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**BORDER CROSSING  
FINAL REPORT**

**Prepared by  
Joan Holmes &  
Associates  
for  
Joint Steering Committee  
Department of Indian Affairs  
and Assembly of First Nations  
February 1990**



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## Introduction

The following report is based on the findings of research into the archival records of seven federal departments: Justice (RG13), National Revenue (RG16), Royal Canadian Mounted Police (RG18), External Affairs (RG25), Labour (RG27), Citizenship and Immigration (RG26), and Immigration (RG76). The research focused on collecting documentary evidence of border-crossing and transporting practices of Indians, and federal policies and legislation regarding Indian rights to cross and transport goods across the international boundary between Canada and the United States. Although the contract was designed to examine documentation from 1850 onward, the earliest relevant documents date from the 1880's. Although no particular region was the focus of the research, most of the documentation involves incidents in the western provinces or border communities in Ontario and Quebec, many of which raised issues of national scope.

This research contract is one of three contracts investigating Aboriginal border-crossing issues. The other contracts were concerned with: historic material from pre-confederation eastern Canada, and post-confederation material from western Canada.

The product of this contract consists of an interim report on the initial investigation into the organization and holdings of the federal record groups listed above, a chronological index to the documents collected, an annotated bibliography of the records researched, a compendium of relevant documents, and this final report summarizing the findings.

The findings are organized into two general topics: transporting goods across the border and citizenship and immigration issues. Each topic is discussed in chronological order with some reorganization by sub-topic. A summary of trends and conclusions follows the discussion of evidence. Weaknesses in the research and documentation are identified and suggestions for further work summarized at the end of the report.

## Summary of the Documentary Evidence

### A. Duty-free transporting of goods across the Canada/U.S. Border

#### Cross border activities in the late nineteenth century

Voluminous correspondence between American and Canadian authorities during the 1880's indicated that Crees, Bloods and Peigans were conducting horse stealing raids across the international border. The authorities were concerned with working co-operatively to stop cross-border horse raiding and recover stolen horses. The North West Mounted Police arrested the Indians for theft when possible. The sole concern of the NWMP was with the theft and recovery of the horses; they did not express any concern about the Indians crossing or bringing goods across the border.<sup>1</sup> A single complaint of horse stealing in the late 1890's, also indicated that Crees in British Columbia habitually crossed the border to hunt in the United States.<sup>2</sup>

Similarly, NWMP records from the 1890's showed that Bloods were obtaining fixed ammunition south of the American border and bringing it into Canada. The sale of fixed ammunition to Indians was prohibited in Canada at this time. Canada approached the American government and requested

<sup>1</sup> See letters dated: 23 March 1883, 3 April 1883, 4 April 1883, 5 April 1883, 6 April 1883, 10 July 1884, 9 May 1889, 13 May 1889, 17 May 1889, and 21 May 1889. NAC RG18 Vol. 12 File 292-83, Vol. 1017 File 1528, and Vol. 35 File 479-89. The NWMP/RCMP files contain many more examples of transborder horse stealing. The correspondence provided is a representative selection.

<sup>2</sup> See letter dated: 26 February 1895. A.E. Forget, Assistant Commissioner of Indian Affairs in Regina to Commissioner of NWMP. NAC RG18 Vol. 107 File 236-95.



that they prevent fixed ammunition from being obtained by Canadian Indians. In this case, the concern of the Canadian authorities was accessibility of fixed ammunition, rather than the transporting of goods across the border.<sup>3</sup>

The question of duty-free privileges in Eastern Canada in the late nineteenth century

The first reference to customs duties being imposed on St. Regis Indians is contained in a letter of 28 April 1893. The Assistant Commissioner of Customs informed John Angus, a Seven Nations headman, that "instructions will be issued by this Department to the Customs Officer at St. Regis as will remove all ground of difficulty and complaint to you on the matter in question [being required to pay duty on goods obtained in the U.S.]".<sup>4</sup>

Over four years later, the Treasury Board declined to recommend approval of a memorandum from the Customs Department asking that the customs collector at St. Regis be instructed to "permit the free interchange of articles" between the St. Regis reserve and American traders. The memorandum from the Minister of Customs which requested approval of duty-free entry contained the following statements regarding the department's treatment of cross border trade by Indians:

... in view of the disposition which has always been evinced by the Government to extent [sic] to the Indians the greatest possible consideration in the matter of goods obtained by them in the United States, contiguous to their Reserves, as the result of exchange of articles of Canadian Indian handiwork for articles of United States manufacture or production, you are hereby instructed to permit the free interchange of articles as between the Seven Nation Indians or other Indians occupying the Reserves near your station, and the adjacent United States traders, who, as the Department is advised, are in the habit of taking from Canadian Indians baskets and other articles produced by their own labour and giving them in exchange such goods as they may need.

The Council of the Seven Nations have been advised from this Department that these instructions would go to you, and that all past privileges which they had enjoyed would not be interfered with by you.<sup>5</sup>

The above request for an order in council authorizing a free interchange of articles between the Seven Nation and other Indians and American traders was rejected by the Privy Council.<sup>6</sup> Note that in July of the same year, the United States Tariff Revisions had withdrawn the privilege of duty-free entry of Indian goods.

<sup>3</sup> See letters dated: 30 July 1891, 11 August 1891, 21 September 1891, 28 September 1891, and two letters dated 22 January 1892. NAC RG18 Vol. 64 File 279-92. The 1884 Indian Act amendments prohibited the sale of fixed ammunition or ball cartridge to Indians. In a letter of 22 January 1892, Inspector Macpherson reported that he confiscated a carbine and ammunition from a South Peigan, from the American side who was visiting in Canada, this indicating that "American" Indians also crossed the border freely from the American to the Canadian side.

<sup>4</sup> 28 April 1893, T.J. Watters, Assistant Commissioner of Customs to John Angus, Seven Nations Headman. NAC RG16 File A-7613.

<sup>5</sup> See extract of minute of council dated 29 October 1897. NAC RG16 File A-7613.

<sup>6</sup> See report of Privy Council dated 2 November 1897. NAC RG16 File A-7613.



The provisional border between Alaska and Canada

When the provisional boundary between Canada and Alaska was delineated, provisions were made for the free passage of goods for persons travelling the Dalton Trail between Porcupine Creek and the junction of the Chilkat and Klehini Rivers. The clause was worded as follows:

...provided that persons proceeding to or from Porcupine Creek shall be freely permitted to follow the trail between the said creek and the said junction of the rivers, into and across the territory on the Canadian side of the temporary line wherever the trail crosses to such side, and subject to such reasonable regulations for the protection of the Revenue as the Canadian Government may prescribe, to carry with them over such part or parts of the trail between the said points as may lie on the Canadian side of the temporary line, such goods and articles as they desire, without being required to pay any customs duties on such goods and articles...<sup>7</sup>

The 1901 Order in Council approving the provisional boundary also included the following clause regarding the Dyea and Skagway Trails:

... the citizens or subjects of either power, found by this arrangement within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy.<sup>8</sup>

Customs officers on the Yukon/Alaska border were instructed to pass Indian canoes along the Chilkat River route free of duty. The particulars of their instructions read as follows:

Until 5th January, 1903 you are directed to pass free along the Chilkat River Route, subject to inspection, the Canoes in use by Indians and their peltries and other of their usual effects (not being goods in bales or other packages unusual among Indians engaged in hunting or fishing).

... The privileges herein authorized are of a temporary character, for the Chilkat Indians only, and it is to be clearly understood that they are not conceded as a matter of right.<sup>9</sup>

The Commissioner of Customs authorized the refund of duty which had been collected on Indian canoes since the beginning of that year.<sup>10</sup>

The pass system and customs duties on horses at the turn of the century

NWMP correspondence from 1901 indicated that a group of Sioux from Moose Mountain, Saskatchewan had crossed the border into Montana despite the fact that the customs officer at North Portal had been instructed not to allow them to cross "as they had been refused passes." The NWMP constable pursued them into the U.S. but was unable to compel them to return to the

<sup>7</sup> See letter from Deputy Minister of the Interior dated 27 March 1900. NAC RG18 Vol. 218 File 786-01. This wording also appears in the Order in Council dated 20 February 1901 cited below.

<sup>8</sup> See Extract of a Report of the Committee of the Privy Council dated 20 February 1901. NAC RG18 Vol. 218 File 786-01.

<sup>9</sup> See memorandum from the Commissioner of Customs dated 18 September 1901. NAC RG18 Vol. 218 File 779-01.

<sup>10</sup> See above memo and letter dated 18 September 1901 from the Commissioner of Customs to the Customs Inspector at Skagway. NAC RG18 Vol. 218 File 779-01. Note that the memos regarding customs on the Yukon frontier were located in the NWMP records.



Canadian side.<sup>11</sup> A system of passes which had been instituted was referred to in the following passage:

I explained to the Indians that they must whenever they got a pass from the Agent to go across the line [border], report to the Custom House both going and returning, that they would receive from the officer in charge a pass authorizing them to take their animals etc. across and bring them back within a certain time, - otherwise that duty would be charged on all animals etc. brought back by them. They did not understand this before.<sup>12</sup>

Because they had not complied with the pass system, some Indians from the Moose Mountain reserve had been charged duty on horses they had brought in from the U.S. They complained to the customs official that duty had never been collected in the past and that they were "in the habit of paying visits to their friends and relatives on the other side of the line and exchanging presents with them."<sup>13</sup> The NWMP stated that they were "enforcing the customs laws strictly" but would "allow the duty [on the horses brought in by the Moose Mountain Indians] to remain over for the present."<sup>14</sup>

Later that fall, the NWMP set out for a reserve in the Qu'Appelle Valley, Saskatchewan to seize horses that had been brought in from the U.S. free of duty. The Indian agent had reported that the Indians had been bringing in horses without reporting to customs "for some time."<sup>15</sup> The reasons for the NWMP and Indian Agent wanting to curtail the transport of horses across the border were related to preventing the spread of disease, keeping the Indians at work on their reserves and stopping horse stealing and "give away dances."<sup>16</sup>

The NWMP seized horses from a Saskatchewan Sioux in 1904 for not complying with customs regulations.<sup>17</sup>

#### The question of duty-free goods in the twentieth century

In 1911, the Secretary of Indian Affairs sent a brief history of the question of Indians transporting goods across the border duty free to an Indian Agent in New Brunswick. The relevant section of the letter is quoted below:

... I have to say that this matter has been several times before the Department, and the Indians have been informed of the result of investigation made into their claim in regard to this matter. The privilege referred to was granted in 1794, under the Treaty then made of Amity, Commerce and Navigation between Great Britain and the United States [commonly referred to as the Jay Treaty], and this treaty was, it is held, abrogated by the subsequent war between the two countries. The United States continued, however, to grant the free entry of Indian goods up to 1897,

<sup>11</sup> See letter dated 14 June 1901. NAC RG18 Vol. 216 File 601-01.

<sup>12</sup> See letter dated 26 August 1901. NAC RG18 Vol. 217 File 740-01. It is possible that the pass referred to as being received from the Indian Agent was a border pass that was instituted by an Order in Council 24 April 1882 or it may refer to permits required for travel off Indian reserves. The use of passes is referred to in Trish Maracle's report Study of Documentation concerning Border Crossing Issues in Western North America. See also a 1974 article by Brian Bennett, Passes for Indians to Leave their Reserves available from the Treaties and Historical Research Centre, INAC.

<sup>13</sup> See letter dated 26 August 1901. NAC RG18 Vol. 217 File 740-01.

<sup>14</sup> See letter dated 28 August 1901. NAC RG18 Vol. 217 File 740-01.

<sup>15</sup> See letter dated 23 October 1901. NAC RG18 Vol. 217 File 740-01.

<sup>16</sup> See letter dated 30 October 1901. NAC RG18 Vol. 217 File 740-01.

<sup>17</sup> See letter dated 5 September 1904. NAC RG18 Vol 282. File 746-04.



when this privilege was withdrawn by the Customs Act, approved on July 24 of that year. Requests have been made to have representations submitted to the United States Government asking for a free interchange of articles between the Indians of Canada and the United States traders, but, inasmuch as an Order was issued by His Excellency in Council on November 2, 1897, deciding that the question of such interchange could not be considered, it has been held to be out of the question that representations should be made to the United States Government for privileges for our own Indians which our own Government does not see its way to grant.<sup>18</sup>

In the same year, the Commissioner of Customs stated that it had been reported that it was the practice at the customs post at St. Regis "to admit free of Customs duties goods brought in by Indians for personal use in exchange for basket work sold to merchants at Hogansburg, N.Y." <sup>19</sup> This practice was confirmed by the local inspector who had given verbal instructions to the local customs collector to be "lenient" with the Indians. He also reported that the chief at St. Regis had a copy of T.J. Watters memo (the letter of 28 April 1893 cited above). He had given instructions not to be "too severe in putting the rules and regulations of the Customs into Force with these poor Indians until further instructions from the Department."<sup>20</sup>

Despite the stated practice of leniency in allowing Indians to bring goods across the border, the Commissioner of Customs informed headmen at St. Regis that "the goods desired to be brought into Canada are subject to duty under the law."<sup>21</sup>

The Commissioner then began inquiries to ascertain if the American authorities' practice of allowing Indians to bring handicrafts in without paying duty was merely an informal practice or the result of special regulations. In the meantime, the people at St. Regis were informed that their request was being investigated and would be re-submitted for the consideration of the Governor General in Council. A memo, appended to the letter to St. Regis, quotes section 105 of the Act of March 17, 1899<sup>22</sup> which was derived from Article 3 of the 1794 Treaty of Amity, Commerce and Navigation (the Jay Treaty). An unsigned comment on the memo reads: "Be Easy. Send Inspector to advise collector"<sup>23</sup>

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<sup>18</sup> See letter from J.D. McLean, Secretary of Indian Affairs, to Geo. Baxter, Indian Agent, Andover, N.B. NAC RG16 File A-7613.

<sup>19</sup> See letter Commissioner of Customs to Inspector of Customs at Montreal dated 7 March 1911. NAC RG16 File A-7613.

<sup>20</sup> See letter Inspector of Customs at Montreal to Commissioner of Customs dated 24 March 1911. NAC RG16 Vol. A-7613.

<sup>21</sup> See letter Commissioner of Customs to Mitchell C. Jacobs and John Jacobs dated 30 March 1911. NAC RG16 Vol. A-7613. The Secretary of Indian Affairs was informed of this letter on the same day.

<sup>22</sup> The Act referred to was the American Tariff Act of 1799 not 1899.

<sup>23</sup> See letter Commissioner of Customs to collector at Cornwall dated 6 April 1911 and letter Commissioner of Customs to Mitchell C. Jacobs, St. Regis dated 6 April 1911. NAC RG16 Vol. A-7613.

Unfortunately, the appended memo is undated. It states in full: Section 105 of the Act of March 17, 1899 [1799] It is provided that no duty shall be levied or license collected on the property, goods and effects of whatsoever nature of Indian passing or repassing to boundary line aforesaid of United States unless the same shall be goods in bales or other large packages unusual among Indians, which shall not be considered as goods belonging bona-fide to Indians nor being exempted from duty aforesaid.

This provision of Article 3 of the Treaty of Commerce between the United States & Great Britain ratified 19 day of Nov. 1794, it being almost in the precise language of the Treaty. Sgd W.A. Richardson Acting Secretary.



In 1911, the collector at Cornwall reported on the American practice of not collecting duty on Canadian Indian handicrafts. The letter is quoted extensively because it is the sole source of detailed information on the American practice:

... the Port of Bombay in which all the business of the Canadian Indians [i.e. the Canadian St. Regis Indians] is transacted which amounts to under \$1000 per year and consists of the sale of baskets, bead work, Lacrosse sticks snowshoes and moccasins, which are sold to two dealers in Hogansburg and these dealers are looked to for the Customs duty on Indian merchandise which they account for and pay once a month. [underlining in original]

Mr. Bero [the customs officer] has adopted this method of collecting duty from the Indians so as to save the Indians the expense and trouble of entering their goods through the customs and also as a saving of the trouble to himself and his Department and this method is approved of by his Inspector.

The result is that the dealer pays less money for Indian goods so as to enable him to pay the duty. I understand that the American Indians owing to their close and friendly connection with the Canadian Indians have arranged to bear a portion of the burden of duty and so accept less money for their goods than they otherwise would, so that the Canadian Indians would receive the same price for their goods which at first sight would seem to indicate the Canadian Indians did not pay duty on his goods.

There is no doubt that the United States get their full duty on Indian goods from Canada and the only privilege extended is solely for the benefit of the American Indian who is allowed to buy his provisions for immediate use in Canada and bring them into the United States duty free.

Eight or ten years ago American Indians were allowed also to import horses and cattle but this privilege was discontinued owing to its abuse.

I understand that these Indians find a better and more convenient market for their manufactures at Hogansburg than at any convenient place here in Canada and that nearly all their output finds its way through Hogansburg channel and they receive payment for their manufactures in trade, for the most part but this trading back and forth is of a rather limited extent.<sup>24</sup>

Complaints regarding the collection of duties from St. Regis Indians and other Indians across Canada continued to be sent to the Department of Customs between 1915 and 1921. The Jay Treaty was again cited as the source of special Indian rights. The Customs Department informed the complainants that Indians had to pay customs duties.<sup>25</sup>

<sup>24</sup> See letter Collector of Customs at Cornwall to Commissioner of Customs received 11 April 1911. NAC RG16 Vol. A-7613.

<sup>25</sup> See for example: letter Council of the Tribes to Department of Customs dated 10 February 1915 and letter from the same party dated 17 March 1915 which quotes the undated Richardson Memo. For samples of replies see letter Department of Customs to Council of Tribes dated 15 February 1915 and letter between same parties dated 25 March 1915 in which the Department states that the Jay Treaty was abrogated by war [i.e. the war of 1812] and letter from the Customs Department to Secretary of Indian Affairs regarding a protest from Elko, British Columbia and letter from the Department of Customs to a company in Vermont dated 21 September 1916 re goods purchased by a Caughnawaga Indian and letter dated 3 April 1918 from the Customs Department to A.G. Chisholm, Barrister representing an Oneida Indian, stating the Jay Treaty was abrogated. See also letter from



During the same time period, furs were being shipped from Canada to Alaska by Canadian Indians at Dalton Post without the payment of duty.<sup>26</sup> The instructions to the customs officers in this area had previously been to allow duty-free passage along the Chilcat route until 5 January 1903, only.

In 1923, some Saskatchewan Indians were protesting having to pay duty for horses brought from the United States. The Secretary of Indian Affairs stated that "the Indians have been bringing horses into the country for the last fifty years and that this is the only occasion that they have been called upon to pay duty."<sup>27</sup> The Department of Indian Affairs was advised that Indians had no duty-free privileges.<sup>28</sup>

During the 1920's and 30's, inquiries regarding the rights of Indians to bring goods into the country without paying duty continued to be addressed to the Customs and Excise Division of National Revenue. Some of the inquiries indicated that Indians believed they had the right to bring in goods duty free and claimed that this was practiced in some parts of the country.<sup>29</sup> Again the Department stated that there were no special tariff exemptions for Indians.<sup>30</sup>

In response to these inquiries and protests, the Department of Indian Affairs requested that the Department of External Affairs approach the government of the United States to restore "the duty free provision on goods made by Canadian Indians, which prevailed in the United States tariff for many years prior to the revision of 1897."<sup>31</sup>

The Garrow case, heard in the United States in 1936 and '37, precipitated a renewed examination of the application of the provisions of the Jay Treaty. The following memo from the Director of Indian Affairs summed up the events surrounding the case:

It would appear that goods, the property of Canadian Indians, have been permitted to enter the United States, free of duty, without interruption, since the year 1793. In the Tariff Acts of the United States, provision was made for the free entry of Indian goods, but, under the United States Tariff Revision of 1897, effective from July 24th of that year, no such provision was made, nor has any provision been made since that time. It is significant, however, that Indians appear to have entered the United States, with merchandise free from the imposition of duty, until early in the year 1935. At that time, Annie Garrow, a full-blooded Indian woman of the

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Commissioner of Customs and Excise to the Collector at Cornwall dated 6 July 1921. NAC RG16 Vol. A-7613.

<sup>26</sup> See letter RNWMP Superintendent at Dawson to Collector of Customs at Dawson dated 19 October 1916. NAC RG18 Vol. 516 File 607-16.

<sup>27</sup> See letter dated 2 November 1923 from Secretary of Indian Affairs to the Commissioner of Customs. NAC RG16 File A-7613.

<sup>28</sup> See letter from the Acting Commissioner of Customs and Excise to the Secretary of Indian Affairs dated 10 November 1923. NAC RG16 File A-7613.

<sup>29</sup> See for example: letter dated 31 May 1929 from Windsor, Ontario stating that Indians "at other points" did not have to pay duty and citing an American circular stating "Iroquois and other Indians could cross the boundary and trade without being taxed." NAC RG16 File A-7613.

<sup>30</sup> See for example: letter dated 6 June 1929 from the Commissioner of Customs to the Collector at Windsor. See also reply from the Commissioner of Customs to the Under-Secretary of External Affairs dated 22 January 1931. Also letters dated 5 April 1933 regarding Cornwall inquiry, 27 April 1934 regarding Saskatchewan inquiry, 26 septembre 1935 regarding Quebec inquiry, 23 March 1936 regarding Samia Reserve inquiry, 22 April 1937 regarding a Cornwall inquiry, 29 September 1937 regarding Huntsville, Ontario inquiry, NAC RG16 File A-7613.

<sup>31</sup> See letter from the Department of External Affairs to Commissioner of Customs dated 19 January 1931. NAC RG16 File A-7613.



Canadian St. Regis tribe of Iroquois Indians, a resident of Canada, entered the United States at the village of Hogansburg, New York, carrying 24 baskets made of black ash splints and dyed in colours. The Collector at the port imposed a duty, under paragraph 411 of the United States Tariff Act of 1930. Mrs. Garrow appealed to the United States Customs court. This Court sustained her appeal and the amount of duty paid by her was refunded. The case was carried by the United States authorities to the court of Customs and Patent Appeals, which court rendered a decision in favour of the appellant, early in March of this year.

The Court of Customs and Patent Appeals took the position that the Jay Treaty was in effect nullified by the war of 1812 and that the Treaty of Ghent was held not to have been a self-executing Treaty, but dependent on legislative enactment, and that the failure of Congress to properly legislate in accordance with the provisions of the Treaty renders the merchandise of Indians entering the United States dutiable.

Mrs. Garrow, the appellee, appealed to the Department for financial assistance, and a payment of \$500 was made to her counsel. The question of an appeal of this case to the Supreme Court of the United States has been given very careful consideration. In our judgment, however, the success of such an appeal, if undertaken, would be very doubtful. Mrs. Garrow's counsel, therefore, has been notified that it is not the intention of the Department to proceed with the appeal to the Supreme court. ...<sup>32</sup>

The Director of Indian Affairs suggested, in his memo, that the United States be approached through diplomatic channels to restore duty-free rights to Indians and pointed out that such an arrangement would have to be reciprocated by Canada.

Several protests and inquiries were received which cited the Garrow case as supporting Indian rights to transport goods across the border.<sup>33</sup>

Despite the numerous assertions by the Department of National Revenue that Indians had no duty-free rights, there is documentation to indicate that Indians continued to be allowed to transport goods across the border without paying duty. A 1937 Customs report included the following noteworthy passage:

...[Mr. Caza, the sub-collector, stated] 'we don't collect no duty from the Indians, but we let their groceries, supplies and personal effects in free.'

Mr Caza's double negation was evidently intended for emphasis. He asserts that for many years this has been the practice, and there has been no change recently, the articles referred to having been admitted free continuously over a period of years.<sup>34</sup>

<sup>32</sup> See an inquiry related to the initial judgement in the Garrow Case from RCMP Superintendent dated 19 March 1936. The Memo from Director of Indian Affairs dated 2 April 1937 provides details of the case and the American practice. Note that the RCMP raised the question of the impact of this case again in 15 October 1937. NAC RG16 File A-7613.

<sup>33</sup> See protest from Sarnia Reserve dated 15 May 1937 and 5 March 1938 from Caughnawaga. See also a response to a sub-collector, Trout River, Quebec, 5 August 1938. NAC RG16 File A-7613.

<sup>34</sup> See letter Customs Division of Department of National Revenue to Commissioner of Customs dated 1 June 1937. Indian Affairs was informed of this practice in a letter dated 3 June 1937. NAC RG16 File A-7613.



The Department of Indian Affairs contact the Department of External Affairs about the feasibility of instituting reciprocal duty-free transporting rights for Indians crossing the U.S./Canada border.<sup>35</sup> In reply to External Affairs' letter suggesting negotiations with the United States Government, the Commissioner of Customs made the following statement about the current policy of his department:

... You are no doubt aware that on the understanding that the provisions of the Jay Treaty were being regarded as in effect by the United States Government, the Canadian Government has been admitting to free entry personal household effects imported by Indians at the St. Regis Reserve. That is the situation at the present time and it is not proposed to disturb that situation at least until after the proposed negotiations have been concluded.<sup>36</sup>

In August of 1938, a customs sub-collector at Trout River, Quebec was told that the the matter was under negotiation with the United States and pending the outcome of the negotiations Canada was allowing Indians to bring in household effects duty-free and that this situation should not be disturbed.<sup>37</sup>

Correspondence from the 1940's indicated that Indians continued to believe that they had special rights to bring goods across the international border without paying duty; government authorities continued to deny any special transporting rights. At this time, there was discussion between the Department of Indian Affairs, which claimed to have a Justice opinion supporting the application of Article 3 of the Jay Treaty, and the Customs Branch of National Revenue, who were reluctant to accept that view.<sup>38</sup>

In January of 1952, the Deputy Minister of Justice, rescinded his opinion that the Jay Treaty was in effect. He explained the reason for changing the Department of Justice opinion in the following memo:

Since I last expressed an opinion upon the effect of the provision in the Jay Treaty of 1794 which purports to exempt from customs duties "their own proper goods and effects of whatever nature" of Indians, my attention has been called to a recent amendment to the Income Tax Act, namely Section 49 of Chapter 25 of the Statutes of 1949 (2nd Session). This provides that no person is entitled to any exemption or immunity from any duty or tax imposed by an Act of the Parliament of Canada unless provision for such exemption or immunity is expressly made by the Parliament of Canada.<sup>39</sup>

<sup>35</sup> See letter dated 3 November 1937 from the Acting Under-Secretary of State for External Affairs to the Commissioner of Customs. NAC RG16 File A-7613.

<sup>36</sup> See letter dated 15 November 1937 from the Commissioner of Customs to the Acting Under Secretary of State for External Affairs. NAC RG16 File A-7613.

<sup>37</sup> See letter dated 5 August 1938 from the Secretary of the Customs Division. NAC RG16 File A-7613.

<sup>38</sup> See for example, letters dated 12 August 1946 from Samia, 22 June 1949 from Maniwaki, Quebec, 23 September 1949 from Waterford, Ontario, 2 August 1950 from Caughnawaga Reserve, 17 August 1950 from a collector regarding the Caughnawaga Reserve and expressing the practice of exercising "laxity". See also 24 August 1950 for further comments on the Caughnawaga situation. NAC RG16 File A-7613.

See letters dated 20 July 1951 and 26 July 1951, regarding a seizure for non-payment of duty on the Lower Similkameen Reserve in British Columbia. The Jay Treaty was discussed in this case and also in a letter dated 24 October 1951 relative to St. Regis Reserve. NAC RG16 File A-7613 PF

<sup>39</sup> See letter from the Deputy Minister of Justice to the Deputy Minister of National Revenue. NAC RG16 File A-7613 PF.



Following the receipt of the Justice Departments opinion, National Revenue informed Indian Affairs that they would not allow any duty free imports by Indians, however, because many Indians had been "acting in the bona fide belief that they were exempt by law from the payment of duties," the department would avoid prosecution or the exaction of penalties "so far as I consistently can do so."<sup>40</sup>

## **B. North American Indian citizenship and immigration issues**

### Sioux migrations in the 1880's

The correspondence regarding the proposed surrender and return of Sitting Bull and his followers to the United States indicated that the British government allowed the Sioux to cross the border into Canada and then interceded on their behalf with the American authorities. Although the correspondence indicated that the Canadian authorities favoured the return of Sitting Bull and his followers to the United States, no efforts were made to deport them or to deny them refuge in Canada.<sup>41</sup>

### Removal of Canadian Crees from the U.S.A.

At the end of the nineteenth century, American citizens were lobbying for the removal of Canadian Crees from the Montana Territory. Newspaper accounts illustrated the popular attitude that the Crees belonged to Canada and were trespassers in the United States.<sup>42</sup> By the Spring of 1896, the Canadian government expressed its intention to bring the Crees back into Canada to settle on their respective reserves. To prevent the Crees from "escaping," they were transported under guard by the American army and then the NWMP. The commanding officer's report stated that the Canadian government was "receiving these Indians solely to oblige [the American] government."<sup>43</sup>

The following year, a local constable reported that some of the deported Indians had returned to the United States, and others were intending to return, to locate horses which they had been forced to leave behind. The constable was instructed to "use utmost endeavours to prevent Indians leaving for States."<sup>44</sup>

### Loss of Indian rights for residence in the United States

A 1893 opinion from the Deputy Minister of Justice stated that Indian women married to American Indian men and residing in the United States cease to be considered Indians in the meaning of the Indian Act after five years continuous residence. They were allowed to collect annuity payments until the end of the five year period. The opinion indicated that women could lose their status rights by moving across the border.<sup>45</sup> This opinion was reiterated in 1905.<sup>46</sup>

<sup>40</sup> See letter dated 31 January 1952. NAC RG16 File A-7613 PF

<sup>41</sup> See despatches dated: 7 June 1880, 11 November 1880, and 29 April 1881, British Minister at Washington to the Governor General. NAC RG7 Vols. 22 and 23.

<sup>42</sup> See newspaper article: 7 February 1896, "Where it dropped: volumes of early correspondence on the Cree question". NAC RG18 Vol. 129 File 69-97.

<sup>43</sup> See letters dated: 26 March 1896, 1 April 1896 and 31 August 1896. NAC RG18 Vol. 129 File 69-97.

<sup>44</sup> See report dated: 6 September 1897, Constable at Medicine Hat to Commanding Officer NWMP Maple Creek. NAC RG18 Vol. 129 File 69-97.

<sup>45</sup> 27 May 1893, Deputy Minister of Justice to D.S.G.I.A. NAC RG26 Vol. 74 File 1648.

<sup>46</sup> See letter from the Deputy Minister of Justice to the Secretary of Indian Affairs dated 7 September 1905. NAC RG26 Vol. 74 File 1648.



In 1941, an Indian Affairs solicitor stated that an Indian woman married to an American Indian would only be prevented from collecting her annuity money if she lived continuously in the United States for a period of more than five years without obtaining the consent required under the Indian Act. Until the five years had expired, she would be entitled to collect her annuity payments, although she would cease to be an Indian in the meaning of the Indian Act.<sup>47</sup>

#### Privileges for American Indians

In 1910, Indians from Alaska were prevented from crossing the border into Canada. Although Indians living in the vicinity traditionally moved freely across the border, the NWMP anticipated that they would become a charge on the public purse if allowed to immigrate en masse and, therefore, should be denied entry under the Immigration Act. The Deputy Minister of Justice advised the Indian Department that the Alaska Indians could be considered immigrants under the Immigration Act and could be denied the permission to land in Canada.<sup>48</sup>

The Department of Indian Affairs received a legal opinion in 1937 stating that the provisions of Canada's Indian Act applied to American Indians while in Canada. The solicitor could not give an opinion on the position of enfranchised American Indians without further information from the American authorities.<sup>49</sup>

Two years later, the Department of Indian Affairs requested a legal opinion regarding the admissibility of an American Indian to a Canadian Indian Band under the Indian Act. The solicitor concluded that an American Indian could be made a band member under Section 18 of the Indian Act. After becoming a band member an Indian could only be naturalized if enfranchise. The solicitor recommended discussing the naturalization issue further with the naturalization Branch of the Department of the Secretary of State.<sup>50</sup>

#### Canadian Indians migrating to the United States for the purpose of work.

During the second world war, officials in western Canada lobbied the federal government to restrict the free movement of Indians across the border in order that they would be available as casual labour on Canadian farms and ranches. Key passages from the voluminous correspondence related to this issue illustrate the issue of migration across the U.S./Canadian border.

British Columbia's Minister of Agriculture made the following statement in response to the Department of Labour's proposed farm labour program:

...  
It is noted that in (c) of Clause 4, Treaty Indians from Reserves will be used on farms. In this province Indians on Reserves can be of great assistance in many [sic] parts, particularly for haying and harvesting, if arrangements can be made to mobilize them through the Indian Department. In this connection the unrestricted right of Indians to travel from Canada to the United States has resulted in agents from south of the border inducing or recruiting Indians from this province for farm labour in Washington and Oregon resulting in severe loss of labour, especially to cattlemen who in the past have depended upon their labour for haying. If any

<sup>47</sup> See memo to Secretary of Indian Affairs dated 5 May 1941. NAC RG26 Vol. 74 File 1648.

<sup>48</sup> See letters dated: 14 February 1910, 15 February 1910, 15 February 1910. NAC RG18 Vol. 389 File 208-10. Also letters dated: 5 April 1910, 8 April 1910. NAC RG13 Acc. 86-87/084 Box 75 File 552/1910.

<sup>49</sup> See memo to the Secretary of Indian Affairs dated 23 August 1937. NAC RG26 Vol. 74 File 1648.

<sup>50</sup> See memos dated 25 May 1939 and 6 June 1939. NAC RG26 Vol. 74 File 1648.



agreement can be reached to prevent this exodus it will be of the greatest possible assistance.<sup>51</sup>

The United States authorities informed Canadian officials that treaty Indians were free to cross the border without immigration limitations.<sup>52</sup> The Director of Indian Affairs suggested controlling the movement of Indians into the United States through denying them necessary releases issued by the Selective Service.<sup>53</sup> Correspondence within the Department of Labour favoured controlling the movement of Indians to the United States by requiring them to have labour exit permits and obtaining American co-operation in forbidding employment of persons without the required documentation. It is noted that, although Canadian Indians had free access to the United States, American Indians were subject to the same regulations as other immigrants when seeking entry into Canada.<sup>54</sup>

Officials were aware that treaty rights might impact on Indian cross border mobility rights.<sup>55</sup> The following memo, dated 15 May 1943, sums up the various issues that arose relative to Indians working in the United States:

...  
The question of whether Indians should be required to have Labour Exit Permits before leaving Canada for the United States was brought up in a letter from Dr. H.W. McGill Director of Indian Affairs. The opinions expressed by our different officials in regard to this matter are that Indians should be made subject to the regulation. The one exception is Mr. Allan Mitchell, who says that at the time arrangements were made in regard to Labour Exit Permits the matter was discussed with the Immigration Department which felt that as Indians had always had this migration privilege it should not be discontinued. He adds however that if we could hold them on this side of the border it would be a great advantage.

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<sup>51</sup> See letter from the Minister of Agriculture in British Columbia to the Minister of Labour, Ottawa dated 8 March 1943. The Deputy Minister of Labour asked the Director of Indian Affairs to "take whatever action is possible with the object of retaining the services of these Treaty Indians for the farmers in British Columbia." see letter dated 16 March 1943. The Deputy Minister also asked the Regional Superintendent of Employment and Selective Service if he could stop the movement across the border. See telegram dated 26 April 1943. At least one M.P. inquired into the situation, see letter dated 6 May 1943. Also telegram dated 2 June 1943 and letter dated 8 June 1943 from the British Columbia Beef Cattle Growers' Association. NAC RG27 Vol. 605 File 6-19-2.

<sup>52</sup> See telegram dated 27 April 1943 from the Regional Superintendent of Employment and Selective Service. See also a memo of 11 May 1943 from the Director of the Unemployment Commission to the Deputy Minister of Labour which stated that at the time labour exit permits were instituted "the Immigration Department felt that as these Indians had always had this migratory privilege, it should not be discontinued." NAC RG27 Vol. 605 File 6-19-2.

<sup>53</sup> See letter from Director of Indian Affairs to the Director of National Selective Service, Dept. of Labour. A similar suggestion was made by the Chairman of the local Mobilization Board. See letter dated 3 May 1943 to the Deputy Minister of Labour. The Deputy Minister of Labour was also the Director of National Selective Service. NAC RG27 Vol. 605 File 6-19-2.

<sup>54</sup> See internal Department of Labour memo dated 6 May 1943. See also a memo dated 7 May 1943 expressing the same ideas and noting that the Department of Indian Affairs has indicated that they would "not raise the slightest objection" to imposing regulations that would prevent migration to the U.S. NAC RG27 Vol. 605 File 6-19-2.

<sup>55</sup> See letter dated 7 May 1943 from the Deputy Minister of Labour to the Chairman of a local Mobilization Board. See also letter from Minister of Labour to an M.P. dated 8 May 1943. See also letter dated 11 May 1943 from Chairman of a local Mobilization Board. NAC RG27 Vol. 605 File 6-19-2.



The Department of Indian Affairs, however, say that they would have no objection to our making Indians provide Labour Exit Permits and I am therefore preparing an appropriate letter to Dr. McGill and a memorandum to Mr. Allan Mitchell asking him to issue instructions cancelling N.S.S. Circular 66-B, which provides that Indians are not required to present Labour Exit Permits in crossing to the United States to take employment.

