed by elders. This may be the most significant contribution of the text as it assists us in understanding how memories fade over time, how rationalizations come to dominate mindsets, and how the emergence of a cultural understanding of the background of events may influence (and distort) our original perception of what occurred. In other words, may it be that the aboriginal witnesses to the shooting have modified their views based on a better understanding of how the dominant non-Native culture perceives matters such as insanity or conduct that threatens the well-being of the group? Although the answer to this question is beyond the scope of this review, it will be useful to make plain that throughout the book there is a marked contrast between the accounts of the participants of the trial itself and the surviving objective evidence, such as photographs of the proceedings. Thus, if the juxtaposition of such objective evidence and the subjective memories reveals tremendous gulfs, what can we conclude is the likelihood of a fair account of the killing and the investigation after so many years and after the introduction of an overwhelming cultural system, the least manifestation of which is criminal justice?

¶8 These comments ought not, however, to be interpreted as denigrating the pains taken to collect such oral histories. To the contrary, the evaluation of these recollections should prove invaluable if we are to undertake the no doubt quite difficult but absolutely necessary study of the influence of cultural (and cross-cultural) influences on memory in the sense of the ability to perceive, store, and recall events. Each and every day, criminal courts are tasked with the onerous duty of attempting to search for the truth about often distant events involving parties of different backgrounds, languages, ages, gender, etc. To fail to learn from the teachings of this trial and this violent cross-cultural confrontation will result in a wasted opportunity to advance our understanding of humanity and the concomitant need to have the criminal law conform to the needs of those who require its protection, both accused and victims.

¶9 *Au demeurant*, the lessons that were available to be learned so many years ago—whether respecting the procedural and substantive rights of defendants who do not share the culture, language, and social and family outlook of the dominant society, or relating to the gathering of evidence from among a community that expresses itself and views the world around it in a fashion totally alien from the experience of the investigators—remain open to us, if we have the wisdom to accept these self-evident yet subtle teachings. Our ability to dispense fundamental

justice in a form more closely aligned with traditional beliefs and cultures, both in isolated communities and in our larger centers, depends merely upon our resolve to accept that though the symbol of justice is blindfolded, she is capable of far-reaching insights.