

To and fro across the Atlantic

By Susan Hardy

I am not the first to journey from the Qikiqtaaluk (Baffin Island, Nunavut), to Scotland. There is proof to the contrary at the Aberdeen University Medical School. They have a kayak on display there dating to the mid-1800s, reportedly the one used by Inuluapik (a.k.a. Eenoooloopik) on the river Dee to demonstrate the skills and technology of his people.¹

I will tell you first about Inuluapik's adventures, then mine.

Inuluapik encountered sea captain William Penny on Durban Island in 1839. Penny was on his way back to Aberdeen after a summer spent fishing in Baffin Bay. The mid-century European demand for whales was escalating at this time, and Penny became fascinated by young Inuluapik's tales of *Tinuujjarvik*, a vast inlet, rich with many whales.

Inuluapik drew a detailed sketch of Tinuujjarvik for Penny. Recent analysis affirms that Inuluapik accurately presented major coastal features, caribou hunting areas, occupied sites, the number of dwellings at each site and, crucially, whaling grounds.² Penny was moved to invite Inuluapik to accompany him to Aberdeen for the winter.



Detail - *Chart of North Polar Regions*, published by the Scottish Geographical Society in Edinburgh in 1897.

¹ Two more kayaks in Marischal Museum, Aberdeen, reflect Inuit arrivals in Scotland as much as a century earlier; however, Inuluapik was possibly the only Inuk up to the Victorian period, for whom a biography, newspaper and shipboard accounts exist: A. M'Donald. *A narrative of some passages in the history of Eenoooloopik, a young Esquimaux, who was brought to Britain in 1839 in the ship "Neptune" of Aberdeen*. Edinburgh, 1841. See: http://ve.tpl.toronto.on.ca/frozen_ocean/19C_eenoooloopik.htm, also <http://www.nunatsiq.com/archives/50729/opinionEditorial/columns.html>

² Stevenson, Marc G., 1997. *Inuit, Whalers, and Cultural Persistence: Structure in Cumberland Sound and Central Inuit Social Organization*. Toronto: Oxford University Press, pages 59-62.

History credits Penny with the "rediscovery" of Cumberland Sound the following year, after more than 200 years of navigational oblivion. After whalers began over-wintering in the 1850s, it became the most important whaling site in the eastern Arctic.

The rediscovery also affected the Inuit. Whaling in Cumberland Sound resulted in Inuit access to metal, guns, and many new kinds of boats, tools, and trade goods. Many Inuit of the region were employed as pilots, crewmen, hunters, dog drivers, and seamstresses. By the end of the century, when bowhead stocks became depleted, British free trading companies were in regular contact with Inuit, Inuit migration and settlement patterns had been profoundly altered, and Anglican missionaries had introduced – among other things – an Inuktitut writing system based on syllabics. Canada had established detachments of the North West Mounted Police by 1903, and other federal services and policies quickly followed.³

Thus did Inuluapik contribute to a mutually significant movement of ideas, goods, and people to and fro across the Atlantic. After his long sea-voyage home, Inuluapik's accounts of his travels were given modestly, in Penny's opinion. He was observed demonstrating the use of a gun that Penny had given him and, most eagerly, releasing his pent-up urge to hunt caribou.



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Glass plate negative - Inuit man with a kayak c. 1854

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³ Various, for example: Eber, Dorothy H., 1989. *When the Whalers were up North: Inuit Memories from the Eastern Arctic*. McGill-Queens University Press, pages 7-20.

I represented the CBA-Nunavut Branch at the 2007 CBA Annual Canadian Legal Conference in Calgary. I met Richard Henderson, then the vice-president of the Law Society of Scotland, who attended with Michael P. Clancey, their director of law reform.

In preparation for his tenure as president of the Law Society of Scotland, Henderson has pursued dialogue with representatives of the legal profession in Britain, the European Union, North America and beyond. He seemed quite surprised and intrigued to hear from a jurisdiction so far off the beaten track as Nunavut, and to learn about some of the challenges confronted by lawyers and the justice system here.

An invitation to visit the office of the Law Society of Scotland in Edinburgh followed, to my equal surprise. After discussion with Mark Berlin, my attendance during September holidays was confirmed.