...

Handwritten marginalia signed "a. macn" (probably A. MacNamara, Deputy Minister of Labour) gave the following instructions:

Seems to me we have to be careful about this - If they have a treaty which we would be violating it might be too bad - check with Immigration Dept - & ask Mr. C.W. Jackson what he thinks - Better go over & see him.<sup>56</sup>

The official consulted with Mr. C.W. Jackson, as instructed, and later reported that he had been assured by "Mr. Jackson and other officials of Indian Affairs" that there would be no treaty violation if the Indians of British Columbia, Alberta, Saskatchewan and Manitoba were required to show Labour Exit Permits before crossing the border. Regarding the question of treaties he wrote:

...  
I take it that any treaty permitting the Indians free entry to the United States would have been entered into with the Government of that country and, since we were not a party to the treaty, we would be justified in retaining Indians in the country under the present conditions....<sup>57</sup>

In June 1943, the Deputy Minister of Labour instructed the Chairman of a local Mobilization Board to have police stop an American from recruiting Canadian Indians and to prevent exit permits from being issued.<sup>58</sup>

A memorandum prepared by the Employment Service Division of the Department of Labour provided details on long standing cross-border migrations of Indians. The memo contained the following details:

In B.C. there is a seasonal movement of some 2,000 Indians from the Okanagan and Kamloops districts to farmers in the United States. ... Ordinarily these Indians would remain in Canada. Now they are taking farm jobs on the other side of the line.

... members of the Blackfoot, Bloods and Pagans [Peigans] tribes visit the reserves in Montana. This is something they have been doing for generations. There are about 2,000 in these tribes, and little, if any, employment is involved.

There is no border problem in Saskatchewan or Manitoba, but there is another situation in Ontario and Quebec. The majority of the Indians in the border reserves of Ontario and Quebec have been, and are still, working in war industries in the United States. The total would run to several thousands. ...

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<sup>56</sup> See memo dated 15 May 1943. NAC RG27 Vol. 605 File 6-19-2.

<sup>57</sup> See memo dated 20 May 1943. NAC RG27 Vol. 605 File 6-19-2.

<sup>58</sup> See telegram and letter both dated 3 June 1943. NAC RG27 Vol. 605 File 6-19-2.



In New Brunswick there is a small group of three thousand who cross over from the Perth area to pick potatoes and help in the lumbering operations in Maine.

...

A list of border reserves in Quebec and Ontario appended to the memo, list people from Sault Ste. Marie, Sarnia, Walpole Island, Cornwall Island (St. Regis), and Caughnawaga as being employed in American industries.<sup>59</sup>

The memo also explained that during this period non-Indians wanting to entry the United States had to "secure a passport, Labour Exit Permit, and United States Visa." By contrast, Indians were "accustomed to crossing the border without any passport or Visa formalities."<sup>60</sup>

Extensive discussion, regarding the practicality of imposing labour exit permits on Indians and the method of enforcing such regulations, culminated in the Department of Labour amending its Selective Service regulations to require Indians to obtain permits before entering the United States.<sup>61</sup> Circular 66-C, issued by the Director of Employment Service and Unemployment Insurance, noted that Indians were now subject to Labour Exit Permit Regulations and that local offices should work in conjunction with Indian Affairs agents to determine if "the case is a proper one for issuance of a permit." The officers were instructed to inform Indians that:

... it is not the policy of the Canadian Government to grant Exit Permits at the present time to employable persons whose services are required in Canada, and Indians, of course, must conform to the wishes of the authorities like other members of the community in the national interest. It should be understood that this is a Canadian restriction and has nothing to do with the special privilege granted by the United States authorities to Indians to enter the United States regardless of immigration quotas.<sup>62</sup>

The application of labour exit permit regulations to Indians, resulted in protests claiming the system interfered with traditional labour practices and created hardships.<sup>63</sup> Initially, the government was unwilling to alter the regulations due to heavy labour demands in British Columbia. After receiving complaints and obtaining co-operation from American authorities, however, they began to allow some Indian labourers to cross the border.<sup>64</sup> The Director of Indian Affairs stated that Indians had no special border-crossing rights; he discounted the provisions of the Jay Treaty because the

<sup>59</sup> See memo dated 12 June 1943. NAC RG27 Vol. 605 File 6-19-2.

<sup>60</sup> Ibid.

<sup>61</sup> See letters discussing the wisdom of applying the regulations unevenly across Canada; leniency to be allowed in border areas: 15 July 1943, 23 July 1943 and 29 January 1944. NAC RG27 Vol. 605 File 6-19-2.

<sup>62</sup> See National Selective Service Circular No. 66-C dated 6 March 1944. NAC RG27 Vol. 605 File 6-19-2.

<sup>63</sup> See for example, letter circa May 1944 from Andrew Paull President of the North American Indian Brotherhood claiming the B.C. Indians have been migrating south of the border for up to 25 years to do agricultural work. This was repeated in a letter dated 4 May 1944. See also a letter from an Indian Agent dated 11 May 1944 which is considered and commented upon in a letters dated 31 May 1944 and 1 June 1944 which recommend easing restrictions for older berry pickers. Also see protests dated 12 June 1944 and 14 June 1944 from Sarnia and Victoria, respectively which state that Indians, who have traditionally worked in U.S., are still crossing the border and working without obtaining required permits. See also two letters dated 10 July 1944. A letter dated 11 July 1944 indicates that the chiefs are citing treaty rights as allowing them to cross the border. See also letters dated 12 July 1944 and 14 July 1944. NAC RG27 Vol. 605 File 6-19-2.

<sup>64</sup> See letter dated 9 May 1944, 11 May 1944. Also see two letters dated 2 June 1944, and letter dated 19 July 1944. NAC RG27 Vol. 605 File 6-19-2.



Indians were not a party to it, but added that American legislation permitted Indians to enter the United States freely.<sup>65</sup>

The restrictions on border-crossing were lifted after the second world war. The Deputy Minister of Labour commented on the end of the restrictions as follows:

... all prohibitory regulations have of course lapsed and there are no legal restrictions against movement to United States or advertising STOP we will be prepared however to take up with Washington any difficulties arising out of the situation which you anticipate STOP our information is that the movement of Indians across border has gone on over a considerable period of years and very difficult to stop even in wartime PERIOD<sup>66</sup>

#### Post World War II North American Indian citizenship issues

Sparse correspondence regarding the citizenship status and rights of Indians indicated, in general, that Canada treated North American Indians as citizens of either Canada or the United States.<sup>67</sup> For example, a Indian women born in the United States and convicted of a criminal offence was deported under the Immigration Act "as a person other than a Canadian citizen or person having Canadian domicile".<sup>68</sup> In this particular case the woman had been born in the United States of parents who were members of a Canadian band. Both the parents and their daughter had been receiving treaty payments.<sup>69</sup>

It should be recalled that American legislation permitted North American Indians free entry into the United States under the 1928 Immigration Act. A discussion in the late 1940's, which appears in document form in the External Affairs records, indicated that the legislation applied to persons of Indian ancestry and was not affected by their "political status".<sup>70</sup> Consequently, a Canadian Indian woman, who had lost her status by marriage to a non-Indians, retained her entry rights by virtue of her racial ancestry.<sup>71</sup>

<sup>65</sup> See letter from the Director of Indian Affairs dated 17 July 1944 in which McGill states that no records could be found to support special border-crossing rights of Indians; the Jay Treaty was reaffirmed by Treaty of Ghent but Indians were not a party and therefore it probably does not impact on the question. The U.S. permits unenfranchised Indians, excluding those adopted or taking status from marriage, to enter freely by 1928 Immigration Act. NAC RG27 Vol. 605 File 6-19-2. Of interest is the confidential discussion circa 1948 on the subject of application of American immigration rules to Indians. The discussion concluded that the American legislation that allowed North American Indians to enter freely into the United States applied to persons of Indian ancestry and was not affected by their political status. That is, for example, a Canadian Indian woman who had lost her status by marriage to a non-Indians retained her entry rights by virtue of her racial ancestry. See document dated circa 1948. NAC RG25 Vol. 2125.

<sup>66</sup> See telegram from the Deputy Minister of Labour to Director of Agricultural Development and Extension, Department of Agriculture. NAC RG27 Vol. 605 File 6-19-2.

<sup>67</sup> Most of the correspondence discovered during file searches was related to application of provisions of the Indian Act regarding loss of band membership for continuous residence outside of Canada. This line of research was not pursued.

<sup>68</sup> See letter dated 6 May 1946 from a District Superintendent of Immigration. NAC RG26 Vol 74 File 1648.

<sup>69</sup> See letters dated 7 May and 16 May 1946. NAC RG26 Vol. 74 File 1648.

<sup>70</sup> In this document the term "political status" referred to status attributed to a person by the laws of their country. In this particular case it referred to a woman's loss of her "political status" as an Indian under Canada's Indian Act.

<sup>71</sup> See document dated circa 1948. NAC RG25 Vol. 2125.



An legal opinion provided by the Department of Indian Affairs solicitor in 1950 stated that a Canadian Indian man who had become an American citizen did not lose his status as a Canadian Indian.<sup>72</sup>

## Summary and Conclusions

### Duty free entry

There is considerable evidence that Indians were transporting goods across the border without paying duty in the later part of the nineteenth century. In the west, the NWMP were concerned about Indians having stolen horses and prohibited ammunition rather than transporting goods per se. By the turn of the century, customs duties were being demanded on imported horses. NWMP records, however, reflect that the force showed leniency when demanding the duties. It is not known whether all goods brought across by Indians were dutiable or if the duty only applied to horses.

In the east, evidence shows an on-going debate about duty-free privileges for Indians from the late 1800's to the 1950's. The bulk of correspondence is from Ontario and Quebec border communities. Throughout this period, Indians protested the collection of duties and contended that traditionally they had enjoyed duty-free rights. The Jay Treaty was frequently cited as the source of duty-free privileges. Some correspondence from customs officers affirms that Indians had been allowed to bring goods through their posts without paying duty.

In 1897, the Department of National Revenue applied to have duty-free rights for Indians approved by an Order in Council; their request was refused. The American government had rescinded the duty-free provisions of the U.S. Tariff Act earlier that year.

Official statements from the Department of National Revenue consistently stated that Indians had no special rights. Enforcement of duty collection was held in abeyance during a few periods, when the issue was under reviewed. The period when the Garrow case was before the American courts, is one example of this.

Temporary duty-free rights were instituted along Alaska border at the turn of the century. Although these rights were cancelled in 1903, RCMP correspondence shows that duty-free Indian trade in furs continued into the next decade.

Scant correspondence regarding the American practice indicated that although their duty-free legislation had been withdrawn in 1897, there were indications that duty was not always collected at posts from Indians entering the U.S. One explanation from an American collector stated that the Americans collected the customs duties directly from the trader who purchased goods from Canadian Indians, but that American Indians returning to the U.S. brought groceries and household items in free of charge.

### Citizenship and Immigration

There is ample evidence from the late nineteenth century to indicate that western Indians migrated across the American/Canadian border without interference from authorities. As late as the second world war, statements from authorities indicated that Indians in British Columbia, Ontario, Quebec and New Brunswick had a long standing tradition of working in the United States. Members of the Blackfoot Nation (Blackfoot, Peigans, Bloods) and Sioux habitually crossed the border for social and cultural reasons.

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<sup>72</sup> See letter dated 13 April 1950. NAC RG26 Vol. 74 File 1648



NWMP records make reference to passes required by Indians at the turn of the century. It is unclear whether these were special passes for cross-border travel or if the reference was to permits required by western Indians for off-reserve travel.

Under the American Immigration Act of 1928, the United States allowed Canadian Indians to enter without immigration formalities. Canada did not allow the same rights to American Indians. Canadian officials believed that unspecified treaties between the Americans and Indians guaranteed them cross border mobility rights, however, Canada was not bound by these treaties. In 1910, Canada was prepared to deny entry to Alaska Indians under the Immigration Act.

In other cases, Canada held that Canadian Indians could lose their band membership rights for residence in the United States, however, American Indians were deemed to come under the terms of the Indian Act when in Canada and could be admitted to bands. In one case, an Indian woman, born to Canadian Indians resident in the United States, was deported under the Immigration Act for conviction of a criminal offence.

Correspondence regarding efforts to retain Indian labour in Canada during the second world war, gave evidence of a tradition of unrestricted movement over the border. In fact, the permit system that controlled exit from Canada was applied with caution to Indians because of their long tradition of cross border mobility. Indians protested the application of the exit permit system when it was applied, citing their traditional use of both sides of the border.

### Recommendations for Further Work

The discussion of duty free admission of Indian goods is incomplete without consideration of the facts and judgements in the 1950's case of *L. Francis vs. the Queen*. The records of this important decision are still with the exchequer court and can be consulted through the Supreme Court Librarian.

A more indepth understanding of the 1897 decisions to disallow a request for an Order-in-Council affirming duty-free rights for Indians would likely be achieved by more research into the Governor General's records and Treasury Board records for that period.

The question of "passes" required by western Indians at the turn of the century should be clarified. An 1882 O.C. instituting border passes is known to exist. More on the terms of this pass and its application should be found in the records of the Privy Council and the RG10s.

Further work needs to be done on the citizenship and immigration status of North American Indians vis-a-vis the nations of Canada and the United States. The documentation discussed in this report is fragmented and incomplete. It would be unsound to draw any conclusions based on this scant and incomplete evidence.

Cross-border mobility requirements for non-Natives are documented for the second world war period only. Border crossing and transporting rights of non-Natives need to be researched in order to place the findings of this research in perspective.

The geographical scope of the findings is very uneven. There is very little evidence from the Atlantic provinces and no material on fishing and harvesting off the Atlantic and Pacific



coasts contiguous to American waters. There is also no material from Manitoba and very little from the Yukon.

The earliest evidence in this report dates from the 1880's and the most recent is from the 1950's. The current situation needs to be documented. Previous research for the pre-confederation period ended with documents from the 1850's. There is, therefore, a gap in evidence from the mid-nineteenth century as well.

Because of the archival nature of this research, there are no documents relating to events from the early 1950's to the present. Research into the contemporary situation should begin in the 1950's.



**RECORDS RESEARCHED**

**for**

**BORDER CROSSING**

**Prepared by  
Joan Holmes &  
Associates  
for  
Joint Steering Committee  
Department of Indian Affairs  
and Assembly of First Nations  
February 1990**



## RECORDS RESEARCHED - BORDER CROSSING

REFERENCE	DESCRIPTION	DATES	COMMENTS
McCardle, Bennett. <u>Archival Records</u> <u>Relating to Native</u> <u>People in the Public</u> <u>Archives of Canada,</u> <u>National Library of</u> <u>Canada, National</u> <u>Museum of Man</u> - A Thematic Guide prepared for Treaties and Historical Research Indian and Northern Affairs, 1985.	Archival Records Relating to Native People in the Public Archives of Canada, National Library of Canada, National Museum of Man		-Extracted notes on RG 18 and RG 25
NAC RG 07 G6 Vol. 22 (old Vol. 29-31) Vol. 31	Minister at Washington to Governor General	Jan. 1880 - Dec. 1880	-Searched for despatch as per G6, Vol. 23. Copied despatch re: Sioux refugees in Cda. may surrender to U.S. (Sitting Bull)
NAC RG 07 G6 Vol. 23 (old Vol. 32(1) and Vol. 32(2))	Minister at Washington to Governor General	6 Jan. 1880 - May 1880	1) Searched for despatch re: alleged incursions of Cdn. Indians into US territory. Not found , only a ref. to Sitting Bull coming over frontier to surrender (29 April). 2) Edw. Thornton receives new posting to St. Petersburg in June 1881 U.S. Secretary of State, Victor Drummond, is Interim Chargé d'Affaires.
NAC RG 13 Acc. 86-87/084 Box 75 File 552/1910	If Alaskan Indians coming into Yukon may be deported	5-8 Apr. 1910	-(This is item 552, Vol. 521 in Spragge's Index) -Copied 2 letters re: proposed deportation of Alaskan Indians from Canada under Act.
NAC RG 13 Vol. 464 Ref. No. 922 Reel T-4330	Privy Council Transmit despatch from Sir E. Thornton to His Excy., respecting alleged incursion of Canadian Indians, into United States Territory	30 May [1881]	-Remarks "File Missing" "Date 15-10-68" in the Register
NAC RG 16 Vol. 789 File A-7613	Free Admission Goods for Indians.	1897 - 1952	-correspondence 1898 to 1909 demonstrating goods imported by missions for use of Indians customarily passed through customs under Item 471 of Tariff Free Entry (charitable purposes). -1911 correspondence St. Regis post admits personal goods duty free. Numerous requests and inquiries - all copied Items: 1940 Tobacco Plains, Roosville B.C.; 1942 Caughnawaga; Garden River, Ont.; No answer or answer does not comment on right as Indians. -Copy of U.S. Treasury Decisions March 1936 re: Garrow (later reversed) in envelope - not copied.



## RECORDS RESEARCHED - BORDER CROSSING

REFERENCE	DESCRIPTION	DATES	COMMENTS
NAC RG 16 Vol. 789 File A-7613 PF	Petition of Right, Louis Francis, St. Regis Indian Reserve, Exemption of Duty on Goods Imported by Indians	1951-52	-correspondence re: rights of Indians including Francis case. Copied relevant docs.
NAC RG 18 Vol. 0012 File 290-83	Letters from Comm'd Officer, Assinaboine re: Indians Raids	3-5 April, 1883	-Only 3 docs. Copied requests from U.S. Indian Service and Military authority to recover stolen horses across lines and Cdn. co-operation.
NAC RG 18 Vol. 0012 File 292-83	Two letters from Comm'd Officer, Assinaboine	March - Apr. 1883	-Copied U.S. reports Cree stealing horses, headed for line, Cdns. to intercept.
NAC RG 18 Vol. 0035 File 479-89	Horses, theft of, from United States, by Piegan and Blood Indians	May 1889 - June 1889	-Concerns US Crees raiding Blood camp (Cdn.) copied 21 May 1889 from Supt. Steele (Fort McLeod) to the Comm'r NWMP. re: Peigans and Bloods stealing US horses, under arrest, other reports same incident, liaison with American authorities also.
NAC RG 18 Vol. 0064 File 279-92 [shows as 480-91 also on file cover]	Indians, Ammunition obtained by, from United States	10 July 1891 - 8 March 1892.	-Copied docs re: Cdn. Inds. crossing line to obtain ammunition at Cut Banks - U.S. intervention in accord with Canada.
NAC RG 18 Vol. 0107 File 236-95	Canadian Cree Indians - Complaint of U.S. Indian Comm'r against, for stealing south of the line	Feb. - March 1895	-Only 2 docs -copied letter Asst. Comm'r Ind. Aff. to NWMP Comm'r re: fugitive Crees stealing horses, prevention policy at boundary.
NAC RG 18 Vol. 0129 File 69-97	Canadian Indians "Cree", in United States, Return of to Canada.	July 1896 - 3 Nov. 1897	-Accounts in connection with returning refugee Crees, irrelevant. Reports and newspaper clippings re: deported Crees will return to U.S. to search for horses left there.
NAC RG 18 Vol. 0216 File 601-01	Indians, Sioux, Crossing of, to Montana	14 June 1901	-Only 1 doc. - copied re: Inds. crossing to Montana.
NAC RG 18 Vol. 0217 File 740-01	Indians, Ponies imported by, without payment of customs duty	26 Aug 1901 - 23 Oct. 1901	-Policy re: charging duty on Inds horses. Copied corresp. re: this and horses seized.
NAC RG 18 Vol. 0218 File 779-01	Canoes and effects of Indians passing along Chilkat River Route to be allowed free of Customs	18-24 Sept 1901	-Small file. Copied corresp. re: allowing only Chilkat Indians usual effects free customs passage (Yukon Border) (Letters sent to Wells, B.C. and Dalton).



## RECORDS RESEARCHED - BORDER CROSSING

REFERENCE	DESCRIPTION	DATES	COMMENTS
NAC RG 18 Vol. 0218 File 786-01 [also on cover as 271-00]	Boundary Line, Dalton Trail, Instructions requested re.	29 Dec. 1899 - 19 Sept. 1901.	-Mostly irrelevant. Copied description of temp. boundary line with customs instructions., boundary agreement U.S.-Britain, notes Chilkat River.
NAC RG 18 Vol. 0282 File 746-04	Horses, Seizure of, from an Indian for evasion of Customs regulation	5Sept. 1904	-only one doc, copied, re: seizure of horses from Sioux of Standing Buffalo Reserve, Ind. sent to Regina.
NAC RG 18 Vol. 0389 File 208-10	Indians, Eagle, Alaska, Alleged intention to move into Canadian territory	15 Feb. 1910 - 11 Apr. 1910	-Small file. Copied letter shows Inds. freely visiting across border, other corresp. Alaskan Inds. not allowed to move to Can. territory, no formal policy between U.S.-Can
NAC RG 18 Vol. 0516 File 607-16	Indians, Dalton Post, Trading of, with Haines, Alaska	19 Oct. 1916 - 3 Jan. 1917	-Copied 2 docs. re: no customs paid on furs traded over the boundary; re: infrequent patrols that area.
NAC RG 18 Vol. 1017 File 1528	Arrest of Indians for bringing stolen horses into Canada	10 July 1884	-Only 1 doc., copied.
NAC RG 25 Vol. 2125 File 225 [not micorform] [Access Restricted]	Indians; North American	April 1946	-Only 2 doc's, both copied by Access - one irrelevant. Discussion of judge's opinion re: treatment of American Indian women in Canada vis-a-vis U.S. Immigration Act. Case not identified.
NAC RG 26 Vol. 0074 File 1648	Status of Indian Women leaving one band and marrying into another, Status of Indians moving to Foreign Country	7 Sept 1905 - 25 Apr. 1956	-Copied corresp. re: status of Ind. woman marrying U.S. Indian (also annuity status as a result), woman residing in foreign country (her band status), children's residence and status, status of returning Indians also copied. Also status of U.S. Ind. woman- can she be deported to Blackfoot Reserve, Montana ?. Corresp. re: no annuity rights of Ind women marrying Sioux, irrelevant. Also copied corresp. re: adult child, of Cdn. Inds. residing in U.S. (now dead), being deported to U.S.
NAC RG 27 Vol. 0605 File 6-19-2	N.S.S. Civilian (Including employment) - Indians Treaty - movement to U.S.A.	30 April 1943 - 10 May 1952	-Copied corresp. re: efforts by Agriculture Dept., Labour Dept., Nat. Selective Service Board, to effect a policy re: restraining Cdn. Inds. from crossing border to work in U.S. [esp. B.C.] Cdn. Inds under US law are permitted full entry to U.S., but American Inds. do not have same privilege to enter Canada.



# RECORDS RESEARCHED - BORDER CROSSING

REFERENCE	DESCRIPTION	DATES	COMMENTS
NAC RG 27 Vol. 0665 File 6-5-12	(Dept. of Labour) - Fur Industry - Labour Supply	9 Oct. 1942 - 7 Oct. 1943	-Only ref. to Inds is re: 50% of Manitoba trapping licences are to Indians in north re: releasing trappers for War work, also fur industry workers. Irrelevant.
NAC RG 27 Vol. 0665 File 6-5-16-10 Vol. 1	(Dept. of Labour) - Woodland Operations,. Pulp and Paper Industry Use of Canadian Forestry Corps.	11 Aug. 1943 - 30 Dec. 1943	-Irrelevant re: Cdn. Forestry Corp. men on U.K. war duty returned to Canada, at Request of U.K., to work in Cdn. lumber camps supplying wood for U.K.
NAC RG 27 Vol. 0665 File 6-5-16-10 Vol. 2	(Dept. of Labour) - Woodland Operations,. Pulp and Paper Industry Use of Canadian Forestry Corps.	1 Jan. 1944 - 31 Dec. 1945	-Irrelevant - continues on same subject as Vol. 1.
NAC RG 27 Vol. 0665 File 6-5-16-10 Vol. 3	(Dept. of Labour) - Woodland Operations,. Pulp and Paper Industry Use of Canadian Forestry Corps.	19 Dec. 1945 - 30 Apr. 1947	-Irrelevant - continued release of Cdn. forestry Corps men from service so they can work in camps (they were working under Military auspices).
NAC RG 27 Vol. 0665 File 6-5-16-15	(Dept. of Labour) - Woodland Operations - National Selective Service Regulations - Survey of Camp conditions	27 Sept. 1950	Irrelevant.
NAC RG 27 Vol. 0665 File 6-5-16-7-1	(Dept. of Labour) - Fuel Wood Cutting - General Correspondence.	21 May 1943 - 22 Jan. 1945	-Ref to conscripting Inds. plus alternative service men to cut emergency wood as fuel. Irrelevant.
NAC RG 27 Vol. 0665 File 6-5-6-3-11	(Dept. of Labour) - Longshoremen and Stevedoring at Port of Halifax - Registration of ex-longshoremen	7 June 1943 - 7 Mar. 1944	-Irrelevant corresp. re: ex-longshoremen and conscientious objectors and those unfit for military duty pressed into service as longshoremen for war effort, east coast.
NAC RG 27 Vol. 0665 File 6-5-6-3-6	(Dept. of Labour) - Longshoremen and Stevedoring at Port of Halifax - Stabilization of longshore labour and financial arrangements	11 Jan. 1943 - 1 Feb. 1946	-Irrelevant corresp re: providing guaranteed wage for longshoremen to meet wartime needs in Halifax (War Measures Act).
NAC RG 27 Vol. 0665 File 6-5-8-3	(Dept. of Labour) - Building and Construction Industry - Construction Situation in Toronto	Feb. 1938 - 25 July 1945	-Irrelevant - corresp, re: releasing Armed Forces for urgent construction of houses in Toronto.
NAC RG 27 Vol. 0665 File 6-5-8-3-5	(Dept. of Labour)- Labour Supply (By Industry) - Building and construction industry housing survey	Apr. May 1946	-2 Accro press binders a) Residential Constr. Survey summary tables b) preliminary tables - irrelevant.



## RECORDS RESEARCHED - BORDER CROSSING

REFERENCE	DESCRIPTION	DATES	COMMENTS
NAC RG 76 Acc. 83-84/349 Box 69 File 5400-20-1	Border Incidents - General	23 Feb, 1967 - 22 Feb. 1971	-Irrelevant (Woodstock Festival) Cross References : -Complaints or criticisms regarding examination - 5400-8 -Complaints about customs examination - 5405-3 -Border Incidents - Cdn. staff - 5400-20-2. -Harassment of officers - 5400-41.
Sprague, D.N. <u>Using</u> <u>Justice Department</u> <u>Material in the Public</u> <u>Archives of Canada.</u> 1985. 605 pages.	Using Justice Department Material in the Public Archives of Canada.		-copied items of interest found in subject index.



**DOCUMENT INDEX**

**for**

**BORDER CROSSING**

**Prepared by  
Joan Holmes &  
Associates  
for  
Joint Steering Committee  
Department of Indian Affairs  
and Assembly of First Nations  
February 1990**



# BORDER CROSSING II DOCUMENT INDEX

DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
1	1880/06/07	Edward Thornton, British Minister at Washington, D.C., to His Excellency the Marquis of Lorne, Governor General of Canada.	Despatch: transmitting despatch to Earl Granville re: U.S. will treat Sioux refugees as prisoners of war if they return. If they remain in Canada, U.S. may hold Great Britain responsible for any hostile invasion. Despatch attached.	NAC RG 7 Vol. 22 File Jan.-Dec. 1880
2	1880/11/11	Victor Drummond, Actg. British Minister at Washington, D.C., to His Excellency the Marquis of Lorne, Governor General of Canada.	Despatch re: proposed surrender of Sioux Chief Sitting Bull. Canada mediating negotiations with U.S. Newspaper clipping enclosed.	NAC RG 7 Vol. 22 File Jan.-Dec. 1880
3	1881/04/29	Edward Thornton, British Minister at Washington, D.C., to His Excellency the Marquis of Lorne, Governor General of Canada.	Despatch: Sitting Bull, investigating return to U.S. Canada is anxious that they are will received and not discouraged from returning.	NAC RG 7 Vol. 23 File Jan.-May 1881
4	1883/03/23	Lieut. Col. Guido Ilges, Commander, Fort Assinaboine, to the Commanding Officer, Fort Walsh, North West Territory.	Letter: news arrived from Benton, Montana, re: Crees who stole horses across the line.	NAC RgG18 Vol. 12 File 292-83
5	1883/04/03	W.L. Lincoln, U.S. Indian Agent, Fort Belknap Agency, to Col. Guido Ilges, Commander, Fort Assinaboine, Montana.	Letter: Crees based just south of border stealing horses, horses to be recovered in Canada by Canadian authorities.	NAC RG 18 Vol. 12 File 290-83
6	1883/04/04	Lieut. Col. Guido Ilges, Commander, Fort Assinaboine, Montana, to the Commanding Officer, Fort Walsh, North West Territory.	Letter: requesting the Commander to recover horses stolen by Crees in Montana.	NAC RG 18 Vol. 12 File 290-83
7	1883/04/05	Superintendent Commander, N.W.M. Police, Fort Walsh, to Lieut. Col. Irvine, N.W.M. Police, Ottawa.	Letter: reporting on recovery of horses stolen across the line.	NAC RG 18 Vol. 12 File 290-83
8	1883/04/06	Superintendent Commander, N.W.M. Police, Fort Walsh, to Lieut. Col. Irvine, Commissioner, N.W.M. Police, Ottawa.	Letter: reporting on progress in apprehending Crees with horses stolen across the line.	NAC RG 18 Vol. 12 File 292-83
9	1884/07/10	J.N. McIllice, Supt. Commander, N.W.M. Police, Maple Creek, to Lieut. Col. A. Irvine, Commissioner, N.W. M. Police, Regina.	Letter: Indians arrested for bringing stolen property (horses) into Canada.	NAC RG 18 Vol. 1017 File 1528



## BORDER CROSSING II DOCUMENT INDEX

DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
10	1889/05/09	Col. D.S. Otis, Commander, 20th Infantry, Fort Assiniboine, Montana, to Col. L.W. Herchmer, Comm'r. N.W.M. Police, Regina.	Letter: soliciting co-operation of N.W.M. Police in recovery of horses stolen by Bloods and Peigans.	NAC RG 18
11	1889/05/13	L.W. Herchmer, Commissioner, North-West Mounted Police HQ, Regina, to the Comptroller, Ottawa.	Letter: N.W.M.P. will try to keep Bloods and Peigans from stealing horses in Montana again.	NAC Rg 18 Vol. 35 Vile 479-89
12	1889/05/17	Wm. Pocklington, Indian Agent, Blood Agency, to INAC.	Letter: reporting on Blood raiding party stealing horses of Indians in Montana, incl. account of Indian.	NAC RG 18 Vol. 35 File 479-89
13	1889/05/21	S.B. Steele, Supt., Fort Macleod, N.W.M. Police, to the Commissioner, N.W.M. Police, Regina.	Report: Blood Indians stealing horses in Montana, arrested by N.W.M.P. after crossing over the line, horses impounded.	NAC Rg 18 Vol. 35 File 479-89
14	1891/07/30	L. Vankoughnet, D.S.G.I.A., to Frederick White, Comptroller, N.W. M. Police, Ottawa.	Letter: course of action to be decided upon, re: Cdn. Indians obtaining ammunition at Cut Banks, U.S.	NAC RG 18 Vol. 64 File 279-92
15	1891/08/11	S.B. Steele, Supt. Commanding District, Fort Macleod, to the Asst. Commissioner, N.W.M. Police, Regina.	Letter: Blood Indians easily able to purchase ammunition in U.S.	NAC RG 18 Vol. 64 File 279-92
16	1891/09/21	Sir Julian Pauncefok, Rhode Island, to Lord Stanley of Preston, Governor General.	Letter: U.S. Secretary of State has been asked to prevent Canadian Indians who cross the border from obtaining ammunition.	NAC RG 18 Vol. 64 File 279-92
17	1891/09/28	John McGee, Clerk of the Privy Council, to the Comptroller of the North West Mounted Police.	Memo: an Order in Council authorized a request re the U.S. Gov't. to prevent Canadian Indians from obtaining ammunition in the U.S.	NAC RG 18 Vol. 64 File 279-92
18	1892/01/22	Commander, N.W.M. Police, Macleod District, to the Comptroller, N.W. M. Police, Regina.	Letter: fixed ammunition being sold along the frontier to Canadian Indians crossing border.	NAC RG 18 Vol. 64 File 279-92
19	1892/01/22	D.H. Macpherson, Inspector, Stand Off, to the Commanding Officer, Macleod District.	Letter: Indians obtaining ammunition across border in U.S.; confiscation of arms of U.S. Indian while in Canada.	NAC RG 18 Vol. 64 File 279-92



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DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
20	1893/04/28	T.J. Watters, Asst. Commissioner of Customs, to John Angus, Headman, Seven Nations Indians.	Letter: instructions to be issued to allow St. Regis Indians to bring in items bartered for in U.S. duty free.	NAC RG 18 File A-7613
21	1893/05/27	E.L. Newcombe, Deputy Minister of Justice, to D.S.G.I.A.	Letter: opinion re: non-entitlement of Cdn. Indian woman, marrying U.S. Indian & residing in U.S., to annuities and band membership	NAC RG 26 Vol. 74 File 1648
22	1895/02/26	A.E. Forget, Assistant Commissioner, Indian Affairs, to the Commissioner, N.W.M. Police.	Letter: re: complaint made by U.S. Indian Comm'r. re: B.C. Crees stealing horses south of the line.	NAC RG 18 Vol. 107 File 236-95
23	1896/02/07	"Where it Dropped - Volumes of Early Correspondence on the Cree Question."	Newspaper Clipping: correspondence re: Cdn. Crees moved to Montana are to be deported.	NAC RG 18 Vol. 129 File 69-97
24	1896/03/26	Hayter Reed, D.S.G.I.A., to Frederick White, Comptroller, N.W.M. Police, Ottawa.	Letter: Cdn. Gov't. to comply with request of U.S. to expel Indians from N.W.T. from Montana.	NAC RG 18 Vol. 129 File 69-97
25	1896/04/01	Commissioner, N.W. M. Police Headquarters, Regina, to the Comptroller, N.W.M. Police, Ottawa.	Letter: re: escort for Cree Indians deported from the U.S.	NAC RG 18 Vol. 129 File 69-97
26	1896/08/31	Spt. Deane, N.W. M. Police, Lethbridge, to the Commissioner, N.W. M. Police, Regina.	Extract from Report: reporting on arrival & escort of Crees deported by U.S.; some half-breeds in the group.	NAC RG 18 Vol. 129 File 69-97
27	1897/09/06	H.S. Still, Const., Medicine Hat, to the Commanding Officer, N.W.M. Police, Maple Creek.	Letter: Crees deported from States intend to return to U.S.; instructed to endeavour to prevent them.	NAC RG 18 Vol. 129 File 69-97
28	1897/10/29	"Extract from the minutes of a meeting of the Honourable the Treasury Board . . ."	Extract of Minutes: Treasury Board will not submit to Council, the request that Seven Nations (St. Regis) Indians have free trading privileges with U.S. traders.	NAC RG 16 File A-7613
29	1897/11/02	John J. McGee, Clerk of the Privy Council, to the Minister of Customs.	Letter: disapproving recommendation that St. Regis Indians be allowed free barter privileges with U.S. traders.	NAC RG 16 File A-7613



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DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
30	1900/03/27	Deputy Minister of the Interior, to F. White, Comptroller, N.W. M. Police, Ottawa.	Letter: describing provisional US-Can. boundary; incl. provision for free passage.	NAC RG 18 Vol. 218 File 786-01
31	1901/02/20	Order in Council P.C. No. 302.	Order in Council: affirming provisional boundary set between Alaska and Canada; and provisions re free passage.	NAC RG 18 Vol. 218 File 786-01
32	1901/06/14	W.S. Moore, Office of the Commissioner, N.W.M.P., Regina, to Officer Commanding, N.W.M.P., Regina.	Letter: re: Cdn. Sioux who were refused passes crossed the border to Montana anyway.	NAC RG 18 Vol. 216 File 601-01
33	1901/08/26	I.D. Moody, Inspector, N.W. M. Police, Moosemin, to the Commanding Officer, Regina District.	Letter: policy re: passes required for Indians crossing the border with their animals to avoid customs duty. Indians contend they always enjoyed free customs privilege.	NAC RG 18 Vol. 217 File 740-01
34	1901/08/28	A. Bowan Perry, Regina, N.W.M.P., to the Hon. D. Laird, Commissioner of Indian Affairs, Winnipeg.	Letter: Indians required to conform to custom laws; however, duty deferred on U.S. horses brought to Canada by Moose Mountain Indians.	NAC RG 18 Vol. 217 File 740-01
35	1901/09/18	John McDougald, Commissioner of Customs, to Customs Officer at Wells, B.C. on Yukon Frontier Service.	Letter: Chilcat Indians allowed temporary free passage along Chilcat River Route ).	NAC RG 18 Vol. 218 File 779-01
36	1901/09/18	Commissioner of Customs to E.S. Busby, Actg. Inspector of Customs, Skagway.	Letter: re: refunding duty for canoes of Chilcat Indians, and for wording memo of 1901/09/18.	NAC RG 18 Vol. 218 File 779-01
37	1901/10/23	J.O. Wilson, Inspector, N.W. M. Police, Regina District, to the Asst. Commissioner, N.W. M. Police, Regina.	Letter: about to seize horses brought in, without customs payment, from the U.S.	NAC RG 18 Vol. 217 File 740-01
38	1901/10/30	Jas. O. Wilson, Inspector, N.W. M. Police, Regina District, to the Commissioner, N.W.M. Police, Regina.	Letter: reporting on seizure of horses brought over the border by Pia Pots Indians.	NAC RG 18 Vol. 217 File 740-01
39	1904/09/05	J. Dubuque, Corpl, R.N.W. M. Police, Fort Qu'Appelle, to the Commanding Officer, R.N.W. M. Police, Regina District.	Letter: Sioux Indian's horses seized for not complying with Customs regulations.	NAC RG 18 Vol. 282 File 746-04



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DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
40	1905/09/07	E.L. Newcombe, Deputy Minister of Justice, to Secretary of Indian Affairs.	Letter: Cdn. Indian women marrying U.S. Indians & residing in U.S., cease their membership in Cdn. band after 5 yrs, unless permission obtained by Indian Affairs.	NAC RG 26 Vol. 74 File 1648
41	1910/02/14	T.A. Wroughton, Inspector, R.N.W.M. Police, to the Teacher, Indians School, Eagle, Alaska.	Letter: request to inform Indians that they will not be allowed to cross border to move to Canada.	NAC RG 18 Vol. 389 File 208-10
42	1910/02/15	T.A. Wroughton, Inspector, R.N.W.M. Police, to the Administrator, Yukon Territory.	Letter: Yukon River Indians (U.S.) moving to Canada, possible immigration problem.	NAC RG 28 Vol. 389 File 208-10
43	1910/02/15	T.A. Wroughton, Inspector, R.N.W.M. Police, to Officer Commanding, R.N.W.M.P., Yukon Territory.	Letter: Yukon River Indians move freely across border; may become a "public charge" if allowed to immigrate en masse	NAC RG 18 Vol. 389 File 208-10.
44	1910/04/05	J.D. McLean, Secretary of Indian Affairs, to the Deputy Minister of Justice, Ottawa.	Letter: asking if Alaskan Indians moving into Yukon Territory can be deported as undesirables under Immigration Act.	NAC RG 13 Acc. 86-87/084 Box 75 File 552/1910
45	1910/04/08	Deputy Minister of Justice to J.D. McLean, Secretary of Indian Affairs.	Letter: agreeing that Alaska Indians moving to Yukon Territory could be deported under the Immigration Act clause of becoming a public charge.	NAC RG 13 Acc. 86-87/084 Box 75 File 552/1910
46	1911/02/09	D.J. McLean, Asst. Deputy and Secretary of Indian Affairs, to Geo. E. Baxter, Indian Agent, Andover, N.B.	Letter: brief history of Jay Treaty and border crossing legislation.	NAC RG 16 File A-7613
47	1911/03/07	John McDougald, Commissioner of Customs, to H.A. Lemieux, Inspector of Customs, Montreal.	Letter: Customs practice at St. Regis to allow Indians free passage for goods traded for in U.S.	NAC RG 16 File A-7613
48	1911/03/24	H.A. Lemieux, Customs Inspector, Montreal, to John McDougald, Commissioner of Customs, Ottawa.	Letter: re: possibility of leniency in applying customs rules for St. Regis Indians trading for necessities in U.S.	NAC RG 16 File A-7613
49	1911/03/30	John McDougald, Commissioner of Customs, to Mitchel C. Jacobs and John Jacobs, St. Regis.	Letter: Traded goods brought into St. Regis from U.S. by Indians are subject to customs duty.	NAC RG 16 File A-7613



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DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
50	1911/03/30	John McDougald, Commissioner of Customs, to J.D. McLean, Asst. Secretary, Indian Affairs.	Letter: request by St. Regis Indians to bring in goods traded in U.S. free of duty, denied.	NAC RG 16 File A-7613
51	1911/04/06	John McDougald, Commissioner of Customs, to the Collector of Customs, Cornwall.	Personal Letter: ascertain if U.S. practice of allowing Indian goods duty free entry is regulation or merely practice.	NAC RG 16 File A-7613
52	1911/04/06	John McDougald, Commissioner of Customs, to Mitchell C. Jacobs, St. Regis.	Letter: request of St. Regis Indians, to pass traded items across the border duty-free, to be re-submitted to Gov. Gen. in Council. Undated memo appended	NAC RG 16 File A-7613
53	1911/04/11 Rec'd.	Collector of Customs, Cornwall, to John McDougald, Commissioner of Customs, Ottawa.	Letter: Dealers who buy St. Regis handicrafts pay duty. Also American Indians have some duty free privileges.	NAC RG 16 File A-7613
54	1915/02/10	Council of the Tribes, Cleveland, U.S., to Dept. of Customs, Ottawa.	Letter: St. Regis Indians are hard-pressed to pay customs duties on goods, which they deem essential; Canadian attorneys find no authority to collect customs duties.	NAC RG 16 File A-7613
55	1915/02/15	Dept. of Customs, Ottawa, to Tehotikawawakoy, Great Counsel, Council of the Tribes, Cleveland, U.S.A.	Letter: Customs had no authority to permit St. Regis Indians, or others to import horses without payment of duty.	NAC RG 16 File A-7613
56	1915/03/17	Tehotikwawakon, (Chief Thunderwater), Great Counsel, Council of the Tribes, Cleveland, U.S., to John McDougald, Commissioner of Customs, Ottawa.	Letter: quoting Article 3 of Treaty of Commerce, 1794, re: no duty levied on Indian goods crossing border excepting certain large items.	NAC RG 16 File A-7613
57	1915/03/24	J.D. McLean, Asst. Deputy & Secretary, Indian Affairs, to C.P. Blair, Law Clerk, Dept. of Customs, Ottawa.	Letter: enclosing copy of letter from Secretary of Ind. Aff. to Agent at Andover setting policy re: customs duty for Indian goods.	NAC RG 16 File A-7613
58	1915/03/25	Dept. of Customs, Ottawa, to Chief Thunderwater, Great Counsel, Council of the Tribes, Cleveland, U.S.	Letter: Jay Treaty abrogated, U.S. legislation lapsed. No duty free status for Indians.	NAC RG 16 File A-7613
59	1916/04/07	[Customs Dept.] to the Secretary of Indian Affairs.	Letter: Customs law provides that Indians are subject to same tariff requirements as others.	NAC RG 16 File A-7613



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DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
60	1916/09/21	[Customs Dept.] to the Leader Evaporator Co., Burlington, Vt.	Letter: Customs law provides that Indians are subject to same tariff requirements as others.	NAC RG 16 File A-7613
61	1916/10/19	R.S. Knight, Supt., R.N.W.M. Police, Dawson, Yukon Territory, to E.S. Ironside, Collector of Customs, Dawson.	Letter: Dalton Post Indians trading furs in Haines, Alaska, without customs invoice as required.	NAC RG 18 Vol. 516 File 607-16
62	1918/04/03	[Customs Dept.] to A.G. Chisholm, Barrister, London, Ont.	Letter: Treaty of Commerce, 1794, was abrogated by later war; Indian goods subject to customs duty.	NAC RG 16 File A-7613
63	1921/07/06	Asst. Commissioner of Customs & Excise, to the Collector of Customs & Excise, Cornwall, Ont.	Letter: Treaty of Commerce, 1794, was abrogated by later war; Indian goods still subject to customs duty.	NAC RG 16 File A-7613
64	1923/11/02	J.D. McLean, Asst. Deputy & Secretary, Indian Affairs, to R.R. Farrow, Commissioner of Customs, Ottawa.	Letter: practice of Cdn. Indians bringing horses into Canada duty-free for 50 years; request that duty not be imposed for specific, case.	NAC RG 16 File A-7613
65	1923/11/10	Actg. Commissioner of Customs and Excise, to J.D. McLean, Asst. Deputy & Secretary, Indian Affairs.	Letter: Customs laws admit no provision for free entry of dutyable animals or other goods brought into Canada by Indians.	NAC RG 16 File A-7613
66	1929/05/31	R.P. Hall, Appraiser, Customs & Excise, Port of Windsor, to J.A. Watson, Ottawa.	Letter: Indian advises of practice allowing goods duty-free into Canada; also, a circular from Washington permitting free exchange.	NAC RG 16 File A-7613
67	1929/06/06	P.L. Young, for Commissioner of Customs, to the Collector of National Revenue, Windsor.	Letter: Customs laws admit no provision for free entry of goods by Indians.	NAC RG 16 File A-7613
68	1931/01/19	Dr. O.D. Skelton, Under-Secretary of State for External Affairs, to R.W. Breadner, Commissioner of Customs, Ottawa.	Letter: request from Indian Affairs to approach U.S. Gov't. re: restoring duty-free passage for Indian goods; does Cdn. Customs Act & Regs. contain such provision?	NAC RG 16 File A-7613
69	1931/01/22	R.W. Breadner, Commissioner of Customs, to Dr. O.D. Skelton, Under-Secretary of State for External Affairs, Ottawa.	Letter: no provision in Canadian customs law allows for duty-free passage of Indian goods.	NAC RG 16 File A-7613



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DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
70	1933/04/05	P.L. Young, for Commissioner of Customs, to Louis Peters, Cornwall, Ont.	Letter: no provision in Customs law allowing duty-free passage of Indian goods (ref.: outboard motor).	NAC RG 16 File A-7613
71	1934/04/27	[Customs & Excise Dept.] to D.L. Burgess, Private Secretary, Minister of Agriculture, Ottawa.	Letter: no provision in Canadian Customs law to admit Indian goods duty-free.	NAC RG 16 File A-7613
72	1935/09/26	P.L. Young, Chief Correspondence Clerk, Customs & Excise, to Pamphile Nicolas, Lac Frantière, Que.	Letter (French): no provision in Canadian Customs law to admit Indian goods duty-free.	NAC RG 16 File A-7613
73	1936/03/19	M.H. Vernon, Supt. R.C.M. Police, Criminal Investigation Branch, Ottawa, to the Commissioner of Customs, Dept. of National Revenue.	Letter: quoting newspaper re: Customs Court decision favourable to St. Regis Indian crossing border with goods (Garrow case).	NAC RG 16 File A-7613
74	1936/03/23	[Customs & Excise ] to Ross W. Gray, M.P., House of Commons, Ottawa.	Letter: outlining treaty, legislation, and policy re: passage of Indian goods across Cda.-U.S. border. No special rights.	NAC RgG 16 File A-7613
75	1937/04/02	Harold W. McGill, Director, Indian Affairs, to the Deputy Minister.	Memo: policy discussion, centreing around Garrow case and request to U.S. for reinstatement of legislation allowing duty-free passage of Indian goods.	NAC RG 16 File A-7613
76	1937/04/22	P.L. Young, Chief Clerk of Correspondence, Customs & Excise, to Kenneth Whitebean, Cornwall Island, Ont.	Letter: no provision for duty-free entry of Indian goods (ref: stove).	NAC RG 16 File A-7613
77	1937/05/11	Jesse P. Wolcott, Congress of the United States, House of Representatives, Wash., D.C., to Aylmer N. Plain, Sarnia Indian Reserve, Ont.	Letter: U.S. State Dept. says it is possible that under Indian Treaty Rights, Cdn. Indian items should be exempt from duty; Indians should file petition with Cdn. State Dept.	NAC RG 16 File A-7613
78	1937/05/15	Aylmer N. Plain, Sarnia Indian Reserve, Ont., to the Secretary of State for Internal Affairs, Ott.	Letter: filing petition re: free passage of Indian goods across border, enclosing excerpts from Jay Treaty and Treaty of Ghent.	NAC RG 16 File A-7613
79	1937/06/01	[P.L. Lemieux], General Executive Assistant, Customs Div., Dept. of National Revenue, to H.D. Scully, Commissioner of Customs.	Memo: practice of St. Regis Customs officer to allow duty-free entry of Indian goods.	NAC RG 16 File A-7613



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DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
80	1937/06/03	[P.L. Lemieux], General Executive Assistant, Customs Div., Dept. of National Revenue, to T.R. L. MacInnes, Secretary, Indian Affairs Br., Dept. of Mines & Resources.	Letter: Indian Affairs mistaken in belief that customs at St. Regis now imposing duty on Indian goods; free passage continues.	NAC RG 16 File A-7613
81	1937/08/23	Solicitor, to T.R.L. MacInnes, Secretary, Indian Affairs, Dept. of Mines & Resources.	Memo: Cda.'s Indian Act applies to American Indian when in Canada.	NAC RG 26 Vol. 74 File 1648
82	1937/09/29	L.H. Taylor, Asst. Secretary, Customs Division, Dept. of National Revenue, to Ewing Flying Iron, Limberlost Lodge, Huntsville, Ont.	Letter: no provision in Canadian Customs law allowing Indian goods into Canada duty-free.	NAC RG 16 File A-7613
83	1937/10/15	E. W. Bavin, Supt., Criminal Investigation Branch, R.C.M. Police, to the Commissioner of Customs, Dept. of National Revenue.	Letter: Letter: quoting newspaper re: U.S. Supreme Court appeal decision unfavourable to St. Regis Indian crossing border with goods (Garro case).	NAC RG 16 File A-7613
84	1937/11/03	J.E. Read, Actg. Under-Secretary of State for External Affairs, to H.D. Scully, Commissioner of Customs, Dept. of National Revenue.	Letter: enclosing copy of memo from Indian Affairs Director, favourable to removing customs duty from Indian goods; asking for a separate customs regime for North American Indians allowing duty-free passage of goods.	NAC RG 16 File A-7613
85	1937/11/15	Commissioner of Customs to J.E. Head, Actg. Under-Secretary of State for External Affairs, Ottawa.	Letter: Canada should negotiate with U.S. to obtain a reciprocal agreement to allow Indian items duty-free across border. Duty-free privileges now being given for household goods at St. Regis.	NAC RG 16 File A-7613
86	1938/03/05	Chief Clerk, for Commissioner of Customs, Dept. of National Revenue, to E.P. Regis, Caughnawaga.	Letter: response to Indian whose car was seized at border - citing U.S. Customs Appeal judgement in Garro Case which details treaty & legislative history re: Indian border crossing customs duty.	NAC RG 16 File A-7613
87	1938/08/05	L.H. Taylor, Secretary, Customs Division, to the Sub-Collector of Customs & Excise, Trout River.	Letter: Customs' position is that under Jay Treaty, personal goods of Indians are allowed free entry. Negotiations with U.S. proceeding through External Affairs.	NAC RG 16 File A-7613



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DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
88	1939/05/25	T.R.L. MacInnes, Secretary, Indian Affairs, Dept. of Mines & Resources, to Mr. Cory, Legal Advisor.	Memo: does Indian Act permit a U.S. Indian to be admitted into membership in a Canadian Band?	NAC RG 26 Vol. 74 File 1648
89	1939/06/06	Mr. Cory, Legal Advisor, to T.R. L. MacInnes, Secretary Indian Affairs, Dept. of Mines & Resources.	Memo: question of naturalization status of U.S. Indian, pursuant to Indian being admitted to Cdn. Band.	NAC RG 26 Vol. 74 File 1648
90	1941/05/05	W.M. Cory, Legal Advisor, to T.R. L. MacInnes, Secretary, Indian Affairs, Dept. of Mines & Resources.	Memo: opinion re: Cdn. Indian woman marrying U.S. Indian and residing in United States - annuity rights and status.	NAC RG 26 Vol. 74 File 1648
91	1943/03/08	K.C. MacDonald, Minister of Agriculture, Prov. of B.C., to Hon. Humphrey Mitchell, Minister of Labour.	Letter: border crossing restrictions desirable to keep Indians from working in U.S.; and available for Cdn. farm work.	NAC RG 27 Vol. 605 File 6-19-2
92	1943/03/16	A. MacNamara, Deputy Minister of Labour, to H.W. McGill, Director of Indian Affairs.	Letter: take steps to retain services of Indians on Canadian side of border.	NAC RG 27 Vol. 605 File 6-19-2
93	1943/04/26	A. MacNamara, Deputy Minister of Labour, to W. McKinsty, Regional Superintendent, Employment & Selective Service Office, Vancouver.	Telegram: request to freeze exodus of Indian labourers over border to U.S.	NAC RG 27 Vol. 605 File 6-19-2
94	1943/04/27	W. McKinsty, Regional Superintendent, Employment & Selective Service Office, Vancouver, to A. MacNamara, Deputy Minister of Labour, to A. MacNamara, Deputy Minister of Labour.	Telegram: United States authorities state treaty Indians free to cross the border; no labour exit permit required.	NAC RG 27 Vol. 605 File 6-19-2
95	1943/04/30	Harold W. McGill, Director of Indian Affairs, Dept. of Mines & Resources, to A. MacNamara, Director of National Selective Service, Dept. of Labour.	Letter: despite U.S. legislation permitting free movement across border, Dept. of Agriculture, wishes to constrain border crossing of Indians for employment purposes. National Selective Service to refuse required crossing documentation.	NAC RG 27 Vol. 605 File 6-19-2
96	1943/05/03	Justice A.M. Manson, Chairman Mobilization Board, Admin. Div. "K", National Selective Service, Vancouver, to Arthur MacNamara, Deputy Minister of Labour.	Memo: suggesting that Indian movements across border be controlled by use of labour exit permit.	NAC RG 27 Vol. 605 File 6-19-2



## BORDER CROSSING II DOCUMENT INDEX

DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
97	1943/05/04	A. MacNamara, Director of National Selective Service, Dept. of Labour, to C.F. Needham.	Memo: Indians not required to have labour exit permits to cross to U.S. Comment on suggestions to require permits.	NAC RG 27 Vol. 605 File 6-19-2
98	1943/05/04	A. MacNamara, Deputy Minister, Dept. of Labour, to V.C. Phelan, Director of Information, Dept. of Labour.	Memo: Indians not required to have labour exit permits to cross to U.S. Comment on suggestions to require permits.	NAC RG 27 Vol. 605 File 6-19-2
99	1943/05/06	Harry Hereford, Dept. of Labour, to A. MacNamara, Deputy Minister of Labour	Memo: discussion of method of controlling Indian movements across border to U.S.	NAC RG 27 Vol. 605 File 6-19-2
100	1943/05/06	T.J. O'Neill, M.P. Kamloops, B.C., to Humphrey Mitchell, Minister of Labour.	Letter: pressing Labour Dept. to stop the recruiting of Indian labour by U.S. employers, & prohibiting Indians to cross border.	NAC RG 27 Vol. 605 File 6-19-2
101	1943/05/07	V.C. Phelan, Director of Information, Dept. of Labour, to A. MacNamara, Deputy Minister of Labour.	Memo: rationale provided for possible American approval of labour exit permit system being applied to Indians.	NAC RG 27 Vol. 605 File 6-19-2
102	1943/05/07	A. MacNamara, Deputy Minister of Labour, to Justice A. M. Manson, Chairman Mobilization Board, Admin. Div. "K", Vancouver.	Letter: External Affairs and Indian Affairs Depts. indicate there are treaty rights enjoyed by Indians [which would prohibit closing the border ].	NAC RG 27 Vol. 605 File 6-19-2
103	1943/05/08	Humphrey Mitchell, Minister of Labour, to J.G. Turgeon, M.P., House of Commons, Ottawa.	Letter: situation of Indians crossing border to work in U.S. complicated by Indian treaty rights.	NAC RG 27 Vol. 605 File 6-19-2
104	1943/05/11	Justice A.M. Manson, Chairman Mobilization Board, Admin. Div. "K", Vancouver, to A. MacNamara, Deputy Minister of Labour.	Letter: opinion that not all Cdn. Indians are covered by treaty rights, re: unregulated border crossing.	NAC RG 27 Vol. 605 File 6-19-2
105	1943/05/11	Allan M. Mitchell, Director, Employment Service & Unemployment Insurance, to A. MacNamara, Deputy Minister of Labour.	Memo: when exit permits instituted Dept. of Immigration indicated Indians had always had migratory privileges.	NAC RG 27 Vol. 605 File 6-19-2
106	1943/05/15	F. Hereford, Dept. of Labour, to A. MacNamara, Deputy Minister of Labour.	Memo: Labour officials divided on subject of requiring Indians to have labour exit permits; Indian Affairs do not object to scheme.	NAC RG 27 Vol. 605 File 6-19-2



## BORDER CROSSING II DOCUMENT INDEX

DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
107	1943/05/20	Francis Hereford, Dept. of Labour, to A. MacNamara, Deputy Minister of Labour.	Memo: Labour official & Indian Affairs sees no objection to requiring exit permits for B.C., Manitoba, Saskatchewan, and Alberta Indians; administrative difficulties would arise in Ontario. No treaty would be violated.	NAC RG 27 Vol. 605 File 6-19-2
108	1943/06/02	Justice A.M. Manson, Chairman Mobilization Board, Admin. Div. "K", Vancouver, to A. MacNamara, Deputy Minister of Labour.	Telegram: U.S. labour employer inducing Indians to take employment across border, should be prosecuted; Indian agents should be told to refuse certificates for Indians wishing to cross border.	NAC RG 27 Vol. 605 File 6-19-2
109	1943/06/03	A. MacNamara, Deputy Minister of Labour, to Justice A.M. Manson, Chairman Mobilization Board K, Vancouver.	Telegram: directing that no exit permits be issued to Indians wanting to cross border to work in U.S.	NAC RG 27 Vol. 605 File 6-19-2
110	1943/06/03	Justice A.M. Manson, Chairman Mobilization Board K, Vancouver, to Wm. McKinstry, Actg. Regional Superintendent, National Selective Service, Vancouver.	Letter: Indians recruited for U.S. labour will be refused certificates by Indian agents; ongoing situation described.	NAC RG 27 Vol. 605 File 6-19-2
111	1943/06/08	Secretary of British Columbia Beef Cattle Growers' Assoc., Armstrong, B.C., to the Minister of Labour.	Letter: it appears that Labour Dept. cannot prohibit B.C. Indians from crossing border to work in U.S. Resolution to ask Labour Minister to prevent recruiting by U.S. employers attached.	NAC RG 27 Vol. 605 File 6-19-2
112	1943/06/12	Allan Wood, Employment Service Div., Dept. of Labour, to Allan M. Mitchell, Dept. of Labour.	Memo: difficulties in administering proposed labour exit permit regulations; also problem of Indian treaty rights with U.S. Govt. Details practice of cross-border employment.	NAC RG 27 Vol. 605 File 6-19-2
113	1943/06/28	A. MacNamara, Director of National Selective Service, to Harold W. McGill, Director of Indian Affairs.	Letter: labour exit permits proposed for Indians; acute labour shortage in B.C.; difficulty in subjecting <u>all</u> Cdn. Indians subject to this plan - discriminatory to B.C. Indians.	NAC RG 27 Vol. 605 File 6-19-2



## BORDER CROSSING II DOCUMENT INDEX

DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
114	1943/07/10	T.R. Walsh, Unemployment Insurance Commission, to A. MacNamara, Director of National Selective Service.	Memo: border crossing movement of Indians should be controlled in East as well as B.C.; collaboration required between Indian Agents and NSS officers	NAC RG 27 Vol. 605 File 6-19-2
115	1943/07/15	Harold W. McGill, Director of Indian Affairs, to A. MacNamara, Director of National Selective Service.	Letter: policy statement re: problem of Indians crossing border; citing U.S. Act of Congress which permits free passage of Cdn. Indians; outlining proposed measure to appear non-discriminatory re: B.C. Indians.	NAC RG 27 Vol. 605 File 6-19-2
116	1943/07/23	A. MacNamara, Director of National Selective Service, to T.R. Walsh, Chief of Instructions & Enforcement, Employment	Memo: policy decided upon is to require permits of all Indians, but to apply regulation with leniency in areas near border.	NAC RG 27 Vol. 605 File 6-19-2
117	1943/09/03	R.A. Clayton, R.C.M. Police, , Merritt, to Headquarters.	Report: documenting case of U.S. employment recruiter forced to leave Canada without transporting Indians across border; Indians disgruntled.	NAC RG 27 Vol. 605 File 6-19-2
118	1944/01/29	A. MacNamara, Director of National Selective Service, to Brigadier-General W.c. Rose, Chief, Executive Services, Office for Emergency Management, War Manpower Commission, Washington, D.C.	Letter: shortage of Canadian workers means it is problematic if Cdn. Indians were to be allowed free exit.	NAC RG 27 Vol. 605 File 6-19-2
119	1944/03/06	National Selective Service Circular No. 66-C.	Circular: Indians now subject to Labour Exit Permit Regulations when crossing border; this is unrelated to free border-crossing rights granted by U.S.	NAC RG 27 Vol. 605 File 6-19-2
120	1944/05/00 circa	Andrew Paull, President, North American Indian Brotherhood, to G.G. McGeer, K.C., M.P., House of Commons, Ottawa.	Letter: through application of labour exit permit regulations to Indians, B.C. farmers have forced Indians to work for small wages and bad living conditions, vs. better employment historically available in U.S. -- request that M.P. intervene on Indians' behalf.	NAC RG 27 Vol. 605 File 6-19-2



## BORDER CROSSING II DOCUMENT INDEX

DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
121	1944/05/04	Gerald G. McGeer, K.C., M.P. House of Commons, to Hon. T.A. Crerar, Minister of Mines & Resources.	Letter: restrictions of labour exit permits for Indians interfere with rights of Indians to earn their livelihood as they historically have done, in U.S.	NAC RG 27 Vol. 605 File 6-19-2
122	1944/05/09	Wm. McKinstry, Regional Supt, Employment & Selective Service, Pacific Region.	Personal Letter: acute labour shortage; no intention of easing of labour exit regulations.	NAC RG 27 Vol. 605 File 6-19-2
123	1944/05/11	T.R. Walsh, Chief of Instructions & Enforcement, Employment, to A. MacNamara, Director of National Selective Service.	Memo: justifying restrictions on border crossing for Indians.	NAC RG 27 Vol. 605 File 6-19-2
124	1944/05/11	Fred J.C. Ball, Indian Agent, Vancouver, to Indian Affairs, Ottawa.	Letter: labour exit permit regulations are a great hardship to B.C. Indians seeking to pick berries in Washington State.	NAC RG 27 Vol. 605 File 6-19-2
125	1944/05/31	H.T. Pammett, National War Labour Board, to A. MacNamara, Director of National Selective Service (Labour Dept.).	Urgent Memo: assessment of B.C. Indian border crossing situation, with recommendations.	NAC RG 27 Vol. 605 File 6-19-2
126	1944/06/01	D.M. MacKay, Indian Commissioner for B.C., to Indian Affairs, Dept. of Mines & Resources.	Letter: B.C. Indians are discriminated against in terms of exit permit controls; they remain jobless and are not allowed out of the country.	NAC RG 27 Vol. 605 File 6-19-2
127	1944/06/02	Harry Hereford, Director of Planning & Labour Priorities, National Selective Service (Labour Dept.), to A. MacNamara, Deputy Minister of Labour.	Memo: Indians who want to work in U.S. & who are not "conveniently located" for B.C. farm work will be granted authority to cross to U.S.	NAC RG 27 Vol. 605 File 6-19-2
128	1944/06/02	W.K. Rutherford, Asst. Director - Employment, Unemployment Insurance Commission, to A. MacNamara, Deputy Minister of Labour.	Memo: after discussions with U.S. Govt. labour officials, Indians at inaccessible points will be granted permits to cross border; statement from Prov. Emerg. Farm Service re: their unemployability required.	NAC RG 27 Vol. 605 File 6-19-2
129	1944/06/12	M.W. McCracken, Indian Agent, Sarnia, to Indian Affairs Headquarters.	Letter: Chief Adams claims Labour Exit Permit laws are in direct contradicton to U.S./Cda. policy of free mobility for Indians; Indians still crossing to obtain employment.	NAC RG 27 Vol. 605 File 6-19-2



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DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
130	1944/06/14	AC.D. King, District Enforcement Officer, to the A. Wood, Employment Service Divikson.	Memo: all applications for labour exit permits by able-bodied Indians are being refused. Indians have worked in U.S. for many years and continue to without permits.	NAC RG 27 Vol. 605 File 6-19-2
131	1944/07/10	Andrew Paull, President, North American Indian Brotherhood, G.G. McGeer, K.C., M.P. , House of Commons.	Letter: despite order permitting Indians for whom unemployment is unavailable to cross border, Farm Labour Service officials are still refusing exit permission to B.C. Indians.	NAC RG 27 Vol. 605 File 6-19-2
132	1944/07/10	Andrew Paull, President, North American Indian Brotherhood, to Hon. Humphrey Mitchell, Minister of Labour.	Letter: despite order permitting Indians for whom unemployment is unavailable to cross border, Farm Labour Service officials are still refusing exit permission to B.C. Indians - great hardship to Indians.	NAC RG 27 Vol. 605 File 6-19-2
133	1944/07/11	A. MacNamara, Deputy Minister of Labour, to George A. Cruikshank, M.P., House of Commons.	Letter: detailing the situation re: Indians crossing border to work in U.S.; Indian claims to treaty rights with U.S. and Canada being investigated.	NAC RG 27 Vol. 605 File 6-19-2
134	1944/07/12	Chief Joe Hall, Harrison Mills, B.C., to Andy Paull, President, North American Indian Brotherhood.	Letter: expressing hardships B.C. Indians are experiencing as a result of being denied labour exit permits.	NAC RG 27 Vol. 605 File 6-19-2
1135	1944/07/14	Andrew Paull, President, North American Indian Brotherhood, to Hon. Humphrey Mitchell, Minister of labour.	Letter: B.C. Indians are under severe hardship because of no employment available in B.C., yet they are not permitted to cross border to work in U.S.	NAC RG 27 Vol. 605 File 6-19-2
136	1944/07/17	Harold W. McGill, Director of Indian Affairs, to A. MacNamara, Deputy Minister of Labour.	Letter: no record of any special border crossing rights; Jay Treaty not likely to apply, Americans permit free entry.	NAC RG 27 Vol. 605 File 6-19-2
137	1944/07/19	A. MacNamara, Deputy Minister of Labour, to Wm. McKinstry, Regional Supt., National Selective Service, Vancouver.	Letter: requesting that N.S.S. ask Farm Labour Service to honour agreement re: labour exit permit program, and improve working conditions for Indians in B.C.	NAC RG 27 Vol. 605 File 6-19-2



## BORDER CROSSING II DOCUMENT INDEX

DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
138	1946/05/06	R.N. Munroe, District Superintendent of Immigration, Winnipeg, to E. McPherson, Indian Agent, Indian Affairs, Selkirk, Manitoba.	Letter: Indian woman committing criminal act is deported from Canada.	NAC RG 26 Vol. 74 File 1648
139	1946/05/07	E. McPherson, Indian Agent, Indian Affairs, Selkirk, Manitoba, to Indian Affairs Headquarters.	Memo: questioning deportation of Indian woman born in U.S. of Cdn. Indian parents.	NAC RG 26 Vol. 74 File 1648
140	1946/05/16	Departmental Solicitor, Immigration, Dept. of Mines & Resources, to Mr. Allan, Indian Affairs.	Memo: re: status of Indian woman born to Cdn. Indian parents, residing in U.S.	NAC RG 26 Vol. 74 File 1648
141	1946/08/12	L.H. Taylor, Secretary, Customs Division, to M.W. McCracken, Indian Agent, Sarnia.	Letter: instructing that no provision in Canadian Customs law exists to allow Indian goods duty-free entry (ref.: washing machine).	NAC Rg 16 File A-7613
142	1947/05/09	A. MacNamara, Deputy Minister of Labour, to William MacGillivray, Director, Agricultural Development & Extension, Dept. of Agriculture, B.C.	Telegram: legal restrictions re: Indians crossing border are lapsed; historical movement across border difficult to stop even in wartime.	NAC RG 27 Vol. 605 File 6-19-2
143	1948/00/00 circa	[Member of Canadian Embassy in Wash., D.C.] "Discussion"	Confidential Memo: re: immigration status of American Indians born in Canada.	NAC RG 25 Vol. 2125 File 225
144	1949/06/22	A.S. Kenney, Assistant Secretary Customs Division, Dept. of National Revenue, to Mrs. Patrick Chausse, Jr., Maniwaki, Que.	Letter: No provision in Canadian Customs law to allow Indian goods duty-free entry (ref: souvenirs & supplies).	NAC RG 16 File A-7613
145	1949/09/23	A.S. Kenney, Assistant Secretary, Customs Division, Dept. of National Revenue, to Charles Hill, Waterford, Ont.	Letter: "Goods of any kind imported by Indians are subject to the same tariff requirements as if imported by others." (ref.: used car).	NAC RG 16 File A-7613
146	1950/04/13	W.M. Cory, Legal Advisor, Indian Affairs, to M. McCrimmon, Status & Membership Division, Indian Affairs.	Memo: re: man who has become U.S. citizen does not lose status as a Canadian Indian.	NAC RG 26 Vol. 74 File 1648
147	1950/08/02	P. Mertens, R.C.M. Police, Montreal, to Const. Lapointe, R.C.M. Police, Lacolle, Que.	Memo: re: Caughnawaga Indians working in U.S. bringing U.S. cars over border to reserve - they are not allowed to use their cars once arrived at reserve.	NAC RG 16 File A-7613



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DOC. #	DATE	CORRESPONDENTS OR TITLE	NATURE OF DOC.	REFERENCE
148	1950/08/17	E.D. Raciot, Collector, Customs & Excise, Port of Lacolle, to L.H. Taylor, Secretary Customs Division, Dept. of National Revenue, Ottawa.	Letter: Caughnawaga Indians working in U.S. bringing U.S. cars over border to reserve ; problem determining residence; "laxity" exercised.	NAC RG 16 File A-7613
149	1950/08/24	L.H. Taylor, Secretary, Customs Division, Dept. of National Revenue, to the Collector of Customs & Excise, Port of Lacolle.	Letter: re: status of Caughnawaga Indians working in U.S. bringing cars across border; problem of residence status. No special treatment.	NAC RG 16 File A-7613
150	1951/07/20	Laval Fortier, Deputy Minister of Citizenship & Immigration, to D. Sim, Deputy Minister, Customs & Excise Div., Dept. of National Revenue.	Letter: quoting Department of Justice opinion on illegal seizure of Indian personal goods by R.C.M.P. - Jay Treaty cited.	NAC RG 16 File A-7613 PF
151	1951/07/26	D. Sim, Deputy Minister, Customs & Excise Div., Dept. of National Revenue, to Laval Fortier, Deputy Minister of Citizenship & Immigration.	Letter: acknowledging letter of 20 July; stating that R.C.M.P. will not be instructed re: seizures until Dep. Minister of Justice has elaborated on his opinion.	NAC RG 16 File A-7613 PF
152	1951/10/24	R.W. Duff, Section N.C.O., R.C.M. Police, Kingston, to R.C.M. Police Headquarters.	Memo: reporting situation of Indians at St. Regis owning American goods, no duty paid; Customs officials refuse to accept ruling of Dept. of Justice favouring Indians, citing Jay Treaty.	NAC Rg 16 File A-7613 PF
153	1952/01/29	F.P. Varcoe, Deputy Minister of Justice, to D. Sim, Deputy Minister, Customs & Excise Div., Dept. of National Revenue.	Letter: Amendment to Income Tax Act nullifies the Article 3 of Jay Treaty.	NAC RG 16 File A-7613 PF
154	1952/01/31	D. Sim, Deputy Minister, Customs & Excise Div., Dept. of National Revenue, to Laval Fortier, Deputy Minister of Citizenship & Immigration.	Letter: enclosing recent opinion of Deputy Minister of Justice; Indians must pay customs duty on imported goods.	NAC RG 16 File A-7613 PF



No. 11, 6/20: 4-11-11  
Cops to P. B. Macdonald  
in 1880  
Cops to C. O. 11-11-11  
D. Macdonald  
Cops to C. O. 11-11-11  
D. Macdonald

1000.  
Washington.  
June 7. 1880.

(1)

My Lord,

I have the honour  
to transmit herewith, for Your  
Excellency's information, Copy of  
a Despatch which I am addressing  
to Earl Granville, reporting the  
conversation which I had this  
morning with Mr. Everts in  
consequence of Your Excellency's  
Telegram of yesterday.

I have the honour to be,

My Lord,

Your Excellency's  
most obedient,

humble servant,

Wm. F. Thornton

His Excellency

The

Marquis of Lorne K.T.

72

72

72

NACRG-7

Vol 22

File Jan. - Dec 1880



Copy.

Washington.  
June 7. 1880.

My Lord,

I received yesterday & afternoon a Telegram from The Gov<sup>t</sup> Gen<sup>l</sup> of Canada, enquiring what terms would be granted by the U.S. Gov<sup>t</sup> to the Sioux Indians now refugees within British territory, in the event of their surrendering themselves to the U.S. Auth<sup>ties</sup>, and expressing a hope that the terms might be as easy as possible for them.

I therefore called this morning upon Mr Warts and again urged that if the Sioux refugees were disposed to surrender, the U.S. Gov<sup>t</sup> would grant such terms as would encourage them to do so, and that it would be as lenient as possible

The Earl Granville K.G. with



(1)

with regard to them. But Mr Ewarts said that he could only repeat what he had already said, that the U. S. Govt. could only receive them as prisoners of War and must deprive them of their arms and ponies; that otherwise they would be treated as a great nation treats the prisoners who may fall into its hands. He added that I could not suppose that any cruelty would be exercised upon them, but that it was absolutely indispensable that the U. S. should guard itself against these Indians doing any further mischief in a body or as a tribe.