In Edinburgh, we discussed a variety of concerns. Speaking to the public sector field were Janet Hood, chairman of the In-house Lawyers Group (ILG) and then-public-sector-counsel Lynda Towers. In Scotland, the ILG represents the interests of Scottish solicitors employed in public service and commercial settings – about 2,600 practitioners, making up just under one-third of the legal profession in Scotland.

Henderson, Hood and other members of the Law Society of Scotland extended splendid hospitality. Hood spoke to and demonstrated the effectiveness gained when the representatives of in-house counsel pursue the cross-jurisdictional exchange of ideas, experiences and strategies:

"Networking and exchange of business practice information can only enhance the effectiveness of in-house counsel. In my time as chairman, the In-house Lawyers Group have effectively networked across Europe and Britain. New ideas concerning service and business delivery, work methods, information sharing, and soft communications networks all have developed to everyone's gain."

From my perspective, the adverse impact sustained when lawyers are scarce, transient, or delivering legal services to clients located far away was a particularly fruitful topic. Scotland also has a central and urban concentration of counsel, albeit with less extreme distances.

In response to these dynamics, their best practices in remote areas include regular consultation, webcast seminars, and other innovative communications technology. Initiatives to assist with recruitment and retention difficulties outside the core area also include a proposed "people exchange" under Law Society auspices, designed to reduce adverse impacts from isolation and to facilitate cross-agency secondment, shadowing, and mentoring for in-house lawyers.

The public image and understanding of lawyering and of in-house practice are also shared concerns. In Hood's words:

"...we must work hard to ensure that in-house lawyers are proud to be solicitors, proud to serve within their organizations, proud to be driving forward the business in which they are engaged, proud they can deliver often very specialised services, proud to be serving their communities... and proud of putting energy into their own lives and those of the people they serve."

The ILG is seeking the best means of responding to members' requests for support and tools to help them better educate their clients about their role, to ensure that they are consulted on time and effectively, and, in some cases, to prevent or reverse marginalization within an employer organization.

The most intense advocacy recently undertaken by the Law Society of Scotland and ILG relates to the *Legal Profession and Legal Aid (Scotland) Act*. Flowing from the Clementi Review⁴, this statute was introduced in 2006 with the intention of establishing a body independent of the legal profession to handle complaints about lawyers' services. It also aims to extend the range of people that can provide advice and assistance on civil matters to include non-lawyer advisors, and to provide funding in support of such advice.

Several Law Society concerns were resolved before the Act received assent; however, a number of issues remain problematic. For example:

- The new Scottish Legal Complaints Commission (SLCC) will handle service complaints only, whereas complaints about conduct will remain in the hands of the Law Society. What will happen if a complaint involves both service and conduct deficiencies?
- Under what circumstances, if any, would in-house counsel be accountable for their quality of service to anyone other than their employer (generally, an institution or corporation)?
- Will declined or aggrieved seekers of public services or benefits be able to seek an indirect appeal by complaining about the service provided by a lawyer involved?
- After an infusion of start-up costs, the government intends that the profession will fund the SLCC. The SLCC mandate will entail new layers of screening, review, and appeals of complaints and appeals. Will the resulting Law Society membership fee increases drive former practitioners into the non-professional advisor category?
- There are concerns that these fee increases will result in more non-lawyer advisors and fewer Law Society members and that persons with a history of poor conduct may now operate as non-lawyer advisors, beyond the reach of the Law Society.

Our friends in Edinburgh also offered a giant thought-adjustment by suggesting that lawyers practicing in an area with Nunavut's present developmental status and prospects might find colleagues with highly relevant skills, experiences, and needs through participation, or the representation of our concerns, in Sections of the CBA or International Bar Association engaged in international development issues, practice and initiatives.

Unlike Inuluapik, my report is not likely to change lives, economies, or where people decide to spend their winters. Instead, I hope to acknowledge and commend the genuine willingness and commitment of our friends at the Law Society of Scotland to engage, even with a perspective that might more commonly go unvoiced or unremarked.

I will also relay their greetings and their parting question:

Would further international dialogue, the additional movement of people and ideas to and fro across the Atlantic, be warranted in view of the benefits to be gained, and in the interest of identifying and responding more effectively to a more comprehensive range of public sector counsel and public interest concerns?

⁴ See: <http://www.legislation.gov.uk/legislation/scotland/acts2007/20070005.htm>; David Clementi's 2004 Review has also sparked unprecedented changes in regulation of the legal profession in England and Wales: <http://www.legal-services-review.org.uk/content/report/report-chap.pdf>