I enquired whether in the event of Sitting Bull offering to surrender, he would be treated differently from his followers. Mr. Ewarts replied that no difference whatever would be made with regard to him; but that

care



care would be taken that ~~he~~ should not again have it in his power to lead his tribe in hostilities against the U. S. Auth<sup>ties</sup>.

Mr Ewart went on to say that altho' he was quite sensible of the difficult and delicate position in which the Canadian Gov<sup>t</sup> had been placed by these refugees, and what a burthen they had been to the Dominion, and altho' the U. S. Gov<sup>t</sup> did not wish in this peculiar case to exaggerate the obligation of H. M. Gov<sup>t</sup> to prevent a hostile incursion from its territory into the U. S., yet if those Indians were to remain much longer within British jurisdiction, the U. S. would be obliged at length to apply the principles acknowledged between civilized nations, and to hold Great Britain responsible for any hostile invasion which might be made from its territory into the U. S.

I have today sent a Telegraphic Despatch



Despatch to The Gov.<sup>r</sup> Genl. of the  
Dominion conveying the substance  
of my conversation with Mr Ewart,  
and I shall also forward to H. E.  
a copy of this Despatch.

I have &c

(sd) Edw Thornton



10/1/80  
Ackd to P.C.  
No. 70  
Confidential  
17  
Dated 15/11/80  
Dated 17/11/80

7246

Washington.  
November 11, 1880.

My Lord,

With reference to previous  
Correspondence respecting the probable  
surrender of Sitting Bull to the  
United States Military Authorities,  
I enclose herewith, for your  
information, an Extract from  
the "National Republican" of  
this date, which states that  
Sitting Bull would go to Fort  
Buford after the 20<sup>th</sup> Instant,  
if Major Walsh had not arrived  
by that time to fulfil his  
promise of mediating between

Nat. Republican  
11 Nov. 1880.

His Excellency Sitting Bull and the United  
The Marquis of Dorne K. T. States



2

*Extract from*  
*"National Republican"*  
*Washington. 11. Nov. 1880.*

**Sitting Bull Waiting for Major Walsh.**

ST. PAUL, MINN., Nov. 10.—Allison, the scout sent to Sitting Bull's camp by General Terry two weeks ago, has returned to Fort Buford and made his report. He reached Sitting Bull's camp in the British provinces without difficulty and had an interview with the principal chief. In the council Sitting Bull made a long speech, in which he claimed that he had never made war on the United States and had acted on the defensive. He said he recognized the fact that the time had come for an accommodation with the United States, but said Major Walsh had proposed to mediate and he (Sitting Bull) wanted to wait for Walsh's return from the east. If Walsh did not return by the 20th of the month Sitting Bull would come to Fort Buford and listen to a proposition for a surrender. Sitting Bull's band are nearly out of ammunition and food and Major Brotherton thinks their surrender can be effected without difficulty. Sitting Bull's followers number about 900.



States Authorities, and that  
he would then listen to the  
proposals for his surrender.

Mr Ewart's informed me that  
whenever he surrenders, Sitting  
Bull will be treated as a  
Prisoner of War. I thought  
it advisable to explain confidentially  
to Mr. Ewart what good will  
had been shown by Your Excellency  
and the Dominion Government,  
as explained in your Cypher  
Telegram to me of the 6<sup>th</sup> Instant.

He made no remarks upon  
this, beyond saying that Sitting  
Bull was not worth making  
any fuss about. I did not  
reply



reply to this observation of Mr.  
Coats, although it recalled  
to my mind his conversations  
with Sir Edward Thornton.

I have the honour to be,  
My Lord,  
Your Excellency's  
most obedient,  
humble servant,  
Victor Drummond



Confidential  
no 34  
3/5/81  
copied  
to  
3/5/81  
conf  
comm  
to  
S. A. Mac  
some  
3/5/81  
7700

Washington

April 29, 1881.

My Lord,

I have the honour to acknowledge  
the receipt of, and to offer my thanks  
for, Your Excellency's Despatch no 34  
of the 26<sup>th</sup> instant, together with its  
very interesting enclosures relating to  
the intentions of "Sitting Bull".

Copy to  
Spec 3  
May 1881

Shortly after I received your confidential  
Despatch no 31 of the 13<sup>th</sup> instant, I observed  
in the newspapers the report, now confirmed  
by Superintendent Crozier, that Sitting  
Bull was sending a couple of his  
young men to ascertain how those of  
His Excellency his

The Marquis of Lorne K.T.



his followers who had already  
surrendered, were being treated by the  
United States authorities. I immediately  
called upon the United States Secretary  
of State and drew his attention to this  
report which he stated he had reason  
to believe was true. I therefore expressed  
my earnest hope that the above mentioned  
messengers would be well received, and  
that nothing would be done to discourage  
them. I also informed Mr Blaine that  
the information received by Your Excellency  
was to the effect that the counsels of  
Colonel Irvine had made a good impression  
upon "Sitting Bull" and that there

NAC RG7  
Vol. 23  
File Jan - May 1881 was



was now little doubt that he would be disposed to surrender. I therefore trusted that everything would be done to encourage his present intentions and that, whenever he might cross the frontier for that purpose, care should be taken that there should be no ground for alarm on his part.

I have the honour to be,

My Lord,

Your Excellency's most obedient,

humble servant

Edw. Thornton



Fort Stearns, N.M.  
March 22<sup>nd</sup> 1883

Commanding Officer  
Fort Huachuca,  
Fort Huachuca, Arizona

Sir:  
The following telegram received at this place  
on the 22<sup>nd</sup> instant, which the District Commander  
requests me to communicate to you.

Fort Huachuca, N.M. March 22<sup>nd</sup> 1883  
"Large war party of Cree Indians, headed by Huguier  
at Blythe on March 21, on nineteenth instant, stole forty  
(40) horses, killed nine (9) work cattle, two (2) horses and  
several horses, two (2) Cree killed, they are moving toward  
Fort Huachuca, and you have them intercepted, signed  
J. C. Baker & Co. and others."

The District Commander adds the information:  
"Telama, N.M. March 22<sup>nd</sup> 1883, Canoe the Guard to  
intercept if possible the party of Cree, and recover  
"lost", also send Company to guard the wagon, have  
you any information on the matter reported, Communicate  
the facts to Commanding Officer, Fort Huachuca."

By order of Colonel Tupper  
(signed) J. C. Baker  
J. C. Baker

NAC R-18  
101-2  
File 203-83



The incident here, the fight occurred at the crossing of the Marias, at what is known as Hook's crossing near old Fort Howard. I am not sure from the line, and at Elkhart, I am not sure as killed, though the Green, being in the other side to Hook. I would have got to the river came for the news, I am not sure whether information reach me regarding the affair, I will communicate the same to you as soon as possible.

Very respectfully,  
 Your obedient servant  
 J. G. H. H. H.  
 Lieut. Colonel of the 1st  
 Cavalry Regiment



5  
United States Indian Service  
Fort Belknap Agency  
April 2 1883

Colonel Grando Ilges  
Commanding  
Fort Assinaboine M.D.

Sir

I am grieved to have to report to you that the Cree Indians (14) Fourteen in number have raided the camp of the Gros Ventres now on Peoples Creek on the night of April 1<sup>st</sup> and stole (67) sixty seven head of their horses. I am informed by one of the pursuing party, that they discovered the tracks of (12) twelve head of shod horses, which were evidently stolen from the white men on the Missouri River. These Cree trails led toward the camp of Crees under the leadership of Breaks-through-the-ice, which is about 35 miles north east of here, and some few miles south of the 49<sup>th</sup> parallel, as I have already informed your scouts Nicholson and Valentine. Will you kindly take steps







John Besicovich M.D.  
April 4<sup>th</sup> 1883

April 4 1880.  
To Commanding Officer  
Fort Walsh, North West Territory  
Sir

The enclosed communication has just reached me from Fort Pecknap by Courier. I respectfully request that you take such measures as you deem necessary to effect a recovery of the stolen stock, or such part of it as you may be able to find in the possession of the marauding party. I will also thank you to furnish me such information as you may have of the stock stolen from the Men's pier and which I have been informed was taken to your Fort in the 21st of March 1853.

Any assistance rendered me by you in  
these matters will be reciprocated so far  
as it lies in my power to do.  
I fully concur in the views expressed by  
Colonel Frim that this horse stealing business  
should be stopped.



Very respectfully  
Your Obedient Servant  
Luther Dyer  
Lieut Colonel 18th Infantry  
Commanding Post

P. Please render my Carrier Murray Nicholson  
such assistance as he may require.

Luther Dyer  
Lieut Col 18th Inf



5/208.

290  
H. W. M. Police

7  
Fort Walsh.  
April 5<sup>th</sup> 1883.

Sir,

Lieut. Col Brown

Commissioner

H. W. M. Police

Ottawa.

Sir,

I have the honor to receive two letters from the Officer Commanding at Fort Assiniboine, concerning the Cree raid, into Montana, for the purpose of stealing horses.

On receiving I found that the Indians brought in several horses belonging to Kipp the man mentioned in Col. Stger's communication, and several others which were taken from the Pegan Indians, I also found that the Indians had these horses of Kipp's cached in small numbers, all about the hills, which made it very difficult to find them, I have however recovered several of them, and will most probably be able to get them all in time. The Indians state that they left several of them on the road, played out,

I have the honor to be

Sir,  
Your obed<sup>t</sup>. servant

A. L. Smith  
Sup<sup>d</sup> Com<sup>d</sup> ady Post.



110

Sup-Staff  
April 5/83

C. L. Howard  
J. L. Howard  
J. L. Howard  
J. L. Howard  
J. L. Howard  
J. L. Howard



N. W. M. Police

Fort Walsh  
April 6<sup>th</sup> 1883.

Lieut. Col. Irvine

Commissioner.

N. W. M. Police

Regina.

Sir.

A scout from Fort Assiniboine  
has just arrived with the enclosed  
communications from Col. Elges.

The party of Aces he speaks of  
has not been in this vicinity, during  
the past winter, and have not come  
this way with the horses. It is probable  
that they crossed the line near the  
East end Post. I will at once send  
a party to intercept them if possible

I have the honor to be

Sir

Your obedient servant

A. Emery

Sup<sup>t</sup> Com<sup>d</sup> <sup>at</sup> Post



1528

N. M. M. Police

13/84

Maple Creek  
July 10<sup>th</sup> 1884

Prisoners and Sir/  
Lewellyn arrived  
11.7.84

Corporal Woodhouse, with  
Detachment and Guide Nesbitt, have  
arrived at Swift Current two Indians,  
and a third has since given himself  
up, for bringing stolen property into  
Canada (horses) and have recovered  
ten head of horses. I have instructed him  
to send the prisoners here by tomorrow's  
train, and in the event of Shucker  
and the other (man who went to Regina  
returning by this train to form the  
escort, but if they do not come to  
send two men now at Swift  
Current as far as Fall Lake where  
I will have men from here to take  
over the prisoners.

I have the honor to be  
Sir

Your obed<sup>t</sup> servant  
J. M. M. Police  
Sup<sup>d</sup> - Law<sup>d</sup> Post

Respectful Atty. General  
Commissioner  
N. M. M. Police  
Regina. -



COPY.

10

Fort Assiniboine, Montana

May 9th. 1888.

To

Colonel L. W. Herchmer

Commissioner N. W. M. Police

Regina N. W. T.

Colonel:

I am in receipt of a communication from the Indian Agent at Fort Belknap, M. T. informing me that upon last Sunday night, hostile Indians stole from that Agency seventeen (17) ponies and three colts, also of a telegram from Helena reporting the theft of forty (40) ponies from the Crow Indian Reservation on the 2nd. Inst., by Bloods and Pieguns, also a communication from parties at Crane Lake near Maple Creek reporting the loss through Indians of five (5) British Columbia ponies, also a report from a citizen dwelling at the foot of Bear ~~Mountain~~ Paw Mountains of the stealing of six (6) mares, one (1) horse and one (1) colt.

From these reports it would seem that the Bloods and Pieguns have betaken themselves to their

NAC R 618  
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10

their old pursuits and unless repressed it is probable that the Crows and Gros Ventres will again take up former practices. We have had a year of quiet and I should be pleased to continue to co-operate with your force in endeavour to arrest this theiving in any way that I may be able.

Of the seventeen ponies stolen at Belknap seven were branded G on right shoulder, the other ten not branded but are described as seven (7) horses two (2) mares with colts, and one (1) dark blue roan Stallion.

The Crow ponies are not described, but those lost at foot of Bear Paw Mountains are all branded. Men left jaw with the exception of the horse which has Y on left thigh.

Any assistance you can give in the recovery of this stock will be appreciated.

I have written full descriptions of the same to the Agency at Piegan Agency.

I am Colonel

Very respectfully

Your obedient servant

(Signed) D. S. Otis

Colonel 20th. Infantry Commanding.

NAC RG 18  
Vol. 35  
File 479-89



North-West Mounted Police,

HEAD QUARTERS,

P Regina, 13<sup>th</sup> May 1889

Ref. No.

157



Sir, I have the honor to forward the accompanying copy of a letter from the Officer Commanding the U. S. Troops at Fort Rossburn, Montana, on the subject of horse stealing by Piegan and Blood Indians from these Territories.

Every effort will be made to prevent these Indians again committing depredations of this nature. The Officer's Commanding at Red Deer and Wettable have been notified to keep a sharp look-out for

The Comptroller.

Thema



North-West Mounted Police,

HEAD QUARTERS,

188

Ref. No. \_\_\_\_\_

for the stolen stock in  
the event of its being  
brought into this country,

I have the honor to be

Sir,

Your Obedient Servant.

L. A. B. H. H. H.  
Commissioner



Copy.

2,780

Indian Agent's Office.

Blood Agency.

May 17th, 1906.

Sir,

I have the honour to inform you that on the 14th inst. I sent you the following telegram in cipher, which I would now confirm:—

"War party, Bloods returned Sunday, at 10 o'clock.

"Sold, - some time ago. In consequence of 17-

"died from the war. Will return soon."

It will appear that some time ago a party composed of the following: "Young Pine," "The Scout," "Private Chisum," "Old Man," "Wolf Robe," "Crazy Crow," and a South Platte left here for the Crow Reserve, to attend horses. To-day "Young Pine," accompanied by "Red Crow" and others, came to the agency, and told us the whole story; as will--

"We arrived near the Crow Reserve, without

"going near the people near on the Crow

"Ventures; we took care of horses from the Crow

"and felt good; we did not have any trouble

"until we got to the little houses and saw

"raw animals; we then had a bad storm, and got



"got lost; we stayed two days; the next day we  
"made six miles, and killed some antelope; it  
"was not noon, we were eating when the Gros  
"Ventres charged on us; we ran off, taking our  
"horses; the Gros Ventres overtook us, and  
"started shooting at us, and did their best  
"to kill us; we thought they wanted to kill us,  
"as they killed six of us three winters ago;  
"they ran us a long time, and we got tired and  
"hungry; they fired a long time, and we return-  
"ed their fire."

"Galf Hobe, who speaks Sioux and Gros  
"Ventres, shouted to them that we had been to  
"the Gros, and not near them; they fired at  
"him while he was talking. He then tried our  
"best to kill them. He fought as we ran, and  
"killed an Indian about 300 yards off; and kept  
"running away, the Gros Ventres after us. As  
"we were running the Indians got off their  
"horses ahead of us, we did not see them until  
"they fired. He got hot; one of those two  
"looked after us; we charged on him and fired,  
"he returned our fire; we ran him into some  
"bushes, got close to him and killed him. He  
"was an Assiniboina. We took his gun, but  
"did not touch his clothes. The Gros Ventres  
"were so close to us here, that we had to leave



"leave the loose horses which we had stolen.  
 "After this, we ran away up the fair way down-  
 "tain, made rifle pits, and stopped here a long  
 "time; we saw the Gros Ventres below as they  
 "gathered together, and climbed the mountain  
 "after us; it was now afternoon; we saw that  
 "we thought were quite run, got scared and ran  
 "again down the mountain, and crossed the trail-  
 "road; saw the Indians after us. It was near  
 "sun-down, our horses were gone up, and we  
 "rested a little time, the Gros Ventres being  
 "close up. At dark, four of our horses came  
 "out, the Gros Ventres got them; the horses we  
 "gave got were a pair, and also our five  
 "out. We travelled all night, and did not  
 "have any greater trouble."

"The Gros Ventres killed six Hocks who  
 "had a pass;--nothing was done to them. I  
 "thought you would be glad that we had killed  
 "them. The Gros Ventres started the trouble.  
 "They stole 'the crow's' horses, and gave you  
 "lots of trouble to get them back. You know  
 "it is our custom to take revenge. The In-  
 "dians are all glad at our killing the Indians,  
 "for the six killed by them. I am ashamed to  
 "explain this to the police chief."

"We killed them across the line. The  
 "Americans paid no attention to our Indians who



"who were killed. He depends upon you to get  
"us out of the trouble."

"If we get clear of this the Floods will  
"be glad, and the trouble ended."

"The time the Floods were killed 'Red  
"Crow' made no trouble, nor talked bad; it is  
"these whites are; we only killed two, and  
"killed six Floods."

"I was poor for horses, and I went to  
"steal from the Indians, not from the whites.  
"We leave it to you and 'Red Crow' to settle;  
"I have told you the truth."

(On being closely questioned I could elicit  
nothing further. They brought in five horses, four  
they have delivered to me, three of which are ponies  
the other a fairly sized rounded horse; the fifth  
"Galf Roba" has; the Indians promised to get it.

After giving "Young Jim" a good talking to, I  
advised him to get the rest of the party, and give  
themselves up to the police; to this he agreed, and  
further, that if the others did not go, he and "The  
Scout" would go, provided "Red Crow" and I would  
take them; to this we assented. I expect them here  
to-morrow.

It had been reported to the police that some  
Floods had been to the Pig Sandy, between Fort As-  
siniboine and the Coal Bank Missouri River, also to



to Grand Falls, above Fenton. I questioned the Indian closely on this subject; his reply was that they had not been there, but straight to the Crow Reserve.

The Bloods brought two scalps, which must have been taken off the man killed in the brush, as they could not tell who the first Indian killed was.

There was more or less excitement when they first arrived, but it has all cooled down since.

"Irratie Chisken"—"Old Man" was the leader of the party,—he is a bad lot.

The general opinion around the reserve is, that the Bloods have now got even with the Gros Ventres.

I have, etc.,

Wm. Beckington.

I. A.

The Indian Commissioner.

Regina. Assn.

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Vol. 35  
File 479-89



Copy

N.W.M. POLICE

Fort Macleod, 21st May, 1889.

To the Commissioner

N.W.M.P.

Regina,

Sir,

I have the honour to make the following report for your information. In my report for April I stated that I had received information from R.S. Lingley Big Sandy, Montana Territory, that a party of Blood Indians were over there stealing horses and that I had sent Insp Macpherson and a party to patrol the lines until their return.

I received a second telegram from Lingley on the 4th inst to say they had stolen 17 saddle horses from him. Another telegram arrived on the 7th from R.H. Harrison, Helena, Montana Territory stating that the Bloods had run off 40 horses from the Growe on the 3rd and were expected to cross the Missouri at Coal Banks about 15 miles below Great Falls. Copies of these telegrams were sent to Insp Macpherson with instructions to use every endeavour to catch the thieves on their return to this side.

On the 10th a telegram was received from the Officer Commanding Fort Assiniboine U.S. that nine Bloods had passed through the Bear Paw Mountains on the 8th with stolen

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stolen stock and had killed some Gros Indians, and that the Cavalry were in pursuit. Several rumours came in from the Reserve brought by Indians who claimed to have seen "Prairie Chicken old man" party and who reported that they were all killed by a party of Gros Ventres in Bear Paw Mountain. Credence was given to this report as the relatives of the men were mourning for them.

On the 16th Insp Macpherson's party captured "Ben" or the man who makes complaint" who was one of the party and sent him into the Post.

On the 18th he caught "Hind Gun" together with "Young Pine" and "The Scout" who by the advice of the Chief gave himself up to Indian Agent Pocklington who brought them into the Post.

"Young Pine" gives the following account of the trip. There were 6 of them left the Reserve, 5 Bloods and one South Piegan, and they struck through the Bear Paw Mountains, then crossed the Missouri below Judith River, passed Medicine Buttes, crossed the Yellow Stone and struck Big Horn River at the Crow Agency. At dark they drove off over 100 head of horses, but they were very poor and many dropped along the trail. They returned re-crossing the Missouri and entered Bear Paw Mountains. They were delayed there two days owing to a severe snow storm. On the second day they were surprised by a large party of Gros Ventres who commenced shooting at them. They jumped on their horses and went further into the Bear Paw Mountains. The Gros Ventres continued to fire at them and they fired in return and saw some of the enemy drop.

They

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They then continued their retreat when they found two Indians on the trail in front of them. They pursued them into the brush and killed one of them, an Assiniboine, "The Scout" took his horse and "Prairie Chicken old man" his gun and scalp. Just then one of the party saw a number of American Cavalry coming to cut them off, so they continued to retreat, leaving nearly all the stolen horses in the hands of the Gros Ventres. They at length arrived on their Reserve with 5 stolen horses and one stray one they found in the prairie. These they handed over to their Chief who in turn handed them over to us. They are at present running with out herd.

Insp Macpherson's patrol sent in two more of this party, viz; "The Bee" and "Hind Gun" and three horses and still remaining out to try and arrest the remainder of the party.

I have the honour to be

Sir

Your obedient servant

Sgt S.B. Steele Supt

Commanding Fort Macleod

NAC RG18  
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File 479-89



IN Y<sup>6</sup> REPLY REFER TO  
 75,259.  
 ALSO TO THE DATE OF THIS LETTER



Ottawa, 30<sup>th</sup> July, 1891.

Sir,

I have the honour to acknowledge the receipt of your letter of the 28<sup>th</sup> instant, enclosing copy of a letter from Superintendent Steele, Commanding the N. W. M. Police in the Macleod district, and of your reply thereto, respecting the supply of ammunition to Indians by a man named Edwards, living at the Cut of Banks, South of the boundary, and in reply, I beg to inform you that the Indian Commissioner for the N. W. Territories has been instructed to report what action, if any, he considers it advisable to take, with a view to prevent

Frederick White Eagle

Comptroller, N. W. M. Police,  
 Ottawa.

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 Vol. 64  
 File 279-92

Report to the Commissioner for

the information J. S. Mather -

Comp.

24/7/91

Res. Secy Commr

24/7/91

44



prevent, if possible, our Indians from  
being provided with ammunition in  
the manner described.

Your obedient Servant,

*Wm MacGill*

---

Deputy of the Supt. General  
of Indian Affairs.



Fort Macleod, 11th August 1891.

The Asst Commissioner

N.W.M. Police.

Regina.

Sir,

Referring to your letter No 158 of the 1st inst, with reference to Canadian Indians purchasing ammunition South of the line, I have the honor to inform you for your information and that of the Department, that Edward's place at the Cut Banks where the ammunition is procured is 43 miles South of our St Mary's detachment.

Sergt Cotter who was recently on duty across the line states that he saw an Indian purchase a box of cartridges at "Kipps" trading store, and on his expressing surprise at Indians being allowed to purchase ammunition the Clerk told him that there was no law against it. He also informs me that Blood Indians returning from the States have told him they can get all the ammunition they require without trouble.

I have the honor to be

Sir,

Your obedient Servant.

(Sgd) S.B. Steele

Supt Commanding District.

NAC RG18  
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File 279-92.



Privy Council  
Canada.

Copy!

N:48.

Sir J. Panncofote to Lord Stanley of Preston.

Newport, R. I.  
21 Sept., 1891.

My Lord,

I have the honour to acknowledge the receipt of Y. E. despatch N<sup>o</sup>. 81 of the 12 inst., respecting the sale of fixed ammunition to Canadian Indians at a place called Cut Banks, in the district of Montana, and, in accordance with Y. E. request, I have duly brought the matter to the attention of the U. S. Secretary of State with a view to measures being adopted, should it be found practicable to prevent the supply of fixed ammunition and ball-cartridges to Canadian Indians crossing the line into the U. S.

I have &c

Lgd. J. Julian Panncofote

Privy Council.  
Referred to the Superintendent General of Indian Affairs,  
(Lgd. John McGeer Sep. - 28/91.

A. E.

The Governor General

&c. &c. &c.



2123

156  
Department of the Privy Council,  
To The Comptroller of the  
North West Mounted Police, Ottawa, 28<sup>th</sup> Sept 1891

OFFICE OF THE COMMISSIONER  
OCT 6 1891  
N.W.M.P.

By an Order in Council dated 7<sup>th</sup> September 1891, it was ordered that in view of the reported sale by one Edwards, of Cut Banks, Montana, U.S.A. of fixed ammunition to Canadian Indians, the attention of the United States Government be called to the fact that such sale is prohibited in Canada, with a view to steps being taken, if possible, to prevent the sale, gift, or other disposal of fixed ammunition or ball cartridge to Canadian Indians visiting the United States.

John McFie  
Clerk of the Privy Council

COMPTROLLER'S OFFICE  
SEP 28 1891  
N.W.M.P.

Report to the Commission to  
not return  
28/9/91  
J.W. Whitt  
Compt.

COMPTROLLER'S OFFICE  
SEP 28 1891  
N.W.M.P.

Noted & returned  
Attentive  
W.M.

Calgary O.W. 4<sup>th</sup>

NAC R-18  
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File 279-92



N. W. M. Polico.

District Office.

Fort Macleod 22<sup>nd</sup> Jan'y 1892

The Comptroller

N. W. M. Polico.

Regina

Sir:-

Scout Denny, who has recently been at the South Regina Agency in connection with the extradition of Ford for the murder of Mathew, informs me that while there he had repeated conversations with Major Still the Indian Agent about the reported sale of fixed ammunition to Indians by one Edwards of the Cut Bank Montana and that he was given an opportunity of reading and discussing the official correspondence from Major Still in regard thereto.

The Indian Agent and others at the Agency to whom the matter was referred deny that such a man as Edwards ever lived at the Cut Bank, I have therefore referred the matter to my informant Inspector Macpherson and have the honour to enclose a copy of his reply. My own impression is that probably in interpreting, the Cut Bank was mistaken for Birch Creek where I believe it will be found that Edwards was acting as  
Salesman

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Salesman and clerk for Uphaus.

There is no possible doubt that furs & ammunition was sold along the frontier to any Indians who wished to procure it and that Canadian Indians when across the Boundary availed themselves of the opportunity to purchase what they required.

I shall do my utmost to obtain the fullest particulars for your information.

I have the honour to be

Sir,

Your obedient servant

W. H. L. Supt.  
Comdg. Mackinac Dist.



Stand Off 22. 1. 92

Sir

I have the honour to state, when in charge of the Southern detachments of the Macleod Dist, last summer near the International boundary, I noticed that many of the Indians travelling were carrying ammunition. Knowing it was against our laws for Indians to be sold fixed ammunition, I made it my business if possible to find out where they were getting the same, in many cases the Indians would say relations or friends had given it to them across the line. In July two Indians came to the St Mary's Det, one was a blood named "Bear Skin Bone" the other a South Peigan named "Fish One" the South Peigan had a cartridge and some ammunition, which I had taken from him while in this country, and asked where he got the ammunition, he said he had bought it,

I asked if they could buy it on the other side of the line, he said yes. I then asked where, he said from a man named "Tom" at Birch Creek and a man named Edwards at the Cat Bands,

The Police Interpreter Wagoner was the Interpreter, Sergt Collier & Const Wright were present. The man Edwards if it is the man who I think it is, he used to work for Mr. Uphaus



in his store at Birch Creek,  
I have seen him there myself.  
I reported this at once to you as I  
thought it my duty to let you know  
and keep you posted in all such  
matters

I have the honour to be

Sir

Your obedient servant

Sgd

D H. Macpherson

Trop

To

Officer Comd

Macleod Det





CUSTOMS - DEPARTMENT.

CANADA.

Ottawa, April 28th, 1893.

JOHN ANGUS, ESQ., ONE OF THE HEAD MEN SEVEN NATIONS  
INDIANS.

SIR:-

Referring to the petition presented by you, on behalf of your tribe, complaining of probable exaction of Customs duties which you fear would be made by the local Customs Officer at St.Regis, on goods which any member of your tribe may obtain in the United-States as the result of bartering Baskets etc. made on the Canadian side, for goods of various kinds of United-States production.

I am desired by the Controllor of Customs to advise you, and through you, the members of your tribe, that such instructions will be issued by this Department to the Customs Officer at St.Regis as will remove all ground of difficulty and complaint to you in the matter in question.

I have the honour to be,

Sir,

Your obedient servant,

T. J. WATTERS.

Assistant Commissioner.

*Vide File 1947-1893*



COPY

95.

(102578)

D.J. 509/93.

Department of Justice, Ottawa, 27th May, 1893.

Sir,-

I have the honour to return file 102,182 of the Department of Indian Affairs, which was referred by you on the 25th instant for an opinion on the point raised in Mr. Commissioner Reed's letter of the 20th instant, viz., Whether an Indian woman marrying an Indian of the United States, and living with him, coming across annually for a short period during the time of the annuity payments, is entitled to receive her annuity.

I am directed to state that such annual visits would not avail to prevent the operation of Section 10 of the Indian Act in the case of such a woman if the place where she and her husband have their home is in the United States; and that in five years after taking first taking up her residence in the United States, if she had always during that period had her home there, and if she had not obtained the consent required by the Statute, she would cease to be a member of her band and to be entitled to annuity. Until the expiration of such five years continuous residence, she would retain her right to share in the annuities of the band although she would cease in every other respect to be an Indian within the meaning of the Act (Section 10).

I am, Sir, &amp;c.,

Ed. E. L. Newcombe,

Deputy Minister of Justice.

The Deputy Supt. General  
of Indian Affairs,  
Ottawa.

NAC RG26  
Vol. 74  
File 1648



Copy.

Office of the Commissioner of Indian Affairs,  
Regina, 28th February 1895.

The Commissioner,

N.W.M. Police,

Sir,

I am in receipt of a communication from the United States Indian Commissioner under date 5th Instant, to the effect that complaint has been made to him by settlers in the Flathead Valley, in North-Western Montana, that certain Cree Indians, residing in British Columbia, have been and are in the habit of entering the Flathead Valley for the purpose of hunting game and that during these expeditions they steal from the settlers horses and everything that they can lay their hands on and retreat to Canadian soil before they can be taken. I have made enquiry into this matter and have obtained information from our Morley Stonys to the effect that to their knowledge there are now residing permanently in the Flathead Valley or vicinity, some eleven lodges of fugitive Cree Indians, under the leadership of one Wah-pay-new, all of whom left this Country after and in consequence of the rebellion of 1885.

these are evidently the Indians complained of, but there is no reason to believe that they have ever at any time since re-entered the Dominion, in fact everything points to their having been continuously resident in U.S. Territory. I have advised the U.S. Indian Commissioner to this effect, but at the same time I think it would be well to take steps to prevent any possible use of the Territory adjoining the Boundary, as a centre from which raiding might be carried on to the south of the line, and I should be glad if you would look into the matter and take such precautionary measures as you may deem necessary. The locality referred to is, I think, in the vicinity of where the Boundary Line is intersected by the 118th Meridian and from thence South.

(Sd) A.B. Forget,  
Asst. Commissioner.



*The point on the Boundary Line referred to is a long way within BC. The 118th Meridian is a long way within BC. The 118th Meridian is a long way within BC.*

NAC RG18  
Vol. 104  
File 236-95



1895

No. 236

## NORTH WEST MOUNTED POLICE.

Canadian Cree Indians  
Complaint of U. S.  
Indian Cour. against,  
for stealing, south  
of the line,

NAC RG18  
Vol. 107  
File 236-95



7th February 1896

6

THE ANACONDA STANDARD, FRID

# Butte Department.

## WHERE IT DROPPED

Volumes of Early Correspondence on the Cree Question.

EFFORTS OF THOMAS O. MILES

Notes From Blaine, Weed, Governor Toole, Department of Dakota and the Canadian Authorities, Still the Pests Are Here.

The dispatches from Helena in yesterday's Standard speaks of a letter received by Governor Rickards from Secretary Olney on the Cree question, mentioning the agreement which had been arrived at with the Canadian government in 1892.

There are not many who realize how near the people came to getting rid of the Crees at that time, and few know the circumstances under which the removal of the pests was suddenly cut short.

The credit of accomplishing what was accomplished in this movement four years ago is due primarily to Thomas O. Miles, of Silver Bow Junction, who first started the agitation to remove the Crees and who has the entire history of the movement in documentary form.

Mr. Miles has probably had to endure more from the Crees than any other one man in the state. Every winter a big band of the pests come to Silver Bow county and locate here, and always pick out a camp close to Miles' ranch. He has suffered from their depredations more than any man could be expected to suffer.

Mr. Miles first began the agitation of the removal of the Crees to Canada more than four years ago. He first published a letter in the Inter Mountain detailing the pest. The letter came to the attention of United States Attorney D. D. Weed, who wrote Mr. Miles the following letter:

"My attention was drawn to your recent communication in the Inter Mountain relating to the Cree Indians. It is not to be wondered at that you and other settlers in the vicinity have about lost patience with the dilatory methods of the United States government in dealing with this matter. These renegades should be taken back to the British possessions where they belong. They have no rights here whatever and are trespassers pure and simple. I am altogether unable to understand why the government does not insist upon their speedy removal. Very respectfully,

"E. D. Weed."

Mr. Weed followed this letter up with a letter to Washington, as follows: "Honorable Secretary of War, Washington, D. C.:

"Sir—I enclose herewith printed copy of letter of Thomas O. Miles, Silver Bow Junction, Mont., relating to a large number of Cree Indians who are now encamped in Silver Bow and Deer Lodge counties, Mont. These Indians are the renegade Crees from the British possessions. They belong across the border and should be under the charge of the officials of the Canadian government. They are mere trespassers within the United States. Their presence here is very offensive to all settlers who are fortunate enough to live in the vicinity of their camps. It is the habit of these renegade Indians to wantonly destroy all game, without regard to local laws or regulations, to steal stock of the settlers, and generally subsist by larceny and plunder. They have no business whatever here and should be immediately removed to the British possessions where they belong. I respectfully recommend that such measures as may be necessary for this purpose be taken without delay by the

stated to have wandered from the Northwest Territories of Canada into Montana, I have the honor to enclose herewith a copy of an approved minute of the privy council of Canada, embodying a report on the subject by the Canadian superintendent general of Indian affairs, which has been transmitted to me by the governor general of Canada for communication to you. I have the honor, etc.,

"Julian Pauncefoot,"  
"Privy Council, Canada."  
"Certified Copy of a Report of a Committee of the Honorable, the Privy Council, Approved by His Excellency, the Governor General in Council, on the 29th March, 1892."

"The committee of the privy council have had under consideration a dispatch dated 28th January, 1892, from her majesty's minister at Washington, enclosing a copy of a note dated 28th January, 1892, received from the United States government on the subject of certain Cree Indians who are stated to have wandered across the boundary line from the northwest territory of Canada into Montana."

"The superintendent general of Indian affairs to whom the dispatch was referred states that a copy of the dispatch and enclosures were forwarded to the Indian commissioner for Manitoba and the northwest territories for his report on the statements made therein, and a letter dated the 17th of March has been received from that office, in which he states that, with the exception of a few Indians who go for the purpose of visiting their friends in the United States, and returning, nothing is known of Cree Indians having gone across the line since certain refugees went over after the half-breed and Indian troubles in the Northwest in 1885."

"The Indian commissioner suggests the possibility of refugee French half-breeds having been confounded with Cree Indians."

"The minister further states with regard to the suggestion made by Mr. Blaine in his letter that the Canadian authorities should cooperate with those of the United States in proper measures for the removal of the Indians in question from the territory of that government, that there would seem to be no objection, upon the department of Indian affairs being advised of the time and place at which any Indians belonging to Canada, who have been guilty of marauding in the United States territory, would be brought to the boundary line, to instructions being sent to the officers of the Northwest Mounted police to dispatch a detachment of police to the point for the purpose of taking over from the military of the United States the Indians or such of them as belong to Canada."

"The committee concurring in the above report, recommend that your excellency be moved to forward a copy hereof to her majesty's minister at Washington."

"All of which is respectfully submitted for your excellency's approval."

"John J. McGee,

"Secretary of the Privy Council."

"That was all the United States wanted and the road was clear for the moving of the Crees. The Canadian government had granted all that could be possibly asked of it. They had agreed to receive the Crees, provided they belonged in Canada, if the United States would take them as far as the boundary line. The only difficulty was that the United States never did that. All that can be done now can only bring the Canadian government to agree to what they consented to do four years ago, and it does not seem right to ask them to agree again to what they have already agreed to."

Mr. Miles received from Senator Power a letter saying that he believed now the governor could remove the Indians to the line. Then he received a letter from Governor J. K. Toole, in which the governor expresses the hope that now they will speedily get rid of them. That letter was dated April 26, 1896.

Miles hopes that Governor Rickards and others who are now taking up the lost thread will continue from where he left off and will be able to get the Crees to the line, something which he had hoped to bring about. At least he hopes that the present investigation will reveal how and why the whole matter was dropped so suddenly in 1892, and why he was unable to ascertain the cause.

HORSE TALK

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Letter in the Int. Mountain  
detailed the post. The letter came to  
the attention of United States Attorney  
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following letter:

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"E. D. Weed, U. S. Attorney."

Much correspondence followed between Mr. Weed and the secretary of state at Washington. The various unlawful acts of the Indians were recited and the details of the contagious disease affecting their horses and other domestic animals and communicated to animals of white settlers, were laid before the officials at Washington as well as before State Veterinary Surgeon Holloway.

On Jan. 25, 1892, the following was received by Mr. Weed from the secretary of state:

"I have the honor to acknowledge with thanks the receipt of your letter of the 18th inst., relative to the incursion of Cree Indians from Canada into the United States, and to inform you that action has been taken by this department looking to the adoption of measures for the removal of the Indians in question from our territory. I am, sir, your obedient servant,  
"James G. Blaine."

That was encouraging indeed, and through Mr. Blaine's interest in the matter rapid progress was made. Senator Thomas C. Power, who had also become active in the matter, received an autograph letter from Mr. Blaine which is in Mr. Miles' possession and is carefully treasured by him. It is as follows:

"Department of State, Washington, D. C., April 29, 1892.

"The Honorable Thomas C. Power, Senate:

"Sir—Referring to your letter of the 26th of February last, in relation to a band of Canadian Cree Indians that has settled in Silver Bow county, Mont., I have the honor to enclose for your information a copy of a note from the British minister at the capital, enclosing a certified report of the Canadian police council from which it appears that the Canadian authorities are prepared to take back the Indians, belonging to Canada, upon their being taken to the border by our authorities for that purpose.

"A copy of Sir Julian Pauncefote's note, above mentioned, will be sent to the interior and war departments, requesting those departments to instruct the proper officers to co-operate with the governor of Montana in the matter of sending the Indians in question back to Canada. I have the honor to be, sir, your obedient servant,  
"James G. Blaine."

Enclosed with Mr. Blaine's note was the following:  
"British Legation, Washington, April 6, 1892.

"The Hon. James G. Blaine, Secretary of State:

"I refer with reference to my note of the 26th of January last, regarding the case of certain Cree Indians who are

those of the United States in proper measures for the removal of the Indians in question from the territory of that government. That there would seem to be no objection, upon the department of Indian affairs being advised of the time and place at which any Indians belonging to Canada, who have been guilty of marauding in the United States territory, would be brought to the boundary line, to instructions being sent to the officers of the Northwest Mounted police to dispatch a detachment of police to the point for the purpose of taking over from the military of the United States the Indians or such of them as belong to Canada.

"The committee concurring in the above report, recommend that your excellency be moved to forward a copy hereof to her majesty's minister at Washington.

"All of which is respectfully submitted for your excellency's approval.  
"John J. McGee,  
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That was all the United States wanted and the road was clear for the moving of the Crees. The Canadian government had granted all that could be possibly asked of it. They had agreed to receive the Crees, provided they belonged in Canada, if the United States would take them as far as the boundary line. The only difficulty was that the United States never did that. All that can be done now can only bring the Canadian government to agree to what they consented to do four years ago, and it does not seem right to ask them to agree again to what they have already agreed to.

Mr. Miles received from Senator Power a letter saying that he believed now the governor could remove the Indians to the line. Then he received a letter from Governor J. K. Toole, in which the governor expresses the hope that now they will speedily get rid of them. That letter was dated April 26, 1892. Mr. Miles waited weary months, but could learn of no further move. He had almost despaired when he received the following from the governor:

"Helena, Dec. 3, 1892.  
"I am in receipt of yours of the 27th of November in re Cree Indians. Correspondence with the state and war departments looking to the removal of these Indians across the border has been unavailing and I am powerless in the premises. I realize as much as you do that these people are not only undesirable but that they are a positive detriment and a continuous menace to people in sparsely settled communities. The last expression of the war department is to the effect that thorough investigation discloses the fact that the Cree Indians are a 'very useful and necessary people' in this country, and that if they were removed they would be very much missed by our citizens. Yours truly,  
"J. K. Toole."

This was discouraging indeed. Hope revived with Mr. Miles a little later, however, on receiving this letter:

"Office of Quartermaster, U. S. A.,  
"Helena, Mont., Dec. 25, 1892.

"Mr. Thomas O. Miles:  
"Sir—I have been directed by the general commanding the department of Dakota to make an investigation as to the condition of affairs to be apprehended from the presence of parties of Cree Indians in Silver Bow county. I applied to the United States district attorney for such specific data as he might have bearing upon the subject and was by him referred to you. If it will suit your convenience to meet me at Silver Bow Junction Wednesday morning, Dec. 28, I will arrange to be there at that time. I wish to ascertain where these Indians come from and what their number and condition, the number and condition of their horses and any other information obtainable concerning them.

"I would like to meet some of the principal men among the Crees in your vicinity and to have an interpreter at hand. I will also be pleased to meet any of your neighbors, who may be interested in the subject. Very respectfully,  
"J. M. Marshall,  
"Quartermaster U. S. Army."

The officer came, got his information, talked with the Crees and returned to Helena. Mr. Miles was for some time unable to get anything further from him, but finally received the following:

"Helena, Jan. 26, 1893.

"You are respectfully informed that I have received your letter of the 23d, and forwarded it to headquarters department of Dakota at St. Paul, Minn. As I have no authority to proceed further in the matter referred to until I receive instructions from the commanding general to do so. Very respectfully,  
"J. M. Marshall."

That was the last. Mr. Miles wrote dozens of letters to Mr. Marshall, inquiring about the status of the case, but has never been able to get an answer. So the matter stopped, and Mr.

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IN YOUR REPLY REFER TO  
- 184,138  
ALSO TO THE DATE OF THIS LETTER

ADDRESS REPLY TO THE  
DEPUTY Supt GENERAL OF INDIAN AFFAIRS  
OTTAWA.



Ottawa, March 26th, 1896.

Sir,

I have the honour to inform you that this Government has determined to comply with the request of that of the United States, to co-operate with it to compel refugee Indians from the North West Territories to leave the State of Montana and return to the Reserves to which they properly belong.

The Department is instructing the Indian Commissioner for Manitoba and the North West Territories that when all arrangements shall have been completed he will communicate with the Governor of the State of Montana and learn when and at what point on the International Border the Indians referred to will be handed over to us. Doubtless about the middle of May would be the best time, but pending detailed arrangements the Minister desires me to request that you will be kind enough to instruct Mr. Police Commissioner Herchmer to consult with the Indian Commissioner, Regina, and arrange when the proper time arrives to send a sufficient escort of Police to take over the refugees and see that they reach their respective destinations.

The following are, as far as can be ascertained, the number of the Indians and the Reserves or Districts to which they will have to be escorted :

Moose

Fredk White, Esq.,  
Comptroller  
North West Mounted Police Force,  
Ottawa.

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Moose Mountain.....	53
Assiniboine.....	21
Muscowpetung.....	9
Duck Lake.....	30
Battleford and Onion Lake...	372
File and Touchwood Hills...	8
Saddle Lake.....	1

The proportion of men, women, and children  
is not known to the Department.

Your obedient servant,

*H. J. [Signature]*  
Deputy Superintendent General  
of Indian Affairs.

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25  
North West Mounted Police,

HEAD QUARTERS,

Ref. No. ....

Regina, 1st April, 1898. 189

Sir,-

Re escort for Cree Indians, returning  
from the United States.

Referring to your letter of the 28th Ultimo. I have the honour to inform you that I met the Commissioner of Indian Affairs yesterday on the above subject, but having no information as to when the Indians referred to would arrive at the Line, or the localities at which they would be brought by U.S. Authorities, no definite arrangements could be arrived at. I, however, impressed upon the Commissioner the necessity of, as far as possible, bringing the Indians to the Line at two points, viz: North Portal & Coutts, as it would be quite impossible with our reduced strength to provide escorts for numerous small parties.

The Indian Commissioner will write the Governor of Montana and arrange, and I have requested him, when writing, to show His Honour the great advantage of delivering the Indians and their ponies at the Line by Rail, under which conditions we would be certain to receive them, as on the last occasion many escaped before being handed over to us, and that if possible the 878 Indians for Battleford Union Lake and Saddle Lake should be delivered at Coutts. These could be conveyed by rail to Edmonton. The Moose Mt. Assiniboine, Muscowpetung, Duck Lake, and Fife and Touchwood Indians, some 122, if possible should be delivered at North Portal, from whence they could be distributed with ~~possible~~ a special arrangement being made, in both cases, with the C.P.R.

I am convinced that this plan would be cheaper to both Departments than marching those whose Reserves are at a distance from the Line across Country.

Transport would have to be found for a considerable number, and also for their rations, which during a long trip would cost more than a special train over the C.P.R.

I return Mr Hayter Reed's letter, a copy of which I have retained.-

I have the honour to be,

Sir,

Your obedient Servant,

*W. H. L.*  
Commissioner.

The Comptroller,  
N.W.M. Police,  
Ottawa.

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## Extract from Supt. Deane's Report.

Received Sept 22/96

LETHBRIDGE, 1st. August, 1896.

Dear Sir,  
 I have the honor to acknowledge the receipt of your letter of the 21st inst.

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They

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she had her little child in Montana and was earning her own living, was put into the waiting room and compelled to leave all of her belongings, as in other similar cases. One English cattle-herd, named Inwinter, belongs to Calgary and was on visit in Montana. He too was put in and loaded destitute on the boundary. An old French half-breed and his wife, who have taken scrip, were not allowed to collect their horses and other belongings that they have been brought; if they who asked me if I could give them any sort of aid. The Officer told them the Canadian Authorities wanted them, and not their horses and property. I asked them if they had noticed that the American Officer was present when I explained the true state of the case to the camp, and that he had an opportunity of correcting me if he wished. They saw the force of that. I told the Officer that if their Halibreads objected to coming with me I should be unable to coerce them, but the poor creatures were dependent on me for food, and I said I would take them until they reached Regina, whither I advised them to go and see the Indian Commissioner. After the camp was taken into Quarantine, of course, they could not be allowed to leave, but as British subjects they have suffered grievous wrong at the hands of the American Authorities. I am feeding the Indians on beef. It costs a little more than bison, but is better for them in their present condition. A substitute very good for tobacco and, as they can get none more, they use it, and I sent them a little. Also rice for some sick soldiers. One died of bronchitis among them only a few days after leaving their five miles journey from Minn. to the border. They were crowded in some place where, either by accident or design, they were put deep in water, and they had to stay there until the fire was kindled to make fire, while the American soldiers were sent for them. They asked that their children be given a good feeding mixture like thick milk "with" this in it, containing a grain of Cod-liver oil, and on the Doctor's recommendation, I procured one gallon of cod liver oil, and I am doctor of old and sent it to Corporal Sullivan, who has looked after them ever well.



Copy.

N. W. M. P.

Medicine Hat, 6th Sept. 1897.

To Officer Commanding,  
N. W. M. Police,  
Maple Creek.

Sir,

Re Indians.

I have the honour to report that acting under instructions contained in your memo of 3rd inst, this P.M. I visited the two Indian Camps, which are situated about two miles ~~xxx~~ from each other. Sanderson accompanied me and very kindly acted as interpreter.

The first Camp visited was that of "Butterfly", a Chief of some importance, who had with him 10 Lodges,--total 60, including women and children. The names of heads of Lodges are as follows:-- "Butterfly" and son "Singing-bird", "Day King", "Small Rump", "Sunchild", "The Night", "Sounding Dancer", "The-man-that-was-cut-up", "The Twin", "Blind Bat" and "Kenneth".

These Indians were all deported last year. He is now going south again, ostensibly to hunt for his ponies, having lost about 100 head since he left the States. He thinks they have all gone back to Missouri, from whence they came.

Answering my questions through interpreter, his statement is as follows:-- After deportation they were taken to Battleford, but were not put on any Reserve. The Agent gave them rations twice and told them they would have in future to "rustle" for themselves

He and his people will not go on a Reserve, or accept Treaty money, unless they can choose their own tract of country. In 1879 or 1880, they were promised a fine tract of land in the Cypress Hills, this they would like, but have been told they cannot get it.

Asked

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Asked what locality he would prefer now, said he "was not prepared to answer".

Asked what he and his people would do if the American Government forced them to return to Canada, as they probably would, replied that "under such circumstances they would know how to act" I thought it advisable not to press this question.

In reply to how many non-Treaty Cree Indians now in Territories without Reserves or visible means of support, i.e., Nomadic Indians, said "if all our people now roaming about without Reserves were collected there would be over 300 lodges", (which might be said to equal 1000 Indians free and unprovided for).

This old Indian "Butterfly" seems a fine old man, very intelligent, but somewhat proud and independent.

Adjoining "Butterfly's" camp was that of "Jingling Ties" 3 Lodges, all told 22 Indians.

Names:- "Jingling Ties", "Crooked feet", "The Turnip", and "Bladder Stony" (son of Turnip).

"Jingling Ties" and "Crooked feet" were deported last year and taken to Bare Hills R.

They are now hunting horses, but do not know if they will go over to U.S. States, but probably will if they don't find their horses on this side. They got no assistance on Reserve.

"The Turnip" and his son were deported at same time and were left at Red Deer. They wintered there. "Turnip" stated that 4 Lodges (all deported Indians) left Red Deer last Spring for South, via Lethbridge. He last heard of them at "Chief Mountain". Could not get their names.

The following Indians, who were deported last year along with others and left round about Med. Hat, have already gone back:- "The Circle", "Little Cow", "Little White Bear", "Pointed Nose", and others, and two Teepees of widows, most of these belong to "Frontman's" band.

We then proceeded to Lower Camp. In this Camp are the remainder

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remainder of "Frontman's" band, -13 Lodges, or 56 all told. None of these were deported last year as far as I could learn.

I know most of these by sight. They live about this District. Some of them winter at Sheep Creek, near Maple Creek, and others north in the Sand Hill Country.

There are also in this Camp four Lodges, 15 all told, just arrived. In my previous report I mentioned those men as coming from Gleichen and Bare Hills; my information was incorrect.

They are from Sandy Lake, near Battleford, and their names are:- "Horse Master", "Night Bird", "Timber Man", & "Medicine Child". These Indians, as far as I could learn, were not deported last year, but are now going south and do not intend to go back to Reserve until next year. Roughly speaking, there are all told 150 Indians here, or 30 Lodges.

Last night Mr. Forget, Indian Commissioner, saw me and had a long conversation with me about Indians. It would be presumptuous on my part to question the policy of the Government in respect to Indians, the outlines of which policy I received from Mr. Forget, but I honestly think the Indian Department are not aware of actual facts in regard to the feelings of the people on the other side. Even supposing these Indians are not noticed at first after their return to U.S. in course of time they will find them out and cause them to be again deported.

I have the honour to be,

Sir,

Your obedient servant,

sgd H. A. Still, Const.

.....

Forwarded for information of Commissioner. Const. Still instructed "to use utmost endeavours to prevent Indians leaving for States pending further instructions".

Maple Creek, 7-8-97

sgd L.A.Pare, Asst. Surg.  
For O.C. "A", A.O.D.

.....

Forwarded to the Comptroller. Requesting return after perusal.

10-8-97

sgd L.W.Herchmer.

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C O P Y

( Annex "a" to P.C. 3053, 2nd November, 1897 ).

Extract from the minutes of a meeting of the Honourable  
the Treasury Board, held at Ottawa, on the Twenty ninth day of  
October, 1897.

Customs:

The Treasury Board had under consideration a memorandum  
from the Hon. Minister of Customs reporting that a letter in the  
following terms was addressed to Geo. Lang, Sub-Collector of  
Customs at St. Regis, by the Assistant Commissioner of Customs  
on the 28th day of April, 1893:

"I am desired by the Controller of Customs to advise  
"you that in view of the disposition which has always been  
"evinced by the Government to extent to the Indians the greatest  
"possible consideration in the matter of goods obtained by them  
"in the United States, contiguous to their Reserves, as the  
"result of exchange of articles of Canadian Indian handiwork  
"for articles of United States manufacture or production, you  
"are hereby instructed to permit the free interchange of articles  
"as between the Seven Nation Indians or other Indians occupying  
"the Reserves near your station, and the adjacent United States  
"traders, who, as the Department is advised, are in the habit of  
"taking from Canadian Indians baskets and other articles produced  
"by their own labour and giving them in exchange such goods as  
"they may need."

"The Council of the Seven Nations have been advised  
"from this Department that these instructions would go to you,  
"and that all past privileges which they had enjoyed would not  
"be interfered with by you."

The Minister states that John Angus, one of the Head-  
men of the Seven Nations, has applied in person, on behalf of

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the Seven Nation Indians for a confirmation of this letter by His Excellency the Governor General in Council, and he recommends for consideration the expediency of authorizing the free interchange of articles as between the Seven Nation Indians or other Indians occupying the Reserves at St. Regis, and the United States traders, who are in the habit of taking from Canadian Indians baskets and other articles produced by their own labour and giving them in exchange such goods as they may need for their own use.

The Treasury Board regret that they cannot submit the memorandum for the favourable consideration of Council.



C O P Y

Letters to parties, 6-11-97.

3053  
Extract from a Report of the Committee of the Honourable  
the Privy Council, approved by His Excellency on the  
2nd November, 1897.

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Customs:

That the recommendation of the Minister of Customs as to the expediency of authorizing by Order of the Governor in Council, the free interchange of articles as between the Seven Nation Indians or other Indians occupying the Reserve at St. Regis and the United States traders, which privilege is now exercised under the terms of a letter addressed to George Lang, Sub-Collector at St. Regis, by the Assistant Commissioner of Customs on the 28th day of April, 1893, be not entertained.  
( Annex ).

(Signed) John J. McGee,

Clerk of the Privy Council.

The Honourable

The Minister of Customs.

NAC RG16 File A-7613





Ref.1301 No.5:

Ottawa, 37th March, 1900.

Dear Sir,

Referring to your letter of the 20th ultimo to the Minister, enclosing copy of a communication from Inspector Jarvis, dated Dalton Trail Post 29th December, 1899, with regard to the provisional international boundary at that point, I beg to state that the description of this boundary may be given as follows:-

"In the region of the Dalton Trail, a line beginning at the peak West of Porcupine Creek, marked on the map No. 10 of the United States Commission, December 31, 1895, and on sheet no. 18 of the British Commission, December 31, 1895, with the number 6500; thence running to the Klehini (or Klahela) River in the direction of the peak north of that river, marked 5020 on the aforesaid United States map and 5025 on the aforesaid British map; thence following the high or right bank of the said Klehini river to the junction thereof with the Chilkat River, a mile and a half, more or less, north of Klukwan, - provided that persons proceeding to or from Porcupine Creek shall be freely permitted to follow the trail between the said creek and the said junction of the rivers, into and across the territory on the Canadian side of the temporary line wherever the trail crosses to such side, and, subject to such reasonable regulations for the protection of the Revenue as the Canadian Government may prescribe, to carry with them over such part or parts of the trail between the said points as may lie on the Canadian side of the temporary line, such goods and articles as they desire, without being required to pay any customs duties on such goods and articles; and from said junction to the summit of the peak East of the Chilkat river, marked on the aforesaid map No. 10 of the United States Commission with the number 5410, and on the map No. 17 of the aforesaid British Commission with the number 5490."

Glacier

F. White, Esq.,  
Comptroller, N.W. Mounted Police,  
Ottawa.

10.

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Glacier Creek, spoken of by Inspector Jarvis, is not named on the map, but appears, from his description of its position, to be the large creek a mile or two west of Porcupine Creek, and entering the Klehini from the south. The provisional boundary from peak 6500 to the Klehini River appears to follow the ridge between this creek and the Porcupine, so that it is likely that all tributaries of the Porcupine are on the United States side of the line, and all tributaries of Glacier Creek on the Canadian side.

It would be well, however, to postpone any action concerning claims in the immediate vicinity of the line, that is as regards the easterly tributaries of Glacier Creek until the provisional line has been delimited. Arrangements have been made for beginning this delimitation about the end of May next.

As regards the head waters of Big Salmon River, the provisional boundary as agreed upon does not extend further south than the peak No. 6500. The jurisdiction over the head of Salmon River is therefore not yet determined.

Yours truly,

Deputy Minister.

ac.

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*Ref. 627,692 on 1,301, No. 6.*

EXTRACT from a Report of the Committee of the  
Honourable the Privy Council, approved by His  
Excellency on the 20th February, 1901.

On a Memorandum dated 6th February, 1901, from the Minister of the Interior, submitting herewith the joint report, signed by Mr. W. F. King, Chief Astronomer of the Department of the Interior, and Mr. Otto H. Tittmann, of the United States Coast and Geodetic Survey, the Commissioners appointed under the Modus Vivendi agreed to between Great Britain and the United States on the 20th October, 1899.

The Minister states that this report, with the accompanying maps, exhibits the operations of the Commissioners as regards the survey and demarcation, under the provisions of the above mentioned Modus Vivendi, of the provisional boundary line between the Territory of Alaska and the Dominion of Canada, about the head of Lynn canal.

The Minister recommends that the report and maps be deposited with the plans of survey and other documents of record in the Department of the Interior having reference to the external boundaries of Canada, and that copies thereof be laid before Parliament.

The Committee on the recommendation of the Minister of the Interior, advise that Your Excellency be moved to forward a certified copy of this Minute, together with certified copies of the said mentioned report and maps, to the Right Honourable the Secretary of State for the Colonies, for the information of His Majesty's Government.

All which is respectfully submitted for Your Excellency's approval.

(Signed)

JOHN J. MCGEE,

*Clerk of the Privy Council.*

To the Honourable  
The Minister of the Interior.

P.C. No. 303.

Report.  
Appendix.  
2 Maps filed in Survey  
Records Branch.

*One copy sent to  
Mr. Scott*

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With P. C., No. 402—1891; Ref. 627,692 on 1301 (No. 6.)

We the undersigned, Otto H. Tittmann and William F. King, Commissioners, on behalf of the United States and Great Britain, respectively, for the demarcation of the provisional boundary line between Canada and the Territory of Alaska, as provided for by the agreement of October 20, 1899, submit the following report upon the field work of the said demarcation.

The agreement relating to this provisional boundary line, under the authority of which our operations were performed, was entered into by Hon. John Hay, Secretary of State of the United States, and Mr. Reginald Tower, Charge d'Affaires of Her Britannic Majesty at Washington, and is as follows:—

‘It is hereby agreed between the Governments of the United States and of Great Britain that the boundary line between Canada and the Territory of Alaska, in the region about the head of Lynn canal, shall be provisionally fixed as follows without prejudice to the claims of either party in the permanent adjustment of the international boundary:

‘In the region of the Dalton Trail, a line beginning at the peak west of Porcupine creek, marked on the map No. 10 of the United States Commission, December 31, 1895, and on Sheet No. 18 of the British Commission, December 31, 1895, with the number 6500; thence running to the Klehini (or Klahccla) river in the direction of the peak north of that river, marked 5020 on the aforesaid United States map and 5025 on the aforesaid British map; thence following the high or right bank of the said Klehini river to the junction thereof with the Chilkat river, a mile and a half, more or less, north of Klukwan,—provided that persons proceeding to or from Porcupine creek shall be freely permitted to follow the trail between the said creek and the said junction of the rivers, into and across the territory on the Canadian side of the temporary line wherever the trail crosses to such side, and, subject to such reasonable regulations for the protection of the revenue as the Canadian Government may prescribe, to carry with them over such part or parts of the trail between the said points as may lie on the Canadian side of the temporary line, such goods and articles as they desire, without being required to pay any customs duties on such goods and articles; and from said junction to the summit of the peak east of the Chilkat river, marked on the aforesaid map No. 10 of the United States Commission, with the No. 5410 and on the map No. 17 of the aforesaid British Commission with the No. 5490.

‘On the Dyea and Skagway Trails, the summits of the Chilkoot and White Passes. ‘It is understood, as formerly set forth in communications of the Department of State of the United States, that the citizens or subjects of either power, found by this arrangement within the temporary jurisdiction of the other, shall suffer no diminution of the rights and privileges which they now enjoy.

‘The Government of the United States will at once appoint an officer or officers in conjunction with an officer or officers to be named by the Government of Her Britannic Majesty, to mark the temporary line agreed upon by the erection of posts, stakes, or other appropriate temporary marks.’

Having met for conference relating to and preparations for the field work, in Ottawa on the 18th, 19th and 20th January, and at Washington on the 23rd and 24th April we again met at Skagway on the 6th June and forthwith proceeded to the work in the region of the Dalton trail. This was completed by the middle of July. We then placed the necessary marks at the White Pass and the Chilkoot Pass and left Skagway, on our return eastward, on the 28th July.

In carrying out the demarcation the duties of the Commissioners were to identify the natural features named in the description and to trace out the line described, placing a sufficient number of marks to render the line easily recognizable.

The mountain peaks were readily and surely identified by means of the maps referred to in the agreement with the assistance of the photographs which had been used in the construction of those maps.

The ‘high’ bank of the Klehini river is that bank which bounds the stony flat in which the river flows and marks the ordinary limit of its shifting channels, although at the same time this ‘high’ bank may not be absolutely the bank of extreme flood water. This fulfils the intention of the agreement by providing a natural and easily traced mark, not subject to continual change, as would be the centre or edge of the river. The impossibility of adopting any other definition of ‘high’ bank consistently was manifest

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from the conditions existing at or near the junction of the Klehini and the Chilkat rivers, where the adoption of a bank rising above the highest flood level would have produced a result clearly not contemplated by the agreement. At one place only, the flat on which stand posts Nos. 8, 9, 10 and 11, was it found difficult to trace out a 'high' bank which would be sufficiently straight to form a convenient and unmistakable boundary. This case will be hereinafter referred to again.

The artificial marks placed are bars of wrought iron  $1\frac{3}{4}$  inches square and 5 feet long. The lower ends were pointed with ragged edges to prevent the posts being easily pulled up. Near the top of the posts were fixed, by bolts, small rectangular targets of iron or brass, carrying the necessary inscription. This was, on the one side, 'P. B.' (for provisional boundary) '1899, U. S.', and on the other side, 'P. B., 1899, Canada.' Most of the posts were painted red on the Canadian side and blue on the United States face.

Where the solid rock was not found the usual method of planting the posts was to dig a hole about 3 feet deep, and place therein a log 8 or 10 inches in diameter, into which the post was solidly driven. The earth was then thoroughly tamped on top of the log and around the post.

On the summit of White and Chilkoot Passes the posts were set in holes bored in the rock, and securely fixed by pouring in melted lead.

In the following description of the places of the posts the order of survey is followed nearly, and the posts are numbered (for purposes of reference merely, no numbers having been placed upon the posts themselves), from east to west in the Dalton Trail region, being in the opposite direction from the order of the description in the agreement.

The initial point is the peak behind Klukwan village, altitude by the maps, 5410 or 5490. This peak presents a sharp appearance to the west and has not been marked by us. From it the line runs down the mountain side, in a direct line, to the post planted on the bank of the Klehini at its junction with the Chilkat river. The intervening distance is, except near the mountain summit, through large cottonwood and spruce timber with much undergrowth. The line has been well cleared out.

Post No. 1 is at the foot of the steep part of the mountain and is the last point from which Klukwan peak can be seen until the observer has climbed above the timber line. Post No. 2 is 1,165 meters from Post No. 1 and is at the point where a foot path from the village of Klukwan crosses the line. Post No. 3 is 924 meters from No. 2 and is on the east side of the Chilkat river about 5 meters from the bank. Post No. 4 is that above referred to as the post planted on the bank of the Klehini near its junction with the Chilkat river, and the terminus of the straight line from Klukwan peak. It is 262 meters from No. 3. No. 5 is 115 meters from No. 4, on the first point of the high bank from which a view can be had up the valley of Klehini river. The high bank here and as far as Post No. 8 is coincident with the line of timber.

No. 6 is 3,390 meters from No. 5, and is just below the first bluff, or eroded bank, on the south side of the Klehini river above its mouth.

No. 7 is 3,750 meters, measured in a straight line, from No. 6, but probably nearly three miles if the high bank is followed. No. 7 is at the point where the Dalton road enters the river flat from the timber at the place known as Sunshine.

No. 8 is on the left bank of Herman creek at its junction with the Klehini, 1,055 meters from No. 7.

Nos. 9, 10 and 11 stand on an extensive flat, which has already been referred to, where the line of high bank is so irregular that it would have been difficult without the use of a great number of posts, to mark out the line so as to be at once satisfactory in use and in strict accordance with the terms of the agreement. For this reason we would recommend that it be not attempted to follow the high bank between these posts but that straight lines joining 8 and 9, 9 and 10, and 10 and 11, successively, be recognized as the provisional boundary line at this place. No. 9 is 906 meters from No. 8; No. 10, 610 meters from No. 9; and No. 11, 586 meters from No. 10. No. 11 is at the upper end of the flat near the beginning of a ragged, rocky bluff.

No. 12 is 1,546 meters from No. 11, on the bank of a narrow channel of the river flowing behind a wooded island. This post is on the side of the Dalton pack trail near the point where the trail descends from the rocky bluff to the river flat.

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From No. 12 to the mouth of the Porcupine Creek the line follows the edge of the timber.

Post No. 13 is just above the mouth of the Porcupine creek, and also just above the point where the road from the river flat to the town of Porcupine leaves the river. It is 4,965 meters from Post No. 12.

No. 14 is 1,460 meters from No. 13. The line from No. 13 to No. 14 follows the bank of a prominent branch of the Klehini river. This post was placed exactly on the line between the peaks called, in our field notes, north boundary peak, (5020 or 5025) and south boundary peak, (6500).

From post No. 14 the line turns south-westerly towards south boundary peak, and was cut through the timber to the summit of the highest wooded ridge.

Post No. 15 is on the first bench above the valley of the Klehini, about 25 feet higher than the flat, and is 458 meters from No. 14.

The line between posts Nos. 15 and 16, up the side of the steep wooded mountain, is marked by the sky line cutting through the timber (large spruce and hemlock with much underbrush).

No. 16 is on the side of the bare summit ridge at the highest point from which the line through the woods is visible.

No. 17 is 380 meters from No. 16, on the first prominent summit above the wooded slope. This is the last post set on this line. From it a view is obtained as far as south boundary creek (6500) over a bare ridge gradually rising towards the peak and unbroken except by a few hollows and ravines.

#### WHITE PASS.

The summit of White Pass is marked by four posts, three of which are in a straight line, nearly east and west and the fourth some distance to the east and to the southward of this line.

Post No. 2 stands on the rocky ledge a short distance south of the railway station upon which the two flagstaffs stand. It is about midway between the flagstaffs, and about 14 meters to the west of the railway track.

No. 1 is 80 meters west of No. 2, and on the highest point visible from No. 2.

No. 3 is 239 meters east of No. 2, and on the highest point in that direction visible from No. 2.

No. 4 was placed upon the watershed between the waters flowing to the Yukon and those flowing to the Skagway river, 582 meters from No. 3, at a point where the old trail from Skagway to Lake Bennett crosses the pass.

It is necessary to explain here that the watershed of the White Pass is very irregular. This is shown by the accompanying sketch. Owing to the overlapping of the drainage systems, the actual divide or parting of waters does not afford a practicable boundary line. We have therefore to recommend that the successive straight lines joining the four posts be recognized as the provisional boundary line so far as they extend. It appeared to us unnecessary at the present time to mark the line further at this place.

#### CHILKOOT OR TAIYA PASS.

The summit of Chilkoot Pass is marked by two posts. One was placed on a small rocky hummock at the lowest point of the divide, where the old Chilkoot trail crosses.

The other post was set about 100 meters to the westward of this, on the summit of a rock overlooking a small depression in the dividing ridge through which another trail passed.

The appended table of geographical positions and distances of posts is based, so far as the Klehini region is concerned, upon a traverse made up the valley beginning from certain triangulation stations near Klukwan, which had been occupied by Assistant J. F. Pratt, of the United States Coast and Geodetic Survey in 1894.

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The measurements of this traverse, which also afforded the data for placing on the accompanying map the high or right bank of the Klehini river, were mostly made with micrometer and are not absolutely accurate, though sufficiently so for descriptive purposes.

The positions on the White Pass were determined by reference to data furnished by the Chief Engineer of the White Pass and Yukon Railway.

No data were available for the geographical determination of the location of the posts on the Chilkoot Pass. The somewhat extensive survey which would have been necessary to supply these data seemed unnecessary in view of the well defined ridge at this point.

In witness whereof we have hereunto set our hands, at the City of Washington, this second day of November, 1900.

(Signed) O. H. TITTMANN,  
U. S. Commissioner.

(Signed) W. F. KING,  
U. S. Commissioner.

Signed in the presence of:

(Signed) FRANK WALLEY PERKINS,  
U. S. C. & G. Survey.

## APPENDIX.

### GEOGRAPHICAL POSITIONS.

#### IN THE DALTON TRAIL REGION.

Name.	Latitude.	Longitude.	To Station.	Distances. (Meters).
	° ' "	° ' "		
Klukwan Peak.....	59 24 42	135 49 39		
Post No. 1.....	59 24 39	135 52 45	Post No. 2.....	1,166
" 2.....	59 24 38	135 53 59	" 3.....	924
" 3.....	59 24 37	135 54 57	" 4.....	262
" 4.....	59 24 36	135 55 14	" 5.....	115
" 5.....	59 24 38	135 55 20	" 6.....	3,390
" 6.....	59 24 29	135 58 55	" 7.....	3,750
" 7.....	59 24 51	136 02 49	" 8.....	1,055
" 8.....	59 24 46	136 03 55	" 9.....	906
" 9.....	59 24 53	136 04 51	" 10.....	610
" 10.....	59 24 53	136 05 29	" 11.....	586
" 11.....	59 25 00	136 06 04	" 12.....	1,546
" 12.....	59 25 15	136 07 38	" 13.....	4,965
" 13.....	59 25 35	136 12 50	" 14.....	1,460
" 14.....	59 25 23	136 14 22	" 15.....	458
" 15.....	59 25 23	136 14 42	" 16.....	3,950
" 16.....	59 23 51	136 17 36	" 17.....	380
" 17.....	59 23 42	136 17 53		
South Boundary Peak.....	59 21 35	136 21 58		
North Boundary Peak.....	59 27 33	136 10 35		

#### AT WHITE PASS.

Post No. 1 W.....	59 37 27	135 07 32	Post No. 2.....	80
" 2.....	59 37 27	135 07 27	" 3.....	229
" 3.....	59 37 26	135 07 12	" 4.....	582
" 4.....	59 37 17	135 06 39		

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## NORTH WEST MOUNTED POLICE.

Office of the Commissioner.

Regina, June 14th. 1901.

COPY.

The Officer Commanding,

N.W.M. Police,

Regina, Assa.

Sir:-

I have the honour to report with reference to a band of Indians (SIOUX) who arrived at North Portal on May 31st., from Griswold, Turtle Mountain and Pipestone, en route to Poplar, Mont. U.S.A. The party consisted of about 150 Indians with 40 wagons and 72 horses; they reported to Customs Officer here who wired to Indian Commissioner at Winnipeg for instructions. A reply was received to the effect that the Indians were not to be permitted to cross the Boundary as they had been refused passes. The Indians were notified to remain. On the following morning about 4.30 they crossed the Boundary and took the trail for Montana. I was instructed by the Customs Officer to follow and bring them back; I overtook them when they had gone about four miles and with considerable difficulty induced them to return, but they refused to cross the Canadian Side. They remained in Portal till 4 P.M. when they left for Montana, positively refusing to remain and nothing short of Force would detain them.

The ~~two~~ Town of Poplar Montana has been under quarantine for Smallpox during the past month.-

I have the honour to be,

Sir,

Your obedient servant,

(SGD.) W.S. Moore, Const.

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North West Mounted Police.

217823

Moosomin,

26th August, 1901.

The Officer Commanding  
Regina District,  
Regina.

Sir.-

With reference to Indian ponies brought from the U.S.A. by Indians belonging to the Moose Mountain reserve, , I have the honour to report that I inspected these to the number of 19. Some of them were yearlings and the total valuation I put upon them for duty was \$87.00 and the amount of duty @ 20% was \$17.40.

With the exception of 7 ponies brought over by Indian "Ginger", all these are for the owners own use on the reserve, and they complain very much of the hardship as they think, of having to pay duty on them. They claim that duty has never been collected previous to this. They say that they are in the habit of paying visits to their friends and relatives on the other side of the line and exchanging presents with them. These Indians have no money and would have to sell a horse to pay the duty. They are also very much upset by the failure of the Indian Dept. to pay them the allowance of \$5000 for giving up the West reserve. This they said was to have been paid to them within two months of the signing of the treaty by which they agreed to resign that reserve and it is now about 5 months since the signing and the money has not been paid. The farmer in charge told me that the failure to pay this money as promised had upset the Indians very much and that they

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217823

were much harder to manage in consequence. Under the circumstances I agreed to allow the duty to remain unpaid until this amount had been paid over to them, on the Head man (there is no chief) guaranteeing to see that it was paid out of said sum. I explained to the Indians that they must whenever they got a pass from the Agent to go across the line, report to the Custom House both going and returning, that they would receive from the officer in charge a pass authorizing them to take their animals etc. across and bring them back within a certain time, - otherwise that duty would be charged on all animals etc. brought back by them. They did not understand this before. The Head Man asked me to ask the Government to remit the duty as they were so poor and I promised to do so, at the same time telling him that I had no authority to say that this would be done. I trust my action in this matter will be approved as I consider that the enforcement of the duty at the present time would probably have caused trouble.

I have the honour to be,

Sir,

Your obedient servant,

(signed) I.D. Moody.  
Inspt.

P.S.

The Indians have gone so far, I was told, as to talk of returning to the West reserve and repudiating the treaty.

(signed) I.D.M.

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*Heard*  
Aug. 28th. 1901.

217823

Dear Mr Laird.

I forward you a copy of the report received from Inspector Moody relative to the Indian ponies brought from the United States by the Indians of the Moose Mountain reserve.

We are enforcing the custom laws strictly and require the Indians to conform. You will observe that Inspector Moody has consented to allow the duty to remain over for the present. I shall be glad to hear from you on this matter.

Yours faithfully,

*Chas. D. Thompson*

Hon. D. Laird

Commissioner of Indian Affairs,

Winnipeg.

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File 30205.

SPECIAL MEMORANDUM.

Customs Department,

Ottawa, Canada, 18th September, 1901.

To The Customs Officer at Wells, B.C.,  
on Yukon Frontier Service.

Until 6th January, 1903, ~~unless otherwise~~  
~~ordered~~, you are directed to pass free along the Chilcat  
River Route, subject to inspection, the Canoes in use  
by Indians and their peltries and other of their usual  
effects (not being goods in bales or other packages unusual  
among Indians engaged in hunting or fishing).

Applications for refund of duty collected on the  
goods above described, since 6th January, 1901, may be  
certified and forwarded to the Department for payment.

The privileges herein authorized are of a  
temporary character, for the Chilcat Indians only, and it  
is to be clearly understood that they are not conceded  
as a matter of right.

Customs officers are to carefully observe that  
these privileges are not abused.

This regulation is to be liberally construed  
in favor of the canoe.

*John McDougald.*

COMMISSIONER OF CUSTOMS

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*Customs Department, Canada,*

IN YOUR REPLY REFER TO

FILE NO. 50205.

*Ottawa,* 16th September, 1901.*(Copy.)*

E. S. Busby, Esq.,  
Acting Inspector of Customs,  
Skagway.

Sir,

I send you herewith half a dozen copies of  
Memorandum respecting the free admission of certain Indian  
effects passing along the Chilcat River Route.

Please have copies forwarded without delay to the  
Customs Officers at Wells and Dalton Trail, for their  
guidance.

Representations are made that a tax of \$4.25 has  
been levied by Canadian Customs officials this summer on  
each canoe of the Indians used on the Chilcat River. You  
are directed to ascertain what duties have been collected  
from the Chilcat Indians since 5th January, 1901, which  
would be waived under the enclosed Memorandum, and forward  
refund claims for same to this Department.

I have the honour to be,

Sir,

Your obedient servant,

Commissioner.

Enclosures.

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North West Mounted Police,  
Regina, Oct 23rd. 1901.

The Ass't Commissioner,  
N.W.M.P.,  
Regina.

Sir:-

I have the honour to report that as reported verbally to you this morning, I received information from Mr Graham, the Indian Agent of File Hills, that some 70 or 80 horses had been brought in from the U.S. by the Indians without reporting at Customs, and that this has been going on for some time. He asked that the horses be seized for customs.

By your instructions I am leaving tomorrow morning with a party for Pia Pots reserve to endeavour to locate and seize the horses.

I have the honour to be,

Sir,

Your obedient servant,

(Sg'd) J.O. Wilson. Inspt.

Comm'g Regina District.



*Forwarded for the information  
of the Comptroller  
Regina 31.11.01*

*A. B. [Signature]  
[Signature]*

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N.W.M. Police,

Regina Oct. 30th/01

The Commissioner

N.W.M.P.

Regina.

Sir/

Adverting to my report of the 23rd Oct 1901. I have the honour to report that I left Regina at 8.30 A.M. of the 24th inst with the following party:- E/Major Church. Corpl Martin Consts. Hendren, Conway and Biggs and horses 2724, 2576, 2650, 2524, 1968, 1890, 2548 & 2498.

We camped for noon at a slough about 15 miles from Regina, and arrived at Pia Pota reserve at 5.30 P.M. I found the farm instructor away, so went into camp in the valley, where I secured hay from the Indians for the horses.

The next morning, the 25th, the farmer arrived and I engaged an interpreter named Masqua. I sent for all the Indians and told them I had been informed that a number of them had brought horses from the U.S. without reporting at the Customs, or paying duty, and that I wanted them at once to produce the horses as I intended taking them into Regina, and that the Custom Department might allow them to pay duty or they might sell the horses for the duty.

By dusk of this date 35 horses had been brought in and handed over and placed in a corral and fed with hay which I purchased from an Indian. The next morning, the 26th eight more were turned in. I also had information of about 20 more. I sent Corpl Martin and Const Biggs into Regina with the 44 head and I, with the rest of the party, made a patrol through Musconbertungs reserve, to the head of the Qu'Appelle Lakes, where we camped for the night. The next morning, Tuesday, we

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left camp and proceeded back to Pia Pots reserve, where I saw the Indians who had not turned in their horses. They promised to bring them to Regina Barracks on Tuesday the 29th which they did. The total number seized was 64 which are now being herded by a young chap named Waldron whom I have engaged at \$1.00 per diem.

I left Pia Pots reserve at 1 P.M. of Sunday the 27th and arrived in Barracks at 6 P.M. I reported the seizure to the sub collector of Customs, Regina, and asked for instructions re the disposal of the horses.

In reference to Indians being allowed to cross and recross the line without reporting, I beg to point out the great danger of spreading disease among the horses of the territories. Mr Graham, the Indian Agent was very anxious that the horses be seized, as he said the habit of the Indians going over the line interfered with their work, also that the Pia Pot Indians had no money to buy horses and must have stolen the horses, or engaged in give away dances which the Department are endeavouring to stop. The Agent also informed me that the Indians feed hay to their ponies which should be given to their cattle.

When at Pia Pots reserve I found a grey pony suffering with what appeared to be strangles as it was very much run down in condition and might possibly have glanders I had it shot and burnt.

I beg to attach a list shewing the names of Indians and number of ponies taken from each.

I have the honour to be,

Sir,

Your obedient servant

(Sg'd) Jas O. Wilson. Inspr

Comm'r Regina District.

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Horses seized by Inspector Wilson N.W.M.P. for Non-payment  
of Customs at Pia Pots reserve between the 24th and 29th Oct/01  
\*\*\*\*\*

Pia Pot.....	4
Gopher.....	2
Chas Kan.....	5
Monegans Son.....	4
Kinsefe.....	6
White Eagle.....	7
Rock Chief.....	3
Thunder Child.....	2
Haul him along.....	4
Carrier.....	4
Two horns mother-in-law.....	6
White Stoney.....	3
Scarred Head.....	1
No name.....	1
Sitting Rocking.....	2
Na-test.....	1
Dead Body.....	2
Two Horns.....	7
Total	64.

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COPY.

R.N.W.M. Police,  
Fort Qu'Appelle,  
September 5th., 1904.

The Officer Commanding,  
R.N.W.M. Police,  
Regina District.

Sir;--

I have the honor to report that I have this day seized five ponies the property of Sioux Indian John Lanayaha of Standing Buffalo Reserve for not complying with Customs regulations and Animals Contagious Act.

I have ordered the owner to take the horses to Regina and to report at the Barracks.

Description of Horses.

1 Sorrel pony mare nine years old. White hind fetlock. Light mane Dark Tail 13½ hands no brands.  
1 light bay pony mare 4 years old. Three white feet. White stripe down face. White lower lip. White on stomach. Dark mane and tail. 12½ hands.  
1 dark mouse colored pony mare 9 years old "447" on off rump " " on right shoulder, dark mane and tail White spot on forehead, 6 years old, 13 hands.  
1 dark Bay pony gelding, 8 years old. Black mane and tail white spot on forehead. 12 hands.  
1 mouse color pony mare 6 years old "405" on off hip "BG" on off shoulder. White stripe down face. White lower hip Four white legs, dark mane and tail'

The Indians will leave to-morrow and camp on Piapots

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to-morrow night, and will reach Regina on the afternoon of the 7th., Wednesday.

I have notified the Indian Agent and will await your instructions regarding prosecution.

Report of August 29th., herewith.

I have the honor to be

Sir,

Your obedient servant.

Sgd/ J. Dubuque,

Corpl.

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File 156,710-24

Department of Justice,

Ottawa, 7th. September, 1905

F.  
918/1905  
Enclosures

Sir;-

In reply to your letter of the 30th.ultimo  
-156710- I have the honour to state that under section  
11 of the Indian Act Indian women who marry persons  
other than Indians or non-treaty Indians, cease to be  
Indians in every respect within the meaning of the Act,  
except they continue to be entitled to share in the  
annuities. This applies to women who marry United States  
Indians, as such Indians are not Indians or non-treaty  
Indians within the meaning of the Act. If, however, such  
women for five years continuously reside in the United  
States, or in any other foreign country, without the con-  
sent in writing of the Superintendent General, or his  
agent, then under section 10 they cease altogether to be  
members of the band to which they belonged, and with their  
membership goes their right to share in the annuities.  
Under section 11 women who marry persons other than Indians  
or non-treaty Indians have no right to commutation at ten  
years' purchase. The provision of the section is that their  
income may be commuted at ten years' purchase with the con-  
sent of the band.

Papers returned herewith,

I have the honour to be,

Sir,

Your obedient servant,

(sgd) E. L. Newcombe,

Deputy Minister of Justice.

The Secretary,

Dept. of Indian Affairs,  
Ottawa.

NAC RG26  
Vol. 74  
File 1648



COPY

February 14th, 1910.

Teacher,

Indians Schools,

Eagle, Alaska.

Sir,

I have been informed that the Indians in your district are dissatisfied and intend to remove themselves en masse to Canadian Territory.

Will you kindly point out to them that if such is the case, that they will not be allowed to cross the boundary; and that instructions have been given to turn them back should they attempt to do so.

Yours truly,

(Sgd) T.A. Wroughton. Insp.

Commanding "B" Division, R.N.W.M. Police.

NAC RG18  
Vol. 339  
File 208-10



COPY

15th February, 1910.

The Administrator,  
Yukon Territory,  
Dawson, Y.T.

Sir,

I beg to forward herewith, for your information, copy of a letter received by me yesterday, addressed to Major Wood. I endeavoured to get in communication with you but was unable to do so. The mail leaving early this morning. I wrote to the teacher of the Indian schools at Eagle City, as requested by Mr. Standsfield's letter, asking him to warn these Indians that that they would not be allowed to cross the boundary into Canadian Territory.-

I also wrote the Customs Officer, who is ex-officio Immigration Agent at Forty Mile, and the Police, warning them of the supposed intention of the Indians, pointing out that under the Immigration Act they were likely to become a public charge, and on that ground, if on no other, they would be excluded by the Immigration Act.

I think there should some definite instructions and a mutual understanding between the two Governments with regard to the movement of Indians. I know of none personally, and if any exists will you kindly inform me.

I have the honour, to be,

Sir,

Your obedient servant,

(Sgd) T.A. Wroughton, Insp.

Commanding "B" Division, R.N.W.M. Police.

NAC RG-18  
Vol. 389  
File 208-10



COPY

Royal North West Mounted Police  
Yukon Territory,  
Assistant Commissioner's Office,  
Dawson, Y.T., 15th February, 1910  
J. H. Wroughton, A.S. (Sgd)  
J. H. Wroughton, A.S. (Sgd)  
J. H. Wroughton, A.S. (Sgd)

Sir:-

I have the honour to forward for your information  
some correspondence in connection with Indians, which  
explains itself.

I think, if it is possible, some arrangement should  
be made as to the movement of Indians. All the Indians  
along the Yukon River are more or less connected by blood  
and mutual customs, and freely mix with one another. Not  
much notice has been taken of Indian families visiting each  
other, but should a wholesale immigration take place it would  
be a very serious question, as the Indians are becoming more  
and more liable to become a public charge.

I do not put much credence in Mr. Stansfield's report  
but there may be something in it.

I have the honour to be,

Sir,

Your obedient servant,

(Sgd) T.A. Wroughton, Insp.

Commanding "B" Division, R.N.W.M. Police.

The Officer Commanding,  
R.N.W.M.P., Yukon Territory,  
Dawson Y.T.

NAC RG 18  
Vol. 389  
File 208-10



IN YOUR REPLY REFER TO  
359,961  
ALSO TO THE DATE OF THIS LETTER

ADDRESS REPLY TO THE  
SECRETARY DEPT OF INDIAN AFFAIRS  
OTTAWA.



Ottawa, 5th April, 1910.

Sir,-

I beg to enclose file  
359,961 of this Department, containing  
correspondence with officers of the  
R. N. W. M. Police regarding the immi-  
gration of United States Alaskan Indians  
into the Yukon Territory; and have to re-  
quest that you will be good enough to  
advise this Department whether these In-  
dians can be deported as undesirables  
under the Immigration Act.

Your obedient servant,

*L. A. L.*  
Secretary.

The Deputy Minister  
of Justice, Ottawa.

NAC RG13  
Acc. 86-87/084  
Box 75  
File 332/1910



April 8, 1910.

Sir,

Replying to your letter of 5th inst. in which you ask to be advised whether Alaskan Indians coming in to the Yukon Territory can be deported as undesirables, under the Immigration Act, I beg leave to report that I can see no reason why the deportation clauses of the Immigration Act (R. S. c.93) should not apply to Alaskan Indians. They would seem to come within the definition of "immigrant" sec. 2 (a) (c).

If considered likely to become a public charge, I should think they might be refused permission to land in Canada under sec. 28,--or the Governor in Council might prohibit them from landing as a specified class, sec.30.

It may be that an agreement or understanding with the United States Government would be a preferable mode of dealing with the matter, but that is of course a question primarily for your Department and the for Council to consider. *Papers returned*

I have the honour to be,

Sir,

Your obedient servant,

*apower*

J. D. McLean Esq.,  
Secy, Dept. Indian Affairs,  
Ottawa.

for D.M.J.

NAC RG-13  
Acc. 86-87/684  
Box 75  
File 552/1910



190994

Ottawa, February 9, 1911.

Sir,

In reply to your letter of the 4th instant, on the subject of the privilege formerly enjoyed by the Indians of Canada of being allowed to bring their wares into the United States free of duty, I have to say that this matter has been several times before the Department, and the Indians have been informed of the result of investigation made into their claim in regard to this matter. The privilege referred to was granted in 1794, under the Treaty then made of Amity, Commerce and Navigation between Great Britain and the United States, and this treaty was, it is held, abrogated by the subsequent war between the two countries. The United States continued, however, to grant the free entry of Indian goods up to 1897, when this privilege was withdrawn by the Customs Act, approved on July 24 of that year. Requests have been made to have representations submitted to the United States Government asking for a free interchange of articles between the Indians of Canada and the United States traders, but, inasmuch as an Order was issued by His Excellency in Council on November 2, 1897, deciding that the question of such interchange could not be considered, it has been held to be out of the question that representations should be made to the United States Government for privileges for our own Indians which our own Government does not see its way to grant.

The papers inclosed by you are returned, as requested by you, herewith.

Your obedient servant,

J. D. McLean,

Asst. Deputy and Secretary.

Geo. E. Baxter, Esq.,  
Indian Agent,  
Andover, N.B.

NAC RG 16 File A-7613



88

40058

7th March, 1911.

H. A. Lemieux, Esq.,  
Inspector of Customs,  
Montreal, P. Q.

Sir:-

The Collector of Customs at Montreal reports that it has been the practice at the Outport of St. Regis to admit free of Customs duties goods brought in by Indians for personal use in exchange for basket work sold to merchants at Hogansburg, N. Y.

Please report to the Department if you are aware of this practice, and if you sanctioned it.

I have the honour to be,


Sir,

Your obedient servant,

Commissioner of Customs.

*E. J. [unclear]*



Re File CUSTOMS  CANADA.  
# 40968.

Port of Montreal, 24th March, 1911.

John McDougald, Esq.,  
Commissioner of Customs,  
Ottawa.

Dear Sir,-

With reference to your letter of the 7th inst., about the admission of goods free of duty brought in by Indians of St. Regis for personal use in exchange for basket work sold to merchants at Hogansburg, N.Y.

I beg to report that I proceeded to St. Regis and enquired thoroughly into this matter. I find that the Indians do go to Hogansburg and exchange some little things, such as a few small baskets, and a few dozen of eggs or so, and bring back such life necessities as a pound of tea, five pounds of sugar or a gallon of coal oil, but these exchanges of goods are not carried on in an excessive quantity, there are three or four little grocery stores at St. Regis, which I visited, and I do not believe that any of these little stores have more than \$50.00 or \$100.00 worth of goods on the shelves. The Indians informed me that they could buy cheaper in Cornwall, which is only five miles from St. Regis, than they could in Hogansburg although it is situated only at  $2\frac{1}{2}$  miles from St. Regis.

I am informed that Mr. George Long, the ex-Sub-Collector, used to permit the Indians to exchange some few small articles, as mentioned before, fearing that it might create serious trouble among the Indians to bother about such a trifle.

One must remember that out of a population of about 1,600, this is the number which is under pay by the Indian Department at Ottawa, there are only two white men, the Sub-Collector and the Parish Priest; therefore, I gave

NAC 2416 File A-7613







N.

40953

30th March, 1911.

Mr. Mitchell C. Jacobs,  
Mr. John Jacobs,

St. Regis, P. Q.

Gentlemen,-

Referring to your personal representations made here yesterday, respecting the free entry of goods imported into the Indian Reserve at St. Regis in exchange for Indian furs taken to the United States, I am to state that your request is not granted, as the goods desired to be brought into Canada are subject to duty under the law.

I enclose copy of letter sent 6th November, 1897, to Mr. John Angus, one of the Head Men of the Seven Nations, showing that free entry of these goods was refused at that time.

I have the honour to be,

Gentlemen,

Your obedient servant,

ENCLOSURE.

Copy to:-  
The Collector of Customs,      Commissioner of Customs.  
Montreal, P. Q.  
With Enclosure.

Copy to:-  
H. A. Lemieux, Esq.,  
Inspector of Customs,  
Montreal, P. Q.  
With enclosure.



N.

40958

30th March, 1911.

The Assistant Secretary,  
Dept. of Indian Affairs,  
Ottawa, Ont.

Sir,-

Referring to the application made to this Department yesterday, by Head Men of the Indians at St. Regis, for free entry of goods imported into the Indian Reserve at St. Regis in exchange for Indian Wares taken to the United States, I have written to the Head Men that the request is not granted, as the goods desired to be brought into Canada are subject to duty under the law.

I enclose copy of letter addressed to the Secretary of your Department November 6th, 1897, advising that a similar request was then refused by the Government.

I have the honour to be,

Sir,

Your obedient servant,

Encl.

Commissioner of Customs.

3

NAC 2416 File A-7613



N.

4095.

6th April, 1911.

PERSONAL.

The Collector of Customs,  
Cornwall, Ont.

Dear Sir,-

I shall be obliged if you will see the United States Collector of Customs at Hogansburg, N. Y., and ascertain if there is any regulation under which the St. Regis Indians on the Reserve in Canada can send their baskets and other hand work into Hogansburg, without payment of duty.

I understand it is not the practice to collect duty on such Indian articles, but I do not know whether the practice is merely by way of toleration or is under some regulation.

I shall be obliged for information on this point, as the Indians are asking similar concessions in Canada.

I have the honour to be,

Sir,

Your obedient servant,

Commissioner of Customs.



S

40950

6th April, 1911.

Mr. Mitchell C. Jacobs,  
St. Regis, P.Q.

Sir,

Referring to your personal representations, in favour of the free entry of goods imported into the Indian Reserve at St. Regis in exchange for Indian wares taken to the United States, I have the honour to advise you that the Minister of Customs will look further into this matter, and will again submit the question for the consideration of the Governor General in Council.

You will be duly advised of the decision.

I have the honour to be,

Sir,

Your obedient servant,

Commissioner of Customs.



Mr. M

Sir,

of

## MEMORANDUM.

To

DEPARTMENT OF CUSTOMS, CANADA,

OTTAWA, 1799. 19.

*Section 105 of the Act of March 17. 1899*  
*It is provided that no duty shall be levied*  
*or license collected on the property, goods and*  
*effects of whatsoever nature of Indian passing*  
*or repassing to boundary line aforesaid of*  
*United States unless the same shall be goods in*  
*bales or other large packages unusual among*  
*Indians, which shall not be considered as*  
*goods belonging bona-fide to Indians nor*  
*being exempted from duty aforesaid*  
*This provision of Act Article 3 of the Treaty of*  
*Commerce between the United States & Great Britain*  
*ratified 19 day of Nov. 1794, it being almost in the*  
*precise language of the Treaty of 1794.*



1132/8  
 CUSTOMS CANADA  
 Port of: CUSTOMS  
 McDonnell Esq  
 Commissioner of Customs  
 Ottawa  
 Dear Sir: File No 40958

I have the honor to acknowledge receipt of your letter of 6th instant and as requested therein I called on John W. Bero Customs Officer at Hogansburg N.Y. and obtained the following information from him today.

He is the officer for the Port of Bombay in which all the business of the Canadian Indians is transacted which amounts to under \$1000 per year and consists of the sale of baskets, bead work, lacrosse sticks, snowshoes and moccasins, which are sold to two dealers in Hogansburg and these dealers are looked to for the Customs duty on Indian merchandise which they account for and pay once a month.

Mr Bero has adopted this method of collecting duty from the Indians so as to save the Indians the expense and trouble of entering their goods through the Customs and also as a saving of trouble to himself and his department and this method is approved of by this Inspector.

The result is that the dealer pays less money for Indian goods so as to enable him to pay the duty. I understand that the American Indians





Port of \_\_\_\_\_  
Owing to their close and friendly connection with the Canadian Indians have arranged to bear a portion of the burden of duty and so accept less money for their goods than they otherwise would, so that the Canadian Indians would receive the same price for their goods which at first sight would seem to indicate that the Canadian Indian did not pay duty on his goods.

There is no doubt that the United States get their full duty on Indian goods from Canada and the only privilege extended is solely for the benefit of the American Indian who is allowed to buy his provisions for immediate use in Canada and bring them into the United States duty free.

Eight or ten years ago American Indians were allowed also to import horses and cattle but this privilege was discontinued owing to its abuse.

I understand that these Indians find a better and more convenient market for their manufactures at Hogansburg than at any other place here in Canada, and that nearly all their output finds its way through Hogansburg Channel and then receive payment for their manufactures in trade for the most part, but this trading back and forth is of a rather limited extent.

I have the honor to be Sir

Yours obedient servant

J. J. McEwan  
Collector of Customs



Cleveland, O. 2/10/15.  
Headquarters,  
Council of the Tribes,  
#6716 Baden Court,  
Cleveland, O. U.S.A.

Letter No.

Records

228822  
FEB 12 1915

DEPT. CUSTOMS

File No.

40958

Department of Customs,  
Ottawa, Canada.

Gentlemen:-

There has from time to time been considerable complaint on the part of the St. Regis Indians pertaining to the matter of the collection of customs on things considered by these Indians as not taxable. I have reported this matter to the Department of Indian Affairs, and expect that both your Office and that of The Department of Indian Affairs will give the matter thorough investigation.

A recent case in point is that of one Joseph David. It appears that Mr. David purchased a colt on the New York side of the line, and that the said colt is for the exclusive use of Mr. David. That the said Mr. David paid the sum of twenty eight dollars for the said colt, and that the Customs Officer from Dundee or Dandee visited the said Joseph David and demanded Customs Duty in the sum of Fifty dollars. That the said Joseph David refused to pay this tax, and appealed to the Indian Agent Mr. Taillon of the St. Regis Canadian reservation. That the said Agent informed the said Joseph David that he (the Agent) was no longer authorized to collect Duties of the Indians, and refused to concern himself further in the matter.

That the said Agent approached one, Chief Loran Jacko, and told the said Chief Loran Jacko, "not to bother with the case of Joseph David, as he (David) would be arrested soon any way".

In the second place we call to your attention the complaint of the St. Regis Indians and others of several reservations that the Customs Officers are compelling the said Indians to pay duties on the baskets and other products of these Indians. This Office wishes that your Office would kindly explain why and by what authority the said Customs Officers collect duties on these products. Our Canadian Attorneys find no such authority. Before entering suit against the Government in these matters we wish to ascertain whether or not these matters cannot be satisfactorily adjusted by your Office. It is, and always has been the policy of this organization to present all cases to the various departments of the Government, both on this and the Canadian sides of the line, and have found that it has in many cases worked out well without the trouble and expense of litigation. We believe that the higher Officers of both Governments are usually men of integrity, and that as such they usually put the stamp of disapproval on any irregularities that are detrimental to the Indian.

In conclusion, we will inform you of the fact that many of the Indians are scarcely making a living, and that we request that you take this into consideration when you confer in the matter of taxation of Indian products. I inclose for your perusal a copy of THE ARROW, in which you will find some (a very little) of the work of the Honorable Gato Sells. This man is undoubtedly one of the greatest friends that the Indians have had for many years, and we hope to be able to find such men on the Canadian side of the line, and in your Office as well as that of The Department of Indian Affairs. All of which we respectfully submit for your consideration.

C.O.H./LO

Peter Day  
Mitchell Johnson  
Frank Solomon  
Joseph Thomas  
Joseph C. Jacobs

Respectfully,  
*Thomas Benedict*  
*John C. Jacobs*  
*Jacob Bay*  
*Alexander Barnhart*  
Great Counsel.

Peter Mitchell  
Wm. Mussle  
Peter Papineau  
Thomas W. Martin



hh

40958

February 15, 1915.

Tehotickwawakoy,  
Great Counsel,  
Council of the Tribes,  
6716 Baden Court,  
Cleveland, Ohio.

Sir:

I have the honour to acknowledge receipt of your letter of the 10th. instant, in which you call attention to complaints of the St. Regis Indians in regard to collection of Customs duties on articles which they consider should be exempt from taxation, and instancing the case of one Joseph David, who was required to pay duty on a colt imported by him from the United States, for his own use.

In reply I am to state that horses over one year old, valued at \$50.00 or less per head, are subject to a specific duty of \$12.50 each when imported into Canada from the United States.

The Department of Customs has no authority to permit the St. Regis Indians, or others, to import horses without payment of duty, but is required to carry out the provisions of the Tariff Act as enacted by Parliament.

If, however, Mr. David has been required to pay excessive duty on the colt brought in by him, the matter will be investigated on this Department being furnished with further particulars as to the port of entry and date of importation.

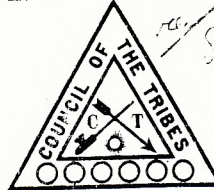
I have the honour to be,  
Sir,  
Your obedient servant,

*Efs*



To Mr. C. P. Blair  
56  
13-3-15  
COUNCIL OF THE TRIBES

OFFICERS  
OGHEMA (NAGARA) GREAT COUNSEL OR SACHEM  
(CHIEF THUNDERWATER)  
WM. MUSSCLE, GRAND COUNCILLOR  
THOMAS WALTER MARTIN, SUPREME SECRETARY  
PETER PAPINEAU, SECRETARY TO THE GRAND COUNCILLOR



COUNCILLORS  
FRANK SOLOMON MITCHELL JOHNSON HENRY EAGLE HEAD  
JOSEPH THOMAS WANPHIA SPIECHE EDWARD CORNPLANTER  
JOSEPH C. JACOBS WM. R. BOYD JAMES CROW  
PETER DAY BARNUM PODDHY

THE PROTECTION OF THE AMERICAN INDIANS' INTERESTS UNANIMOUS AGREEMENT PERSISTENCY  
FOUNDED G. S. E. 120—A. D. 1612

A. D. 1720—WAH-DAY WAH-DEN-WOHOOGENDY—G. S. E. 220

Reference.  
File 40958.

Cleveland, O. March 17th. 1915  
6716 Baden Court, S.E.  
Tehotikwawakon,  
(Chief Thunderwater)

Letter No. 232876  
Records  
MAR 20 1915  
DEPT. CUSTOMS  
File No. 40958

John Mc. Dougald, Esq.,  
Commissioner of Customs,  
Ottawa, Ca.

Friend:-

Your reply to our communication was received in due time, and we were very pleased to have the information therein.

In reply to the same I will say that we have received detailed information in regard to the case of Joseph David, to wit:

That the colt in question was first brought into Canada sometime last April and was at that time nine months old.

That Mr. David lives between St. Regis Village and Dandee, in the County of Huntingdon or Huntington, and that living in that section over the boundry line are White people who deal quite extensively with Mr. David.

That when Mr. David bought the colt, the white man from whom he made the purchase brought the colt over to Mr. David's place himself, and that Mr. David did not bring the colt over at all.

In conclusion I will respectfully call to your attention the one hundred and fifth Section of the act of March 1799.

It is provided that no duty shall be levied or license collected on the property, goods and effects of whatsoever nature, of Indian passing or repassing to Boundry Line aforesaid of the United States, unless the same shall be goods in Bales or other Large Package unusual among Indians. Which shall not be as goods belonging bonafide to Indians nor being exempted from duty aforesaid.

This provision of artical three of the Treaty of Commerce between the United States and Great Britian, Ratified nineteenth of November, 1794. It being almost in the exact language of the Treaty.

SIGNED. Wm. A. Richardson, Acting Secretary.

In view of the above facts, we hope to hear that the colt was not dutiable property. We will later call to your attention the matter of duty being collected on baskets etc. Very respectfully yours, *Chief Thunderwater*  
Great Counsel.



IN YOUR REPLY REFER TO

*No.* 190994

ALSO TO THE DATE OF THIS LETTER.

PLEASE WRITE ON ONLY ONE SUBJECT  
IN EACH LETTER.

ADDRESS REPLY TO THE  
SECRETARY DEPT. OF INDIAN AFFAIRS  
OTTAWA.



Ottawa, 24th March, 1915.

Sir,

With reference to your communication over the telephone with the Law Clerk of the Department relating to a claim that is made by Chief Thunderwater of Cleveland, Ohio, that Indian goods coming from one side of the boundary to the other are free of duty under a Treaty of Commerce between the United States of America and Great Britain in 1794, I beg to say that it appears from our files that enquiry has at various times been made from reserves on the border with respect to this matter. I am enclosing herein a copy of a letter from the Secretary of the Department to the Indian Agent at Andover, N.B., setting forth the position of the Department with respect to this matter.

Enc.

Your obedient servant,

A handwritten signature in ink, appearing to be "D. L. ...", written over the typed name.

Asst. Deputy and Secretary.

C.P. Blair, Esq.,

Law Clerk,

Department of Customs,

Ottawa.



COPY FOR FILE 86564

40598

March 25th, 1915.

Chief Thunderwater, Great Counsel,  
Council of the Tribes,  
6716 Baden Court,  
Cleveland, Ohio.

Sir,

I have the honour to acknowledge receipt of your letter of the 17th instant, further relating to the matter of a horse now in the possession of Joseph David, at the St. Regis Indian Reserve which it is charged was, contrary to law, brought into Canada without report or entry at Customs, or payment of duty thereon, and your further representations in this connection are duly noted.

I note also your reference to the Treaty of 1794, known as the Treaty of Amity, Commerce and Navigation, between Great Britain and the United States. This Treaty was, it is held, abrogated by the subsequent war between the two countries. I understand, however, that the United States granted free entry of Indian goods up to 1897 when that privilege was withdrawn by the Customs Act, approved on July 24th of that year.

Requests have been made to have representations submitted to the United States Government, asking for a free interchange of articles between Indians of Canada and United States traders, but it has been decided that the question of such interchange could not be considered.

The head men of the Indians at St. Regis have been notified of that fact and should be cognizant of the provisions of our law that such goods are dutiable, in ordinary course, under the Customs Act. The law in the matter is as stated to you in my letter of the 15th February last.

With regard to the horse belonging to Joseph David, I note your statement that Mr. David did not, himself, bring it into Canada, but that it was brought in by some white man and delivered to Mr. David in Canada. I would be glad to have you furnish me with the name and address of the party who did bring this horse into Canada. You will understand that under the provisions of our law the fact that the horse was brought into Canada without report or entry at Customs, causes it to be subject to forfeiture, and this would not be affected by the fact that it afterwards went into the possession of another party, as appears to be the case here.

I have the honour to be,  
Sir,  
Your obedient servant,

NAC RG16 File A-7613



40958

April 7th, 1916.

The Secretary,  
Dept. of Indian Affairs,  
O t t a w a.

Sir, Your Reference No. 45990.

I have the honour to acknowledge receipt of your letter of the 5th instant, enclosing copy of letter from Mr. Phillipps, J.P., Elko, B.C. to Sup. Gen. of Indian Affairs respecting liability of Indians for payment of duty on goods imported into Canada from the United States.

In reply I am to state that the Customs Law provides no exception in the case of Indians, and goods imported by them are subject to same Tariff requirements as if imported by others.

I have the honour to be,

Sir,

Your obedient servant,

NAC R616 File A-7613



60  
b  
40958

September 21, 1916.

The Leader Evaporator Co.,  
Burlington, Vt.

Gentlemen,

I have the honour to acknowledge  
the receipt of your letter of the 19th instant, res-  
pecting sugar tools from the United States for an  
Indian at Caughnawaga, Quebec.

You are advised in reply that the  
Customs law provides no exception in the case of In-  
dians, and goods imported by them are subject to the  
same Tariff requirements as if imported by others.

I have the honour to be,

Gentlemen,

Your obedient servant,

Egg

30

NAC 2616 File A-7613



61  
Copy, L.

Royal North-West Mounted Police,  
Yukon Territory.

Ref. No...7-12..

Dawson, Y.T. 19th October, 1916.

E. S. Ironside, Esq.,  
Collector of Customs,  
Dawson .

Dear Sir:-

A patrol was recently sent from Whitehorse to the Dalton Trail, re the supplying of Liquor to Indians, and the report turned in by Corpl. St. Laurent, the Non Commissioned Officer in charge of the patrol, contains the following, which may be of interest to you:

"The Dalton Post Indians belong to the Champagne band, and for the last two years have been trading with Haines, Alaska; it is estimated that from \$10,000.00 to \$12,000.00 of fur were shipped through Haines last winter. These furs were shipped without a Customs Invoice. A customs invoice for which \$2.50 is charged is required for any shipment of furs from Canada to the United States."

Your obedient servant,  
(sgd) R. S. Knight, Supt.  
Commanding "B" Division.

NAC RG-18  
Vol. 516  
File 607-16



April 3rd, 1912.

A. G. Chisholm, Esq.,  
Barrister, &c.,  
37½ Dundas St.,  
London, Ont.

Sir.

I have the honour to acknowledge receipt of your letter of the 27th ult. asking for a refund of the sum of \$57 duty paid by Williamson Day, an Indian of the Oneida Indian Reserve, Middlesex County, upon the value of a suit of overalls clothing, purchased by him in the United States and brought into Canada at Niagara Falls, Ont. on the 16th March last, the ground of such refund being the terms of a Treaty between Great Britain and the United States.

In reply I am to state that the Customs law provides no exception in the case of Indians and goods imported by them are subject to the same Tariff requirements as if imported by others.

Similar claims under this Treaty referred to have been made to this Department on various occasions, and we have in the Department a Memo. from the Department of Indian Affairs to the effect that it is held that the Treaty referred to, dated in 1794, was abrogated by the subsequent war between the two countries, and at the present time both countries levy duty on goods imported by Indians, just as if such Treaty had never existed.

I have the honour to be, Sir,  
Your obedient servant,

W  
P



40958

B/M

6th July, 1921.

Sir:

I have the honour to acknowledge receipt of your letter of the 2nd instant, relating to the claim of Jos. Terrance, of Hogansburg, N.Y., an American Indian, that no duty should be charged Indians crossing the boundary line with articles made by themselves.

In reply I beg to state that the Customs law at present provides no exception in the case of Indians, and goods imported by them are subject to the same Tariff requirements as if imported by others. Similar claims have been made to this Department, based upon the Treaty referred to, dated in 1794, but this Treaty was abrogated by the subsequent war between the two countries, and at the present time both countries levy duty on goods imported by Indians just as if such Treaty had never existed.

I have the honour to be,

Sir,

Your obedient servant,

Asst. Commissioner of Customs & Excise.

The Collector of Customs & Excise,  
Cornwall, Ont.



6A

REPLY TO THE  
SECRETARY, DEPT. OF INDIAN AFFAIRS,  
OTTAWA.



IN YOUR REPLY REFER TO

No. 49-114

ALSO TO THE DATE OF THIS LETTER.

PLEASE WRITE ON ONLY ONE SUBJECT  
IN EACH LETTER.

DEPARTMENT OF INDIAN AFFAIRS

CANADA

November 2, 1923.

NOV 5 1923

COMM

File No.

40958

Sir,-

The attention of this Department has been called to the fact that about two years ago three old Indians from the Standing Buffalo reserve in the province of Saskatchewan brought across the line from the United States a number of ponies. The matter was reported to the customs authorities who, it appears, have been trying to collect duty on them for the last two years but have so far been unsuccessful. The horses brought over, about ten in number, are worthless animals to anybody but an Indian. The duty claimed by your Department is \$212.50 and it is doubtful if the horses now would sell for that much. Our Indian Commissioner at Regina states that he has been asking your Department to admit these horses free owing to the fact that they belong to Indians and that the Indians have been bringing horses into the country for the last fifty years and that this is the only occasion that they have been called upon to pay duty.

I shall be glad if you can see your way to have the horses referred to admitted free. If they are taken away from the Indians it will be a hardship as they are used for hauling wood, etc. The names of the Indians are, Jack Buffalo, amount due \$50.00, Frank Isnana, \$112.50 and John Wambdhowas+e \$50.00.

Your obedient servant,

J.D. McLean -

Asst. Deputy and Secretary.

R. R. Farrow, Esq.,  
Commissioner of Customs,  
Ottawa.

NAL RG16 File A-7613



65  
40958.

T.

10th November, 1923.

Sir,-

I have the honour to acknowledge the receipt of your letter of the 2nd instant, No. 49-114, asking that three Indians on the Standing Buffalo reserve be not required to pay Customs duties on certain ponies brought in from the United States about two years ago.

In reply I can but advise you that there is no provision in the Customs laws or regulations for the free admission of dutiable animals or other goods brought to Canada by the Indians.

In this connection, I would refer you to your letter of February 9th, 1911, file No. 190994, addressed to Geo. E. Baxter, Esq., Indian Agent, Andover, N. B.

I have the honour to be,

Sir,

Your obedient servant,

Acting Commissioner of Customs and Excise.

The Assistant Deputy and Secretary,  
Department of Indian Affairs,  
Ottawa, Ontario.

NAC RG16 File A-7613



66

NATIONAL REVENUE, CANADA.  
(CUSTOMS AND EXCISE DIVISIONS)

Port of Windsor, Ont. July 31st, 1922.

Mr. J. A. Watson,

Ottawa, Ont.

Sir;--

We have an Indian family living in the Border Cities, who are of the opinion that they can purchase goods in the U. S. A. and bring same to Canada, without the payment of duty.

We have advised them that this cannot be done, but she stated it was done at other points. She also had in her possession a circular dated at Washington to the effect that Iroquois and other Indians could cross the boundry and trade without being taxed.

I do not know of any regulation in Canada, allowing them to bring in goods without duty.

Would you please advise if there is any special arrangements for the Indians.

Yours truly,

R. P. Hall

Appraiser.



40958

10

6th June, 1929.

Dear Sir:-

This will acknowledge the receipt of your Mr. Hall's letter of the 31st ultimo to Mr. J.A. Watson, stating that an Indian family living in the Border Cities is of the opinion that they can purchase goods in the United States and bring same to Canada without the payment of duty thereon, and asking if there is any special arrangement for Indians.

In reply you are advised that there is no provision in the Customs laws or regulations for the free admission of dutiable goods brought into Canada by Indians, and goods imported by them are subject to the same tariff requirements as if imported by others.

Yours truly,

  
-P.L. Young  
for Commissioner of Customs.

The Collector of National Revenue,  
Windsor, Ontario.

NAC 2616 File A-7613





Ottawa, 19 January, 1931.

Dear Mr. Breadner,

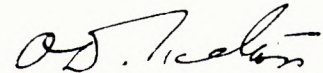
I am in receipt of a request from the Department of Indian Affairs to approach the Government of the United States, with a view to securing the restoration of the duty free provision on goods made by Canadian Indians, which prevailed in the United States tariff for many years prior to the revision of 1897.

It is pointed out that the St. Regis Band of Indians, located in the County of Huntington, Quebec, and several other groups throughout the Dominion, whose reservations are located near the border, are greatly interested in securing this concession.

In this connection I should like to enquire whether there are any provisions in the Canadian Customs Act and Regulations permitting the free entry into Canada from the United States of Indian products, such as baskets, moccasins, etc.

Yours very truly,

*W. C. A.*  
R. W. Breadner, Esq.,  
Commissioner of Customs,  
Ottawa.



NAC 2614 File A-7613



, 22nd January, 1931.

Dr. C. B. Skelton,  
Under-Secretary of State for External Affairs,  
Ottawa, Ont.

Dear Dr. Skelton:

I have your letter of the 19th instant,  
relating to Tariff status of Indian products imported  
into Canada.

There is no provision in the Canadian Customs  
Act or Tariff or regulations thereunder, permitting  
free entry into Canada from the United States of  
Indian products, such as baskets, moccasins, etc., as such,  
nor does the Customs law provide any exception in the  
case of Indians and goods of any kind imported by Indians  
are subject to the same tariff requirements as if imported  
by others.

Yours truly,

Commissioner of Customs.



*cc'd*



40958.

PLY/KLM

5th April, 1933.

Dear Sir:

Your letter of the 29th ultimo to His Excellency, the Governor General, in the matter of payment of duty on an outboard motor, has been referred to this Department for attention.

Upon examining the file, the Department observes that you wrote to this Department in this same connection on the 18th January last; and on the 24th of that month, the Department advised you that there is no provision in the Canadian Customs Act or Tariff, or in the regulations established thereunder, which would permit of the free entry into Canada of articles imported by Indians, and that goods of any kind imported by them are subject to the same Tariff requirements as if imported by others.

Yours truly,



P. L. Young,  
for Commissioner of Customs.

Mr. Louis Peters,  
c/o Jess L. Debo,  
830-2nd St. West,  
CORNWALL, Ontario.

NAC RG16 file A-7613



Draft Reply

Ottawa, 27th April, 1934.

D. L. Burgess, Esq.,  
Private Secretary,  
Minister of Agriculture,  
Ottawa, Canada.

Dear Mr. Burgess:

Referring to your private letter of the 29th ultimo in the matter of correspondence received by the Honourable Mr. Weir concerning ponies or gifts exchanged between Indians on the Reserve in North Dakota with Indians in the Wood Mountain district north of the Montana Border, I may state that there is no provision in the Canadian Customs Act or Tariff or in the regulations established thereunder which would permit of the free entry into Canada of any goods for the reason that they were imported by Indians. Goods of any kind imported by Indians are subject to the same tariff requirements as if imported by others.

Yours truly,

*for J.H. Cate*

20



40958.

26 septembre 1935.

Monsieur,

Le ministère a bien reçu votre lettre du 19 courant, nous disant que vous êtes un indien de la réserve Viger et demandant si vous êtes exempt du paiement des droits de douane.

Je dois vous dire, en réponse, qu'il n'y a aucune disposition dans la Loi des Douanes du Canada ou dans le Tarif ou dans les règlements qui s'y rapportent, en vertu de laquelle les marchandises importées par les indiens peuvent être déclarées en franchise de douane au Canada; et les marchandises de toutes sortes importées par eux sont assujéties aux mêmes prescriptions tarifaires que si elles étaient importées par d'autres.

Votre tout dévoué,

AOR/JG

P. L. Young,  
Commis en chef de la Correspondance.

M. Pamphile Nicolas,  
Lac Frontière, P. Q.

NAC R616 File A-7613



Letter No.

Records

799314

L.H. 4A.

ALL CORRESPONDENCE TO BE  
ADDRESSED TO:

THE COMMISSIONER,  
R. POLICE,  
OTTAWA

MAR 20 1936

ROYAL CANADIAN CUSTOMS AND REVENUE SERVICE

CRIMINAL INVESTIGATION BRANCH

FILE NO.

183573  
4090-8

IN REPLY PLEASE QUOTE

FILE NO. C 11-4

OTTAWA, Mar. 19, 1936.

CANADA

Sir:

Customs Act & Amendments

The following item appearing  
in the "Ottawa Citizen" of March 13, 1936, is  
quoted for your information.

"Establishes Indian Right  
NEW YORK, March 12. - By a Customs Court  
decision, Mrs. F.L. Garrow, Canadian  
Indian from St. Regis reservation in Quebec,  
established today the right of Indians to  
pass back and forth over the Canadian-  
United States border without payment of  
duty on household effects or small quantities  
of Indian-made merchandise."

2. This appears to be in line  
with the understanding we have as a result of  
correspondence with your Department and the  
Department of Indian Affairs, arising out of a  
Customs seizure effected some two years ago. }

Yours truly,

*M.H. Vernon*

M.H. Vernon, Supt.,  
C. P. O.

The Commissioner of Customs,  
Department of National Revenue,  
Ottawa.

AD/M

NAC 2616 FILE A-7613



March 23rd, 1936.

Ross W. Gray, Esq., M.P.,  
House of Commons,  
Ottawa, Canada.

Dear Mr. Gray:

I have your letter of the 18th, enclosing a copy of a letter and enclosures which you received from Mr. Nicholas Plain, Chief of the Indian Reservation at Carnia, in which he makes application for refund of duty and taxes amounting to \$17.95 paid on a typewriter and paper stand imported by Mrs. Plain from the United States on the 22nd February last.

You are correct in your assumption that the department is unable to authorize refund. The clipping which you enclosed refers to the Treaty of Amity, Commerce and Navigation between Great Britain and the United States passed in 1794, and this treaty, it has been held, was abrogated by the subsequent war between the two countries. The United States continued, however, to grant the free entry of Indian goods up to 1897, when this privilege was withdrawn by the Customs Act, approved on July 24 of that year.

In the same year the matter of the possible exemption from duty in respect of articles brought into Canada by Indians was considered by Council on a specific case involving an interchange of articles between the Seven Nations and other Indians occupying the reserve at St. Regis, Que., and the United States traders, and the determination of Council was that the question "be not entertained".

So far as this department is concerned, however, the situation is that there is no provision in the Canadian Customs Act or Tariff, or in any regulation established thereunder, which would permit the free entry into Canada of articles imported by Indians, and goods of any kind imported by them are subject to the same Tariff requirements as if imported by others.

Yours faithfully,



Ottawa, April 2, 1937.

Memoandum:

DEPUTY MINISTER

Re: Imposition of duty on Indian merchandise entering the United States.

It would appear that goods, the property of Canadian Indians, have been permitted to enter the United States, free of duty, without interruption, since the year 1793. In the Tariff Acts of the United States, provision was made for the free entry of Indian goods, but, under the United States Tariff Revision of 1897, effective from July 24th of that year, no such provision was made, nor was any provision been made since that time. It is significant, however, that Indians appear to have entered the United States, with merchandise free from the imposition of duty, until early in the year 1935. At that time, Annie Garrow, a full-blooded Indian woman of the Canadian St. Regis tribe of Iroquois Indians, a resident of Canada, entered the United States at the village of Hogsburg, New York, carrying 24 baskets made of black ashglints and dyed in colours. The Collector at the port imposed a duty, under Paragraph 411 of the United States Tariff Act of 1930. Mrs. Garrow appealed to the United States Customs Court. This Court sustained her appeal and the amount of duty paid by her was refunded. The case was carried by the United States authorities to the Court of Customs and Patent Appeals, which Court rendered a decision in favour of the appellant, early in March of this year.

The Court of Customs and Patent Appeals took the position that the Jay Treaty was in effect nullified by the war of 1812 and that the Treaty of Ghent was held not to have been a self-executing Treaty, but dependent on legislative enactment, and that the failure of Congress to

- properly



2.

properly legislate in accordance with the provisions of the Treaty renders the merchandise of Indians entering the United States dutiable.

Mrs. Carrow, the appellee, appealed to the Department for financial assistance, and a payment of 500 was made to her counsel. The question of an appeal of this case to the Supreme Court of the United States has been given very careful consideration. In our judgment, however, the success of such an appeal, if undertaken, would be very doubtful. Mrs. Carrow's counsel, therefore, has been notified that it is not the intention of the Department to proceed with the appeal to the Supreme Court.

It has occurred to me that the Government of the United States might be approached through the ordinary diplomatic channels, with the object of having legislation passed restoring to the Indians of Canada their original rights and privileges, in so far as free entry of their merchandise to the United States is concerned. Any agreement, of course, on the question at issue would have to be reciprocal. There is, at the moment, no provision in the Canadian Customs Act or tariff or regulations thereunder, permitting free entry into Canada from the United States of Indian products as such.

In view of the steadily increasing demand in the United States for baskets manufactured by Canadian Indians, the decision of the United States Court at this time is very disappointing. I am convinced that, if the Indians were assured of free entry of their products to the United States, they would be able to obtain a market for all the baskets they could manufacture on certain reserves along the international boundary and thus become self-supporting and comparatively prosperous.

(Signed) Harold W. McGill,  
Director.



40958

PLY/SM.

22nd April, 1937.

Dear Sir:

I am in receipt of your  
letter of the 19th instant.

Coal-oil stoves imported  
into Canada are dutiable under the ordinary  
provisions of the Tariff, and there is no  
provision for their importation free of duty  
when brought into Canada by an Indian, even  
though for his personal use. Form B. 18½ is  
returned herewith.

Yours truly,



P. L. Young,  
Chief Clerk of Correspondence.

Encl.

Kenneth Whitebean, Esq.,  
Cornwall Island,  
Ontario.





Jesse P. Wolcott,  
1st. Michigan  
Home Address  
Port Huron, Mich.

CONGRESS OF THE UNITED STATES  
HOUSE OF REPRESENTATIVES  
WASHINGTON, D.C.  
May 11, 1937

Mr. Aylmer N. Plain,  
Sarnia Indian Reserve,  
Sarnia, Ontario, Ca.

My dear Mr. Plain:-

Upon receipt of your letter containing the petition signed by the Indians of the Sarnia, Kettle Point and Walpole Island Reserves, I contacted our Department of State requesting advice as to how this matter should be handled.

Mr. Baumbright who has charge of Canadian Affairs for the U. S. Department of State advises that I return this petition to you with the suggestion that you file it with the Canadian Secretary of State for Internal Affairs at Ottawa, who will determine how the matter should be handled. He states that it is possible that under the Indian Treaty Rights you should be exempt from duty and that the United States Department of State and the Office of Indian Affairs of the Department of Interior will take immediate action when they are approached by the Canadian Department of State.

I want to assure you of my sympathetic interest in your rights. After you have filed this petition with the Canadian Secretary of State for Internal Affairs, if you will send me two copies of it I shall be glad to file them with the Department of State and Office of Indian Affairs here in Washington in anticipation of action on it through the Canadian government.

I wish to help in every manner possible and if you think there is anything further I can do, do not hesitate to let me know.

With best wishes, I am,

Sincerely yours,

(Sgd) JESSE P. WOLCOTT.



## SARNIA INDIAN RESERVE

SARNIA, ONTARIO

CANADA.

May 15th, 1937.

Honorable, The Secretary of State  
for Internal Affairs, Ottawa.

Sir:-

On March 11th last, United States Customs officers along the border received notices that the case, Garrow versus The U.S. Customs had been taken to the United States Court of Customs and Patent appeals and the decision in favour of Mrs. Annie Garrow resident of St. Regie Indian Reservation, Quebec, reversed.

They proceeded to collect duties on Hand-made splint baskets and other articles, from Indians passing the boundary lines. We protested on the grounds of our treaty rights, with no results excepting that we were told that all points along the border would be watched to prevent us from landing on any U.S. territory with our goods.

Therefore, Respected Sir, it was determined to draft out a petition and with the signatures of as many Indians as possible and send the same to a representative of the United States Congress.

This was done, and a reply received from Washington, D.C.

Now, Sir, I am acting on the suggestion offered by the Representative to whom the petition was sent, and I am enclosing the Original with the signatures attached, together with excerpts of Article III of Jay's Treaty, 1794 and Article IX of the Treaty of Ghent, 1814, also a copy of a letter received by an Indian in 1908 from J. F. Horthey, Assistant in the Treasury Dept. at Washington.

Trusting that this matter will receive your best consideration,  
I am,

Very Respectfully

Aylmer H. Plain

Sarnia, Ontario, Canada.

NAC RG16 File A-7613





DEPARTMENT OF NATIONAL REVENUE  
CUSTOMS DIVISION

REPLY (IF ANY) TO BE ADDRESSED TO  
"COMMISSIONER OF CUSTOMS"  
REFER TO FILE NO. ....

PLY/RE

OTTAWA, 1st June, 1937.  
CANADA

Memorandum for

Mr. H. D. Scully,  
Commissioner of Customs:

Referring to our interview with Mr. T. R. MacInnes, Secretary and Acting Director of Indian Affairs, Edmund Caza, Sub-Collector at St. Regis, advises me "we don't collect no duty from the Indians, but we let their groceries, supplies and personal effects in free".

Mr. Caza's double negation was evidently intended for emphasis. He asserts that for many years this has been the practice, and there has been no change recently, the articles referred to having been admitted free continuously over a period of years.

I think perhaps we should write to Mr. MacInnes, referring to his interview, and merely stating that there has been no change in the practice at St. Regis with regard to the importation of personal effects, groceries and supplies by Indians.

Respectfully submitted,

*L. L. Young*

General Executive Assistant.

453



40958

PLY/RH

3rd June, 1937.

Dear Mr. MacInnes:

This will refer to your interview of a day or two ago with Mr. Scully and the undersigned.

I now find on personal inquiry from the Sub-Collector at St. Regis that there has been no change in the practice at that place with regard to the customs treatment of personal effects, groceries and supplies brought in by Indians.

I think you were under the impression that while these articles had been allowed in free for many years when brought in by Indians, the situation had changed recently and duty was now being demanded. This, however, is not the case.

Yours faithfully,



General Executive Assistant.

T. R. L. MacInnes, Esq.,  
Secretary, Indian Affairs Branch,  
Department of Mines and Resources,  
Ottawa, Ont.



NAC RG 16 File A-7613



23rd August, 1937.

MEMORANDUM:

T.R.L. MacInnes, Esq.,  
Secretary,  
Indian Affairs Branch.

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With reference to your memorandum of the 16th instant on file 59-1X herewith, I have referred to the letter dated the 7th idem from the Liquor Control Board of Ontario regarding Kane Cornelius, Essex, Ontario, wherein this man wishes to obtain a liquor permit for medicinal and other purposes, it is noted that Mr. Williams, the late Solicitor and Deputy Superintendent General, has held to the opinion that the provisions of the Indian Act apply to a U.S.A. Indian when in Canada and that the Department has maintained this position.

As correctly stated by you, the provisions of the Indian Act do not apply to the enfranchisement of a Canadian Indian and before giving any ruling with respect to an enfranchised U.S.A. Indian it will be necessary to get in touch with the U.S. authorities and request advice as to the legal position of an Indian enfranchised in the U.S.

Solicitor.

NAC RG 26  
Vol. 74  
File 1648



40958

LRT/SM


29th September, 1937.

Dear Sir:

Your letter of the 24th instant, addressed to the Minister of Customs, relative to free entry of handicraft made by Indians and forwarded to Indians in Canada, has been referred to the undersigned for reply.

There is no provision in the Canadian Customs Act or Tariff, or in any of the regulations established thereunder, permitting free entry into Canada from the United States of Indian products, and goods of any kind imported by Indians are subject to the same Tariff requirements as if imported by others.

Yours truly,

  
L. H. Taylor,  
Asst. Secretary, Customs Division.

Ewing Flying Iron, Esq.,  
Limberlost Lodge,  
HUNTSVILLE, Ontario.





ALL CORRESPONDENCE TO BE  
ADDRESSED TO—

THE COMMISSIONER,  
R.C.M.P. POLICE,  
OTTAWA

ROYAL CANADIAN MOUNTED POLICE

CRIMINAL INVESTIGATION BRANCH

IN REPLY PLEASE QUOTE

FILE NO. C 11-4-17

OTTAWA, Oct. 15, 1937.

CANADA

Letter No  
Receives

C 11-4-17

Sir:

CUSTOMS EXCISE  
100-4/0926

Enforcement of Customs Act.

Quoted hereunder is a press item which appeared in the "Ottawa Citizen" for October 12, 1937.

"Mrs. Garrow loses case in U.S. Court

Associated Press

"WASHINGTON, Oct. 11.--Mrs. P.L. Garrow, an "Indian of the St.Regis tribe, lost in the United "States Supreme Court today in her effort to re- "cover a \$1 duty paid on baskets she brought into "the United States from Canada. "The high court refused to pass upon a judgment "against her by the United States Court of Customs "and Patent Appeals. "Mrs. Garrow lives on the Canadian side of the "St.Regis reservation. In 1935 she crossed the "border carrying baskets for sale. The customs "office levied a duty of \$1, which she paid under "protest. A United States customs court ruled in "her favor, on the ground that the Jay treaty--a "treaty of amity, commerce, and navigation, signed in 1794 between the United States and Great Britain-- "exempted the Indians from paying a customs duty. "The United States Court of Customs and Patent "Appeals ruled, however, that these treaty provisions "had been abrogated by the war of 1812 between this "country and England."

2. As there has been previous correspond-  
ence between these Headquarters and your Department re-  
garding the status of Indians and the special privileges  
granted them in bringing certain goods into Canada, duty  
free, by reason of the treaty referred to, possibly you would  
wish to bring the judgment to the attention of the Superin-  
tendent General of Indian Affairs, with a view to ascertaining  
whether it will in any way effect the status of Indians in  
Canada, insofar as the Customs Act is concerned.

Yours truly,

The Commissioner of Customs,  
Department of National Revenue,  
Ottawa.

E.W. Bavin, Supt.,  
C.P.O.

AD/M





Letter No.  
Records

CUSTOMS-EXCISE

File No. 40958

Ottawa, November 3rd, 1937

Dear Mr. Scully,

I am enclosing, for your information, copy of a memorandum of the 2nd April, 1937, regarding the imposition of duty on Indian merchandise entering the United States, by the Director of the Division of Indian Affairs in the Department of Mines and Resources, which was forwarded to this Department under cover of a letter from Dr. Gamsell of the 3rd June. The matter was last brought to the attention of this Department in a letter of the 15th May by Mr. Aylmer N. Plain of Sarnia Indian Reserve, copy of which with its enclosures I am attaching hereto. I am now in receipt of a second letter on the subject (October 27th) from Mr. Plain asking how matters now stand and urging the importance of Government action to restore to the Indians the right of immunity from Customs duties guaranteed by the Jay Treaty of 1794 and subsequently exercised by

H. D. Scully, Esq.,  
Commissioner of Customs,  
Department of National Revenue,  
Ottawa.

NAC RG16 File A-7613



2.

them as a matter of use and want until the recent decision of the United States Court of Customs and Patent Appeals decided that the merchandise of Indians entering the United States was dutiable in the ordinary manner.

I should be grateful if your Department could consider, assuming the United States were ready to reciprocate, whether it would be feasible, from an administrative point of view, to legalize a separate customs regime for North American Indians under which they could move their effects and merchandise freely back and forth across the international boundary without payment of customs duty.

Yours sincerely,

*J. S. Ruan*

Acting Under Secretary of State  
for External Affairs.

NAC R616 File A-7613



Mr. Young

I think you had better follow  
this to conclusion with Mr. Read.

The volume would be so small I think  
we might take a chance on reciprocal  
free entry even if there are  
administrative difficulties.

Therefore I favour following up as Read  
suggest through direct negotiation. #13  
6/11/37



15th November, 1937.

J. E. Read, Esq.,  
Acting Under Secretary of State  
for External Affairs,  
Ottawa.

Dear Mr. Reid:

I have your letter of the 3rd instant and I understand that Mr. Young discussed with you the possibility of effecting reciprocal arrangements for free entry or preferential tariff treatment in respect of articles imported by Indians.

The department is quite in accord with your suggestion that direct negotiations be instituted with a view to effecting a reciprocal arrangement.

You are no doubt aware that on the understanding that the provisions of the Jay Treaty were being regarded as in effect by the United States Government, the Canadian Government has been admitting to free entry personal household effects imported by Indians at the St. Regis Reserve. That is the situation at the present time and it is not proposed to disturb that situation at least until after the proposed negotiations have been concluded.

Yours very truly,

Commissioner of Customs.





DEPARTMENT OF NATIONAL REVENUE  
CUSTOMS DIVISION

REPLY (IF ANY) TO BE ADDRESSED TO  
"COMMISSIONER OF CUSTOMS"

REFER TO FILE NO. C-3-3686

OTTAWA, CANADA March 5th, 1938.

MR./J.

W. P. Regis, Esq.,  
Caughnawaga, P.Q.

Dear Sir, Re: Customs Seizure No. 3886/8000

I am in receipt of your letter of the 1st ultimo regarding the above-numbered seizure of your automobile and note your claim that the Jay Treaty was not abrogated by the war of 1812 but rather in 1814 the two Powers, Great Britain and the United States of America, renewed the Treaty as adopted originally in 1796.

In this connection I would refer you to the case United States vs. Mrs. P. L. Garrow, referred to in my letter to you of the 18th ultimo, which was heard by the Court of Customs and Patent Appeals of the United States and judgment rendered March 1st, 1937, (48857), report of which appears in United States Treasury Decisions, Volume 71, No. 10, issued March 11th, 1937, and in which you will find that subsequent to the Jay Treaty of 1794 the Congress of the United States on March 2nd, 1799, provided in Section 105 an Act to regulate the collection of duties on importations, as follows:

"That no duty shall be levied or collected on the importation of peltries brought into the territories of the United States, nor on the proper goods and effects of whatever nature, of Indians passing, or re-passing the boundary line aforesaid, unless the same be goods in bales or other large packages unusual among Indians, which shall not be considered as goods belonging bona fide to Indians, nor be entitled to the exemption from duty aforesaid."

Judge Graham, the presiding Judge, in delivering the opinion of the Court in commenting on the above stated as follows:

"This was the situation of affairs at the time of the declaration of war between the United States and Great Britain on June 18, 1812. This war was concluded by the Treaty of Peace made at Ghent on December 24, 1814, and ratified February 17, 1815. (See Malloy's Treaties, Conventions, etc., supra, pp. 612-620.) Article 11 of said treaty contained the following provision, among others:

"The United States of America engage to put an end, immediately after the ratification of the present treaty, to hostilities with all the tribes or nations of Indians with whom they may be at war at the time of such ratification; and forthwith to restore to such tribes or nations, respectively,

-all-



-2-

all the possessions, rights, and privileges which they may have enjoyed or been entitled to in one thousand eight hundred and eleven, previous to such hostilities:....'

"We think, therefore, it must be said that so far as the provision under which the appellee here claims is concerned, the War of 1812 ended the right which the appellee now claims of bringing her goods across the border and into the United States without the payment of duty.

However, the War of 1812 did not annul or repeal the tariff act of March 2, 1799, which was still in full force and effect during the entire period of the duration of the war.

"The Treaty of Ghent of 1814, article II, as it will be observed, was not self-executing. It constituted a contract on the part of the United States of America that it would, by the necessary legislation,

'restore to such tribes or nations, respectively, all the possessions, rights and privileges which they may have enjoyed or been entitled to in one thousand eight hundred and eleven, previous to such hostilities:....'

"So far as we are advised, no such ratifying legislation was ever enacted. Presumably it was not thought necessary to do so, so far as Indian rights are concerned, as at that time the cited provision in the tariff act of March 2, 1799, was in full force and effect, and had been so since its enactment."

"In 1897, when a general revision of the import duty laws of the United States was undertaken, apparently there was a change in congressional policy, as the provision for the free entry of peltries and goods of Indians was omitted from that revision, and duties were generally imposed by various provisions of said act upon the goods herein involved."

"At the time of the entry of the goods here in question, therefore, there was no provision of the law exempting the said goods of the appellee from duty, but in fact they were especially made dutiable under paragraph 411 of the Tariff Act of 1930, as hereinbefore indicated. There being neither any treaty exemption of appellee's goods from duty, nor any statutory exemption thereof, it follows that they are dutiable, as claimed by the collector."

With regard to the case cited by you of Paul Diabo, I would point out that a similar case is cited by Judge Graham, that of McDanielles, tried before a United States District Court

-and-



-5-

and decision rendered on March 9th, 1938, in favour of McCandless. Judge Graham points out that "this case was not appealed to the Supreme Court. This may have been occasioned by the fact that on April 2, 1938, an Act of Congress was approved which provided that the Immigration Act of 1924 should not apply to Indians crossing the International border."

In view of the above it is held that the Departmental decision as rendered is in accordance with law and must stand.

Yours truly,

Chief Clerk,  
for Commissioner of Customs.

*(Decision was that a Hypmobile automobile be released on payment of \$25.00 & expenses to be forfeited, conditional on exportation) K. 15:4-52.*



40958

LHT/HH

5th August, 1938.

Sub-Collector of Customs and Excise,  
Trout River,  
P. Q.

Dear Sir:-

This will acknowledge receipt of your communication of the 26th ult. relative to the claim by North American Indians entering Canada through your outpost that they are entitled to free entry in regard to foreign goods which they may have in their possession.

This matter has been receiving the attention of the Department recently and negotiations are being conducted through the Department of External Affairs with a view to effecting a reciprocal arrangement with the United States.

Under the Jay Treaty, which is regarded as in effect by the United States Government, the Canadian Government has been admitting to free entry the personal household effects imported by Indians. This situation should not be disturbed at the present time and action should be delayed until after the proposed negotiations have been concluded.

Yours truly,

  
L. H. Taylor,  
Secretary, Customs Division.

2  
NAC RG16 File A - 7613



185-16




CANADA  
DEPARTMENT  
OF  
MINES AND RESOURCES  
INDIAN AFFAIRS BRANCH

Ottawa, May 25, 1939

Memorandum:

Mr. Cory

Please advise me if, in your opinion, it is permissible under The Indian Act for a United States Indian to be admitted into membership in a Canadian Band. If so, is naturalization necessary, and further is an Indian eligible for naturalization, having regard to his restricted status under The Indian Act?

  
T. R. L. MacInnes,  
Secretary.

NAC RG26  
Vol. 74  
File 1648



6th June, 1939.

MEMORANDUM,

Mr. MacInnes.

I have your memorandum of the 25th ultimo requesting to be advised if in my opinion it is permissible under the Indian Act for a United States Indian to be admitted into membership in a Canadian band.

Upon reference to the interpretation section of the Indian Act it would seem that a United States Indian might be considered as a non-treaty Indian which means any person of Indian blood who is reputed to belong to a regular band or who follows the Indian mode of living even if such person is only a temporary resident in Canada.

If such an interpretation can be safely applied and such application is not contrary to the practice of the Department such an individual could be made a member under Section 18 of the Indian Act if the Superintendent General so sees fit. Upon becoming a member of the band under Section 18 then naturalization could only be considered after enfranchisement takes place. It might, however, be advisable to take the question of such naturalization up with the Naturalization Branch of the Department of the Secretary of State.

Solicitor.

NAC RG-26  
Vol. 74  
File 1648



5th May, 1941.

MEMORANDUM:

Mr. MacInnes.

I am in receipt of your memorandum of the 2nd instant to which is attached a letter from Indian Agent McPherson, dated the 28th ultimo, advising that an Indian woman has married a United States Indian and for this reason the Agent has refused to pay this woman her interest money. Mr. McPherson wishes to be advised as to whether he is correct in his stand. In this connection I beg to advise that there is nothing in the Indian Act that would preclude this woman from receiving her interest money except under the following conditions -

If she and her husband have their home in the United States and have lived there for five years and if, during that period had her home there, and if she had not obtained the consent required by the statute she would cease to be a member of her band and would not be entitled to annuity. Until the expiration of such five years continuous residence she would retain her right to share in the annuities of the band although she would cease in every other respect to be an Indian within the meaning of the Act - section 13.

Mr. McPherson wishes to be advised on another point, viz., in the case of a Roseau River girl marrying a non-treaty Indian, would she be eligible to receive both her annuity and interest payments?

On this point I do not think there is any doubt. Section 15, subsection (2) takes care of this contingency and the woman in question shall be entitled to share equally with the members of the band of which she was formerly a member.

Solicitor.

NAC RG 26  
Vol. 74  
File 1648



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Y

Minister of Agriculture  
Province of  
British Columbia

VICTORIA,  
March 8, 1943.

AIR MAIL

Hon. Humphrey Mitchell,  
Minister of Labour,  
Ottawa, Canada.

Dear Mr. Mitchell:

Upon receipt of your communication of the 2nd instant enclosing two copies of the proposed farm labour program, also copy of letter addressed by you to Premier Hart under date of March 1, I stayed the mailing of my letter addressed to you under date of the 5th instant.

Your letter to Premier Hart and copy of the farm labour program answers pretty fully many of the questions which I had asked. However, I have decided to enclose my communication of the 5th instant in order that your officials may know the action already taken by this Department.

The comprehensive program outlined and advise that officials of your Department will visit this province in the near future for the purpose of discussing the details of the proposed agreement in most acceptable. May I point out that our season being so far advanced as early a conference as possible will be appreciated.

It is noted that in (c) of Clause 4, Treaty Indians from Reserves will be used on farms. In this province Indians on Reserves can be of great assistance in many parts, particularly for haying and harvesting, if arrangements can be made to mobilize them through the Indian Department. In this connection the unrestricted right of Indians to travel from Canada to the United States has resulted in agents from south of the border inducing or recruiting Indians from this province for farm labour in Washington and Oregon resulting in severe loss of labour, especially to cattlemen who in the past have depended upon their labour for haying. If any agreement can be reached to prevent this exodus it will be of the greatest possible assistance.

2/over

NAC RG-27  
V-1 605  
E-1 6-17-2



Expressing my appreciation of the leadership  
you are giving in connection with the farm labour problem  
and assuring you of our fullest possible co-operation, believe  
me,

Faithfully yours,

(sgd.) K.O. MacDonald,  
Minister.

NAC RG 27  
Vol 605  
Page 112



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Y

OTTAWA, March 16, 1943.

Dear Dr. McGill:

Enclosed herewith is copy of letter under date of March 8th from the Honourable K. C. MacDonald, Minister of Agriculture for the Province of British Columbia relative to the Farm Labour Programme. Also enclosed for your information is copy of the communication which the Minister of Labour addressed to the premiers of the different provinces, with copies to the Provincial Ministers of Agriculture and Labour.

You will observe that the programme provides that the services of Treaty Indians would be made use of as far as possible. In this connection, please note the fourth paragraph of Mr. MacDonald's letter in which he states that Treaty Indians from British Columbia are travelling to the States of Washington and Oregon to work as farm labourers. This is a serious loss to the farmers of British Columbia.

Will you be good enough to take whatever action is possible with the object of retaining the services of these Treaty Indians for the farmers in British Columbia.

Sincerely yours

A. MacNamara  
Deputy Minister

Dr. H. F. McGill  
Director  
Indian Affairs Branch  
O T T A W A

MAC 22-27  
L-1005  
FILE 6-1-2



# CANADIAN PACIFIC TELEGRAPHS

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W. D. NEIL, General Manager of Communications, Montreal

Send the following message, subject to the conditions on the back thereof, which are hereby agreed to.

OTTAWA APRIL 26 1943

**W MCKINSTRY**  
REGIONAL SUPERINTENDENT  
EMPLOYMENT AND SELECTIVE SERVICE OFFICE  
425 HOWE ST  
VANCOUVER B C

**K C MACDONALD** MINISTER OF ~~AGRICULTURE~~ AGRICULTURE WIRES AS FOLLOWS QUOTE WIRE FROM ASHCROFT RANCHERS ASSOCIATION STATES FORTY INDIANS FROM THAT LOCALITY RECRUITED BY AMERICAN AGRICULTURAL ORGANIZATIONS HAVE LEFT FOR UNITED STATES POINTS AS LABOURERS STOP RANCHERS URGE THAT ACTION BE TAKEN TO PREVENT EXODUS STOP CAN YOU FREEZE SUCH LABOUR AND PREVENT FURTHER MOVEMENT ACROSS LINE UNQUOTE WIRE ME PARTICULARS

**A MACNAMARA**  
DEPUTY MINISTER OF LABOUR

(CHARGE DEPT LABOUR)

MAC 1-27  
Vol 1-5  
FILED 1943



CLAS	SERVICE	SYMBOL
Full-Rate Message		
Day Letter		D L
Night Message		N M
Night Letter		N L

If none of these three symbols appears after the check (number of words) this is a full-rate message. Otherwise its character is indicated by the symbol appearing after the check.

# CANADIAN NATIONAL TELEGRAM

D. E. GALLOWAY, ASSISTANT VICE-PRESIDENT, TORONTO, ONT.

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MOA524 69 NL=VANCOUVER BC 27

A MACNAMARA, DEPUTY MINISTER OF LABOUR

1:17=OTTAWA-ONT=

RECEIVED
Section to Deputy Minister

RETEL INDIANS ASHCROFT FROM INFORMATION RECEIVED TEN WERE  
RECRUITED FROM BONAPARTE RESERVE SIX FROM SPENCES BRIDGE  
RESERVE NO KNOWLEDGE OF ANY BEING RECRUITED FROM ASHCROFT  
STOP THESE BEING RECRUITED BY CHIEF TOMMY TICK SPENCES  
BRIDGE RESERVE STOP ALL TREATY INDIANS AND UNITED STATES  
AUTHORITIES STATE THEY FREE TO CROSS THE BORDER WITHOUT  
IMMIGRATION LIMITATIONS STOP SELECTIVE SERVICE CIRCULAR  
SIXTY SIX B DOES NOT REQUIRE THEM TO HAVE LABOUR EXIT

PERMIT:

=WM MCKINSTRY.

✓  
Indians crossing  
the border

21

MAC 60 27  
VANCOUVER  
FILE 6112



OFFICE OF THE  
DIRECTOR



INDIAN AFFAIRS  
BRANCH

Ottawa, April 30, 1943.

Dear Mr. MacNamara:-

Please refer to your letter of March 16 with reference to Indian labour supply in British Columbia.

(P M / New / May)

I am in receipt of a report from the Indian Commissioner at Vancouver, from which I may quote for your information as follows:-

■ x x x x

I have recently received a call from a representative of the Provincial Department of Agriculture enquiring if it would not be possible for us to prohibit this migration of Indians to the States and he was fully informed of the difficulties confronting us in this respect.

While it would no doubt be helpful for the Dominion or Provincial Government to take steps to prohibit the canvassing of our Indian labour resources by any person with a view to their removal from our own labour pool, it is probable that word would be passed around the Reserves advising Indians to proceed across the International boundary where they would be taken care of by the labour agents.

In my opinion the only method of controlling the movement is by requiring Indians to produce to the Canadian Immigration officials at the boundary a statement by the local Selective Service Officer that employment is not available for the Indian at suitable wages and within his skill.

We are, at present, refusing to furnish Indians of callable age and status for military service with the identification required by the U.S. Immigration officials, unless they can show that they have been discharged or refused by the War Mobilization officials. I am calling the attention of our Agents to my circular of July 24th, 1942."

WAC RG 27  
VOLUME  
FILE 6-12-2



- 2 -

Under a General Order of the United States Department of Labor, Bureau of Immigration, dated July 18, 1928, Indians are permitted to enter the United States freely. This is a privilege which the Canadian Government would not wish to take any action to disturb as it is of great benefit to the Indians in seeking employment, particularly at times when work is not readily accessible to them in Canada.

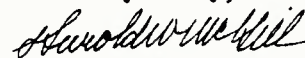
It is understood, however, that Indians are subject to the National Selective Service Mobilization and National Selective Service Civilian Regulations in the same manner as other people, and it is thought that the situation might be controlled through these regulations locally as required.

Accordingly, you may deem it advisable to deal with the suggestion made by the Commissioner for controlling the movement of Indians, under Part IV of the National Selective Service Civilian Regulations, Labour Exit Permits.

I should be obliged if you would advise me when you have considered the matter further.

I may add that, in my opinion, no restriction should be placed upon the Indians that would not apply equally to other members of the community.

Yours very truly,



Director.

A. MacNamara, Esq.,  
Director of National Selective Service,  
Ottawa.

MAC 2-27  
C-10-5  
C-10-19-2



DIVISION "K"



CANADA

DIVISION "K"

NATIONAL SELECTIVE SERVICE, MOBILIZATION SECTION  
SERVICE SELECTIF NATIONAL, DIVISION DE LA MOBILISATION

AIR MAIL:

VANCOUVER, B.C.

3rd May 1943.

Mr. Arthur MacNamara  
Deputy Minister of Labour  
Ottawa, Ontario.

Re: Indians Leaving British Columbia  
To Work On The American Side

My Dear Mr. MacNamara:

A good many Indians from this Province leave in the spring and summer each year to work in the neighboring States. Heretofore they have been able to go and come across the line without restriction. At least that is my understanding. May I suggest that proper representations be made to forbid Indians going to the United States without a Labour Exit Permit. Some Indians are quite valuable as farm labourers, others, of course, are not, but with our present labour shortage it unquestionably would be wise to keep these men in British Columbia. They are needed by the farmers, particularly by the farmers of the Interior, and to a lesser extent by the farmers of the Fraser Valley.

I have a particular case in mind where a few days ago a man named M. R. Dunsford, of the Vachon Packing Company, Vachon, Washington, came to Ashcroft and engaged a number of Indians to work across the line, weeding and picking berries, agreeing to pay them 50¢ per hour for weeding and 60¢ for picking berries. Approximately nineteen Indians accepted the offer and left Ashcroft on April 20th to work for the above mentioned Company. Mr. Pitts, a barrister of Ashcroft, wired to the Minister of Agriculture with regard to the Indians leaving Ashcroft as above.

Yours very truly,

Hon. Mr. Justice A. M. Manson  
Chairman Mobilization Board  
Administrative Division "K"

AMM:DL

RFC 215 27  
Vol. 605  
File 6-19-2



May 4,

43.

TO: Mr. C.F. Needham  
FROM: A. MacNamara.

Attached is copy of a letter which I have received from Dr. H.W. McGill, under date of April 30, together with copy of my letter to him of March 16 and a letter from Honourable H.C. McDonald, Minister of Agriculture for B.C., therein referred to.

Would you please let me have your comments on this matter.

National Selective Service Circular 66B, dated December 3, 1942, provides "for the present, and until further notice, we shall not require that Indians taking employment in the United States obtain labour exit permits or exemption certificates before departure."

FMH/MF  
Encls.

Copies sent to: C.F. Needham,  
Allan M. Mitchell  
Dr. W.J. Couper  
Harry Hereford  
V.C. Phelan.

*When this  
letter is dealt  
with - advise  
Hon H.C. McDonald  
BC re his wife  
Apr 24*

NAO RC-27  
Vol. 2  
File 19-2



DEPARTMENT OF LABOUR

DEPUTY MINISTER'S OFFICE

OTTAWA, May 4, 1943.

MEMORANDUM

To: V.C. Phelan

Attached is copy of a letter which I have received from Dr. H.W. McGill, under date of April 30, together with copy of my letter to him of March 16 and a letter from Hon. K.C. McDonald, Minister of Agriculture for B.C., therein referred to.

Would you please let me have your comments on this matter.

National Selective Service Circular 66B, dated December 3, 1942, provides "for the present, and until further notice, we shall not require that Indians taking employment in the United States obtain labour exit permits or exemption certificates before departure."

  
A. MacNamara.

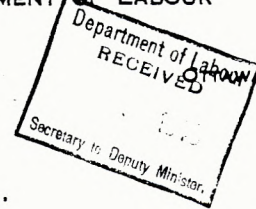
Encls.

AMC 20.11  
1016-5  
6100-17-2



MEMORANDUM

Mr. A. MacNamara,  
Deputy Minister of Labour.



May 6, 1943.

Retaining Service of Indians in Canada


It appears to be desirable to retain the services of Indians in Canada and to effect this (apart from farm labourers going to U.S.A. under special arrangements between the Governments as provided for by P.C. 9011, October 1, 1942, par 4 (h)) we could to some extent prevent Indians from going to U.S. by cancelling E.S.S. circular 66B, December 3, 1942, which exempts Indians from necessity of obtaining labour exit permits.

Since E.S.S. circular #66 provides that no permits may be granted without Head Office approval and as such approval would presumably be withheld except in special cases, this would have the effect of preventing Indians going to U.S.A. and would be treating Indians in the same way as others and therefore, I gather, meet with the views of Dr. McGill, Director of Indian Affairs.

I understand such control as may be effected in connection with persons leaving Canada is to be exercised by the Customs Department which will be promulgating instructions to its officers next week; I doubt whether this can ever be a really effective control against Indians or anyone else of the itinerant working type unless U.S. regulations are such that employment of a Canadian is forbidden without some form of permit.

Canadian Indians under U.S. law are permitted full entry to U.S., but American Indians are subject to same regulations as other emigrants if seeking to enter Canada.

I attach letter for your signature, if approved, to Dr. McGill and memo to Director of E.S. & U.I.C.

  
Harry Hereford.

LRG 25-27  
V-105  
FILE 6-19-2





House of Commons  
Canada

Ottawa, May 6, 1943.



The Honourable Humphrey Mitchell,  
Minister of Labour,  
Ottawa, Ontario.

Dear Sir:

I have this date received a telegram from Ashcroft,  
B. C., as follows:

REQUEST YOUR ASSISTANCE IN HAVING THE RECRUITING OF  
INDIAN LABOUR BY UNITED STATES EMPLOYERS PREVENTED  
AND THEIR PASSAGE ACROSS THE LINE STOPPED VICTORIA  
HAS WIRED MINISTER OF LABOUR IN THIS MATTER.  
C H PITTS SECTY ASHCROFT RANCHERS ASSN.

I would appreciate your advice as to what action the  
Department is taking or intends to take in regard to this matter.  
The permitting of Indians to leave Canada and go to the United  
States at this time just aggravates an already very acute labour  
situation so far as the farmers are concerned.

Yours truly,

*T. J. O'Neill*

T. J. O'NEILL, M. P.,  
Kamloops, B. C.

TJO/CH

1000 R-27  
V.C.B.  
File 6-19-2



101  
DEPARTMENT OF LABOUR  
INFORMATION DIVISION

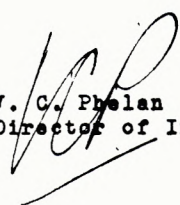
OTTAWA, May 7, 1943

MEMORANDUM To: Mr. A. MacNamara

Re attached: I would suggest that N.S.S. Circular 66B, of December 3, 1942, be withdrawn, and that Indians, as well as other residents of Canada, be required to secure Labour Exit Permits in order to leave Canada. One can understand the desire to not have withdrawn the U.S. rule that Indians are free to enter the United States. However, as the United States were parties to the Labour Exit Permit system, as their officers have been instructed to enforce our regulations in this regard, and as the U.S. did not ask for the exemption of Indians in the first instance, nor at any time since, so far as I have been able to discover, I do not see that the Americans would complain.

|| If the Circular is withdrawn and the regulation is to be enforced against Indians, I suggest that Indian Affairs be asked to notify the Indian Agent that the regulation will be enforced.

Discussions I have had with Indian Affairs would indicate that they would not raise the slightest objection if this Department takes action as above suggested.

  
V. C. Phelan  
Director of Information.

MAC 27  
VCL 665  
File 6-19-2



Ottawa  
May 7, 1943.

Via Air Mail

Hon. Mr. Justice A. M. Macdonald,  
Chairman, Mobilization Board,  
Administrative Division "K",  
Vancouver, B.C.

Dear Mr. Justice Macdonald,

I have your letter of May 3  
and as a matter of fact I have been looking  
into the question of Indian movement into  
the United States.

There are treaty rights enjoyed  
by the Indians which from information I have  
indicates that this is a matter which we have  
very little control over.

I have talked to a number of  
people who know, including External Affairs and  
the Department of Indian Affairs, and from the  
replies I got I am inclined to think we will  
have to content ourselves with allowing this  
movement. I suppose we can satisfy ourselves  
with the idea that if these men are producing  
food it does not matter on which side of the  
international line they work.

Yours very truly,

A. Macdonald

AM/DR

LAC RG17  
VCL 665  
ECL 6-19-2



601.3:(1-11)  
104.

DIVISION "K"



CANADA

DIVISION "K"

NATIONAL SELECTIVE SERVICE, MOBILIZATION SECTION  
SERVICE SÉLECTIF NATIONAL, DIVISION DE LA MOBILISATION

VANCOUVER, B.C.

AIR MAIL

May 11, 1943.

Mr. Arthur MacNamara,  
Deputy Minister of Labour,  
Ottawa, Ont.

My Dear MacNamara:

I have yours of the 7th.

I realise that some of our Indians are covered by so-called treaty rights, but my recollections are that by no means all of them are. If it weren't for the fact that we were so desperately short of men in the farm and logging industries it wouldn't be worth spending any time on the goings and comings of our Indian population.

As far as the Army is concerned, we haven't bothered our heads much about compelling them to get into uniform, but having regard to the latter situation I think it might be worth while to institute an enquiry as to just what Indians have treaty rights to enable them to cross the Boundary at will. Even a couple of dozen men are worth while saving for our manpower pool if at all possible.

Very truly yours,

AMM:ma

Hon. Mr. Justice A.M. Manson  
Chairman Mobilization Board  
Administrative Division "K"

601.3-27  
Vol 6.5  
File 6-19-2



MEMORANDUM

OTTAWA 11th May 1943.

File 21-25-1

Mr. MacNamara

Re attached, at the time the labour exit permits were being provided this matter was discussed, and I believe the Immigration Department felt that as these Indians had always had this migratory privilege, it should not be discontinued.

If we could hold them on our side of the border it would, of course, be a great advantage.

*Allan M. Mitchell*  
Allan M. Mitchell  
Director-  
E.S. & U.I.

Encls.

PAC 2627  
Vol. 65  
File 6-1-2



OTTAWA, May 15 1913

MEMORANDUM

to Mr. MacDonnell

I have marked the only two items in the attached which I think are of special interest. These deal with the use of Indian Labour.

The question of whether Indians should be required to have Labour Exit Permits before leaving Canada for the United States was brought up in a letter from Dr. W. W. McGill, Director of Indian Affairs. The opinions expressed by our different officials in regard to this matter are that Indians should be held subject to the regulation. The one exception is Mr. Allen Mitchell, who says that at the time arrangements were made in regard to Labour Exit Permits the matter was discussed with the Immigration Department which felt that as Indians held no special rights or privileges it should not be discriminated against. He also says that if we could hold the Indians in this way it would be a great advantage.

The Department of Indian Affairs, however, says that they would have no objection to requiring Indians to have Labour Exit Permits and I am therefore preparing an appropriate letter to Dr. McGill and a memorandum to Mr. Allen Mitchell asking him to issue instructions concerning W. O. B. Circular 10-2, which provides that Indians are not required to present Labour Exit Permits in crossing to the United States for employment.

These will be submitted to you <sup>for consideration</sup> the first of next week.

*MacDonnell*

*Francis Hurford*

Seems to me we have to be careful about this — If they have a treaty which we would be violating it might be too bad — Check with Immigration Dept — & ask Mr. Crawford what he thinks — Better go over & see him

*amall*

*H*

MAH 6-17  
V-1 605  
FIC 6-14-2



## DEPARTMENT OF LABOUR

OTTAWA,

May 20, 1943.

MEMORANDUM

To: Mr. MacNamara.

Re: Labour Exit Permits -- Indians

I saw Mr. Clarence Jackson regarding this matter on Tuesday and went into it fully with him.

Mr. Jackson says he can see no objection to Indians in British Columbia (where the problem is most acute) being made subject to labour exit permits. He says there is no real objection to this being extended to Manitoba, Saskatchewan or Alberta. The situation in Ontario is a little different as many of the reserves are located near or right on the border and administrative difficulties would probably arise.

Mr. Jackson says we would not be violating any treaty, and I gathered from him that the Indian Affairs officials themselves would like to see some action taken to discourage the migration of certain British Columbia Indians to the States. There are, of course, certain Indian families which the Department of Indian Affairs would like to have <sup>move</sup> go to the States and Mr. Jackson says that it will be necessary for National Selective Service to secure the recommendation of the Indian agents. This could be handled by a close liaison ~~between~~ with Mr. D.M. McKay, the Indian Commissioner at Vancouver. About the treaty question, none of the people to whom I have spoken have been able to make the matter any too clear to me. However, both Mr. Jackson and other officials of Indian Affairs say there will be no violation.

I take it that any treaty permitting the Indians free entry to the United States would have been entered into with the Government of that country and, since we were not a party to the treaty, we would be justified in retaining Indians in the country under the present conditions. Dr. McGill, Director of Indian

2/over

KAC 1527  
L-1-65  
F-1-6-17-2



Affairs, in his letter of April 30 which I have marked on the attached file, practically suggests that the matter be controlled by labour exit permits, the only provision he makes being that no restrictions should be placed upon the Indians that would not apply to other members of the community. I have also marked for your convenience the opinions of our officials to whom you referred the matter.

*Francis M. H.*  
F. M. H.

Encl.

980-

MAC 2627  
Vol. 6-5  
File 6-19-2





# CANADIAN PACIFIC TELEGRAPHS

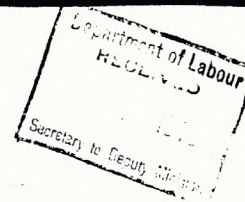
## World Wide Communications

W.D. NEIL, General Manager of Communications, Montreal

VR CT 154 HL

Vancouver, June 2.

Arthur Macnamara, 1386  
Dep. Minister Labor, Ottawa.



108

Commissioner Provincial police advises one M.R. Dunsford from the American side is in Ashcroft Lilloet Lytton area again inducing Indians to cross to States to accept employment in hop yards and otherwise as farm labourers stop On a previous trip he took nineteen or more stop He has already bargained with ten additional up till Friday last stop These Indians extremely essential to our own farmers of the Nicola Ashcroft and Chilcotin areas. In view of the fact that Indians from nineteen to forty one are callable I suggest Dunsford by inducing these men to leave the jurisdiction is guilty of an offence and should be prosecuted at once further I suggest that Indian Agents be instructed by appropriate department by wire to refuse for the duration to give certificates to Indians which certificates are required to enable them to cross the line stop Quick action necessary to stop this man Dunsford.

A.M. Manson,

Chairman Mobilization Board K.

llp

NAC RG 27  
Vols 605  
File 6-19-2



CLASS OF SERVICE	
Full Rate	
Day Letter	
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Please mark an X opposite the class of service desired.

# CANADIAN PACIFIC TELEGRAPHS



World Wide Communications

W.D. NEIL, GENERAL MANAGER OF COMMUNICATIONS

CHECK

TIME FILED

STANDARD TIME

Send the following message, subject to the conditions on the back thereof, which are hereby agreed to.

109

DATE & TIME  
JUNE 2, 1940

MR. JUSTICE A. M. MANSON  
CHAIRMAN  
MOBILIZATION BOARD K  
VANCOUVER B. C.

YOUR TELEGRAM JUNE SECOND KINDLY ARRANGE FOR PROVINCIAL  
POLICE AND MOUNTED POLICE TO CONTACT M. R. PUNSFORD AND  
ADVISE HIM THAT HIS RECRUITING JOB IS FINISHED (STOP)  
ALSO KINDLY GIVE PARTICULARS TO ACTING REGIONAL SUPERINTENDENT  
AND TELL HIM TO SEE THAT NO EXIT PERMITS ARE ISSUED  
IMMIGRATION OFFICIALS WILL BE INFORMED

A. MACNAMARA  
DEPUTY MINISTER OF LABOUR

(CHARGE DEPARTMENT OF LABOUR)

AM/LR

UAC 8-17  
V. 1005  
F12192



Copy to - Mr. Arthur MacNamara  
Deputy Minister of Labour  
Ottawa, Ontario

3rd June 1943.

Mr. W. McKinstry  
Acting Regional Superintendent  
National Selective Service  
475 Howe Street  
Vancouver, B. C.

Dear Sir:

Under date of April 25th we were advised by the British Columbia Police, that one, W. E. Dunsford, of Vachon Packing Company, Vachon, Washington, U.S.A. came to Ashcroft and engaged a number of Indians to work across the line weeding and picking berries, agreeing to pay them 50¢ an hour for weeding and 60¢ for picking berries. Approximately nineteen Indians accepted the offer and left Ashcroft on April 20th to work for the above mentioned Company. There is, as you know, a serious shortage of farm labour in the Ashcroft, Nicola, Chilcotin, and Cariboo areas which Indians can do.

On the 3rd of May I sent you a copy of my letter to the Deputy Minister of that date in this connection. On June 1st I had a further letter from the Commissioner of Provincial Police advising me that Dunsford was back again and that up to the 28th of May he had gotten ten Indians signed up to leave for the United States on the 28th. Dunsford was then going to Lillooet and Lytton to gather up more Indians. The Interior farmers were protesting vigorously. I aired the Deputy Minister as per attached copy and I have from him a reply an hour ago as per attached copy. I also wrote the Commissioner of Indian Affairs for this Province as per attached copy. I have written Colonel Hill of the R.C.M.P. as above. Major MacKay, the Indian Commissioner will notify all the Indian Agents to refuse to give Indians desiring to leave the Province certificates which the Immigration Department insist upon as a prerequisite to crossing the line.

Your assistance will be much appreciated.

Yours very truly,

Encls.  
AMM:UL

Hon. Mr. Justice A. M. Manson  
Chairman Mobilisation Board "X"

NAC RG 27  
Vol 605  
File 6-19-2



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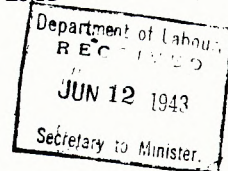
SECRETARY-TREASURER  
Mat. Hassen Armstrong, B.C.

# The British Columbia Beef Cattle Growers' Association

REPRESENTING THE BEEF CATTLE INDUSTRY OF BRITISH COLUMBIA

Armstrong, B.C.

8th June 1943



The Hon the Minister of Labour

Ottawa, Ont.

Dear Sir,

I enclose copy of a Resolution passed at a recent general meeting of this Ass'n held at Kamloops, B.C.

From discussion on the matter it would appear that you cannot prohibit B. C. Indians from crossing the International boundary but it should be within power of the Federal Government to pass an order-in-council; if only as a war time measure, that would prohibit anyone either Canadians or Americans from going on Indian Reserves canvassing Indians to go to work across the International boundary. This practice is causing great hardships to the war effort of Canadian producers. We understand that our Indians can purchase liquor across the line and it is felt in these days of partial prohibition in Canada that the government would not look kindly on such a state of affairs.

Thanking you in anticipation of early action.

Yours respectfully

*Mat. Hassen*  
Secretary.

NAC 2627  
V.C. 5  
File 6-19-2



ICERS AND DIRECTORS  
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F. H. Wilmot . . . . . Falkland  
J. H. Bruce . . . . . Kettle Valley  
A. D. Paterson . . . . . Ladner  
SECRETARY-TREASURER  
Mr. Hassen . . . . . Armstrong, B.C.

///

# The British Columbia Beef Cattle Growers' Association

REPRESENTING THE BEEF CATTLE INDUSTRY OF BRITISH COLUMBIA

## Resolution No 3

"That we ask the Minister of Labour for the Dominion  
to prevent canvassing of Indians within the Province of British  
Columbia to accept Labour outside the Dominion of Canada."

NAC F 627  
66/65  
5-12-6-19-2



MORANDUM:

TO: Mr. Allan M. Mitchell

FROM: A. Wood

RE: Labour Exit Permits -- Indians

OTTAWA June 12, 1943.

<input type="checkbox"/>	YOU ANSWER
<input type="checkbox"/>	YOU HANDLE
<input type="checkbox"/>	NOTE & FILE
<input type="checkbox"/>	NOTE & RETURN
<input type="checkbox"/>	FILE

112

To bring Indians under the Labour Exit Permit order will not be as simple as it sounds. In most of the provinces in Canada there are Indian reserves contiguous to the U. S. Border. Some of these Indians have been crossing the border for years. Others have taken employment across the line since the outbreak of war.

In B. C. there is a seasonal movement of some 2,000 Indians from the Okanagan and Kamloops districts to farmers in the United States. Owing to the shortage of help, individual farmers in the Washington and Oregon states are now only too anxious to get Indian labour from B. C. Ordinarily these Indians would remain in Canada. Now they are taking farm jobs on the other side of the line.

In south west Alberta the members of the Blackfoot, Bloods, and Pagans tribes visit the reserves in Montana. This is something they have been doing for generations. There are about 2,000 in these tribes, and little, if any, employment is involved.

There is no border problem in Saskatchewan or Manitoba, but there is another situation in Ontario and Quebec. The majority of the Indians in the border reserves of Ontario and Quebec have been, and are still, working in war industries in the United States. The total would run to several thousands. A separate list is being attached which will outline the situation in these provinces in a little more detail.

In New Brunswick there is a small group of three thousand who cross over from the Perth area to pick potatoes and help in lumbering operations in Maine.

The above information was secured from Mr. T. R. L. McInnes, Secretary, Department of Indian Affairs.

To make Indians subject to Labour Exit Permits would involve consideration of the following factors:

1. UNDER TREATY RIGHTS INDIANS HAVE SPECIAL PRIVILEGES BY ARRANGEMENT WITH THE UNITED STATES GOVERNMENT AND DO NOT REQUIRE CANADIAN PASS-PORTS OR UNITED STATES VISAS TO CROSS THE BORDER. To enter the United States the ordinary Canadian citizen must secure a passport, Labour Exit Permit, and United States Visa in that order, and the United States Vice-Consul will not issue a Visa unless the individual can produce a Labour Exit Permit or Exemption Certificate. There is no such safeguard in the case of the Indian, who has been accustomed to crossing the border without any passport or Visa formalities. To change the existing arrangements will involve the securing of special permission from Washington.
2. Indians on these reserves have not had many dealings with Employment and Selective Service Offices, and special plans will have to be made for the issue of permits to them. The procedure may vary in different areas, and it might be well left to the local Indian Agent in collaboration with the Manager of the Employment Office to discuss the best method of handling the matter. In some localities it might be necessary to appoint the local Indian Agent as a temporary N.S.S. Officer.
3. Special instructions will be necessary so that Canadian Customs Officers will check all outgoing Indians for permits. At the present time Indians do not necessarily cross the border at Customs Ports.
4. As soon as the policy is decided upon the Department of Indian Affairs should be advised so that they may contact their Agents throughout Canada.

p.t.o.....

DAC 2527

Vol. 605

FILE-19-2



5. While Mr. McInnes was quite agreeable to the suggestion that permit restrictions should be imposed in B. C., I gather that unless an extremely critical labour situation develops in Canada he would not like to see the same restrictions applied generally to the Ontario and Quebec reserves, where the bulk of the Indians look upon the United States as their natural place of employment. The location of some of these reserves is such that it is much easier for the Indian to go to a war job in the United States than reach employment in Canada.

In view of the practices and customs of the Indians, and the privileges they have been granted, to make the Labour Exit Permit Order applicable to all Indians will not be without its difficulties. The difficulties, however, are not insurmountable. At the present time B. C. seems to be the province most directly concerned. However if special regulations were adopted for B. C. alone it would be discriminatory and make the policy vulnerable to attack, both in the House and by the Press.

The Department of Indian Affairs will give the fullest co-operation to any policy that may be adopted, but I would suggest that you obtain Mr. MacNamara's further views on this, and more particularly as to the wisdom of experimenting first with B. C. In any event approval from Washington seems to be the first requirement.



A. Wood,  
Employment Service Division.



BORDER INDIAN RESERVES -- ONTARIO AND QUEBEC

Ontario -- Fort Frances area -- 1,000 Indians

-- Sault Ste. Marie -- Majority of the Indians in this area have steady industrial employment in the State of Michigan.

-- Sarnia -- The majority here are in war industries in the Port Huron area.

-- Walpole Island -- approximately 1,000 working in the United States.

Cornwall Island, Ontario, St. Regis, Quebec, working in the state of New York.

-- Lachine, Quebec. Caughnawaga Indians (structural steel workers) now mainly employed in war industries in the United States -- about 3,000.

NAC RC 27  
Vol. 6-5  
File 6-19-2



Ottawa, June 28, 1946.

Dr. Harold W. McGill,  
Director,  
Indian Affairs Branch,  
Department of Mines and Resources,  
Ottawa, Ont.

Dear Mr. McGill:

I duly received your letter of April 30 with reference to Indian labour supply in British Columbia and the suggestion of your Indian Commissioner at Vancouver that the movement of Indians to the United States be controlled under National Selective Service regulations.

Under present instructions to local offices Indians taking employment in the United States are not required to obtain labour exit permits before departure.

Our officers have been giving consideration to the desirability of having Indians required to obtain these permits and have been in touch with your branch in this matter. I am now enclosing a memorandum from Mr. A. Wood of the Employment Service pointing out certain difficulties in having all Indians subject to labour exit permits. At the present time the situation is most acute in British Columbia and the suggestion is made that special regulations be adopted in respect to Indians in that Province being subject to labour exit permits.

Such a procedure would be discriminatory to the Indians of British Columbia as compared with Indians in other provinces of the Dominion but would

.....2(Over)

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- 2 -

not be placing any restrictions upon them which do not apply equally to other residents of the province.

In view of our present manpower shortage and the effect which Indians from British Columbia crossing the border is having, I think it is desirable to control such movements. Before taking any step, however I would appreciate having your advice as to whether there would be any objection to the regulations applying only to those Indians residing in British Columbia.

Yours very truly,

A. MacNabara.

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U-1008  
E-10-102



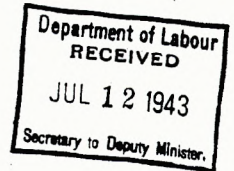
## UNEMPLOYMENT INSURANCE COMMISSION

A. MacNamara, Director of N.S.S.

FROM

T.R. Walsh

SUBJECT

N.S.S. - Labour Exit Permits - Indians

Ottawa, July 10, 1943.

You will recall that you have had considerable correspondence with the Indian Affairs Branch of the Department of Mines and Resources regarding a tightening-up over the departure of Indians from Canada by means of labour exit permits. It is my understanding that you had worked out arrangements to control this movement, at least in British Columbia. It would be my idea that this control should be uniform as there are other points in Canada where Indians depart, or propose to depart, to take employment in the United States although we have urgent work for them to do in Canada.

I drafted a circular, a few days ago, with this objective in mind and discussed the matter with Mr. McGinnis of the Indian Affairs Branch. He apparently does not wish our control to be too tight in Eastern Canada but recognizes that there must be some control. I told him that I anticipated no difficulty in working out a basis of collaboration between their Indian Agent and our Selective Service Officer so that all relevant circumstances could be taken into account on any application by an Indian for a labour exit permit.

I attach two copies of my draft circular and think that it will now be necessary for your office to clear with Indian Affairs. I have discussed the matter with Mr. Francis Hereford by telephone and I believe that he is quite familiar with the previous correspondence in the matter.

*July 14  
Spoke to Mr.  
MacNamara - they  
will reply to our  
letter June 24  
OK to put  
into effect across  
border with  
enforcement with  
more to be asked  
us to advise methods  
of enforcement.*

T.R. Walsh

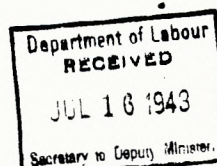
MAC 25-27  
V-1005  
MAC 2-19-2



OFFICE OF THE  
DIRECTOR



CANADA  
DEPARTMENT  
OF  
MINES AND RESOURCES



INDIAN AFFAIRS  
BRANCH

Ottawa, July 15, 1943.

Dear Mr. MacNamara:

I have your letter of June 28, wherewith you enclosed copy of memorandum from Mr. A. Wood of the Employment Service, with reference to the Indian labour supply problem in British Columbia and related questions.

It is noted that under present instructions to your local offices Indians taking employment in the United States are not required to obtain Labour Exit Permits. Until receipt of your letter above mentioned I had not been aware that Indians were expressly exempted from the usual procedure. In the meantime I have obtained a copy of National Selective Service circular #66B of December 3, 1942 and have noted paragraph 1, INDIANS.

It is understood that at the present time these instructions are still in effect but that a revision of them is receiving consideration.

As mentioned by Mr. Wood, Canadian Indians do not require passports or United States visas to enter the United States. This special privilege accorded to Indians by the United States is given effect to by general order #109, United States Department of Labour, Bureau of Immigration, dated July 18, 1928, pursuant to an Act of Congress passed on April 2, 1928, which provides as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Immigration Act of 1924 shall not be construed to apply to the right of American Indians born in Canada to pass the borders of the United States: Provided, That this right shall not extend to persons whose membership in Indian tribes or families is created by adoption".

One of the effects of this legislation has been to provide Canadian Indians with employment markets in the United States which have been extremely beneficial to them, particularly in depression periods.

A. MacNamara, Esq.,  
Director of National Selective Service,  
Department of Labour,  
Ottawa.

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NA 6327  
Vol. 1  
F.R.C. 17.2



This Branch naturally places a high value upon this privilege and speaking generally would view with reluctance any action which would have the effect of curtailing it. At the same time, this Branch fully recognizes the present critical labour shortage and would not wish in any way to interfere with whatever measures are necessary to control it. Accordingly, if you consider that it is necessary to have the Labour Exit Permit regulations applied to Indians in the same manner as to other people, this Branch will offer no objection to that procedure and will endeavour through its organization to assist in any way that it can to make it effective.

*Ex-Ann*  
As mentioned in your letter, the problem at present is accentuated in British Columbia, but in so far as I am aware it is not particularly pressing among Indian communities elsewhere in the Dominion. You ask my opinion as to the desirability of having the regulations apply only to Indians residing in British Columbia. I am apprehensive that special regulations for British Columbia Indians only might cause embarrassment on the ground of discrimination. As an alternative solution it has been suggested, in discussions between officials of our respective Departments, that the regulations should apply to Indians generally but that a lenient policy should be followed in regard to the granting of Labour Exit Permits to Indians located on reserves on or near the border and whose natural employment field because of geographical situation or other special reasons is in the United States. Such a policy, it is thought, might be worked out satisfactorily by collaboration between your officials and the local Indian agents concerned.

It is realized that difficulties may be experienced in enforcement since, as above mentioned, Indians do not require passports or visas and consequently the usual procedure whereby, according to my understanding, labour exit is controlled through the offices of the United States consuls could not be followed.

However, I have no doubt that some satisfactory means of meeting the situation can be found.

Yours very truly,

*Harold W. McGill*

Director.

NAC 1007  
JCH-GUS  
File 6-19-2



DEPARTMENT OF LABOUR

OTTAWA, July 23, 1943.

MEMORANDUM to: Mr. T. R. Walsh,  
Chief, Instructions and Enforcement,  
Employment Service and Unemployment  
Insurance Branch.

This is with reference to your memorandum of the 10th instant regarding labour exit permits for Indians.

This matter has been taken up with the Department of Mines and Resources, Indian Affairs Branch, and I am attaching our complete file in the matter. You will note from the letter dated July 15 from Dr. McGill that he favours the policy of having all Indians in Canada subject to labour exit permits but asks that a lenient policy in regard to granting of labour exit permits to those Indians located on reserves on or near the border, whose natural employment field is in the United States, be followed.

I agree with this proposed procedure and think that you could now arrange to issue instructions. There will have to be very close co-operation between our offices and the local Indian Agents concerned and the instructions issued should bear on this point.

Before the instructions are actually issued you might clear through Mr. A. Wood, the question of enforcement. As Indians do not require passports or visas the control cannot be through the American Consul but could, I think, be arranged through the Customs authorities.

When our instructions are ready we should advise the Indian Affairs Branch so that they may issue directions to their Indian Agents.

*amrall*  
A. MacNamara.

MAC RG 27  
VCL-605  
6186-19-2



# ROYAL CANADIAN MOUNTED POLICE

F 237

117

DIVISION "E" SUB-DIVISION DETACHMENT Merritt  
PROVINCE B.C. DATE Sept. 3rd, 1943.

RE: Exodus of Indians to U.S.A. for Hop-Picking.

HEADQUARTERS

SUB DIVISION

DETACHMENT

P.C.R.

A. R. V. No.

DIARY DATE

SET FOR

1. On receipt of a telephone call on the 28-8-43, from Sgt. Wood of the C.I.B., Vancouver, regarding a complaint from the Secretary of the Nicola Valley Cattle Breeders Association, to the effect that William MONDOR of Tempico, Wash., U.S.A., was expected in Merritt at anytime for the purpose of soliciting and transporting a number of our Canadian Indians to Yakima, Wash., U.S.A., to pick the current hop and apple crop in the Yakima District, and by so doing would seriously effect the labour situation here.

2. Sgt. Wood further advised that Mondor would probably arrive in Merritt without the necessary permit from the War Time Prices & Trade Board allowing him to exceed the thirty-five mile limit on trucks, and which would be a means of holding the movement for a time anyway.

3. On Monday Aug. 30th, 1943 William MONDOR arrived in Merritt with a light truck bearing Wash. Licence No. 2644 and stated that two more larger trucks & trailers were following and that it was his intention to load the Indians and return to Yakima on Wed. Sept. 1st, 1943. MONDOR was in possession of a passenger permit No. 526 issued on Aug. 7th, 1943 by the War Time Prices & Trade Board, Vancouver countersigned by J.C.W. Trevor for M.W. McCutcheon, Administrator of Services. Mr. MONDOR stated that he had similar permits for the trucks that were following.

4. In view of the above the writer telephoned Sgt. Wood and informed him of the permits already issued.

5. MONDOR was later interviewed and stated that he had called at the Indian Office in Merritt on Aug. 6th, 1943, with the intentions of obtaining assistance in recruiting Indians for hop-picking in the U.S.A., as he had been promised this assistance by ex-Indian Agent Capt. Mortimer, the previous year. Mr. Caldwell, Acting Indian Agent at Merritt was absent on the day Mondor called and therefore he (Mondor), being unaware of the existing Mobilization regulations, made his own arrangements with the Indians as he has always done in the past.

6. Mr. Caldwell, Acting Indian Agent at Merritt, was interviewed and stated that as far as he was concerned the Indians not in the Military Call-up Age Category could go. This presented some difficulty as the older Indians stated they wouldn't go unless the younger ones went also. However, the matter was quickly decided upon when Judge Manson, head of the Mobilization Board in B.C., telephoned Sgt. Fraser of the B.C.P. Police, Merritt, and advised him to hold the trucks at all cost, and that he would have the War Time Prices & Trade Board cancel the permits immediately.

FILE NUMBERS, HEADING AND MARGINAL REFERENCE ARE TO BE PROPERLY FILLED IN.

NAC RG 27  
Vols 5  
File 6-9-2



SEP 9

117

Re : EXODUS OF INDIANS TO U.S.A. FOR HOP-PICKING Administrative

CONTINUED FROM PAGE 1 ..... the permits immediately.

On the 2-9-43, Cst. Fraser of the the B.C.P. Police, received instructions from Mr. Northeson of the Truck Control Division of the War Time Prices and Trade Board, Vancouver, cancelling Monitor's Passenger Permits Nos. 524, 525 & 526, and authorizing the picking-up of same. The permits were picked up by Cst. Fraser and all concerned were informed of the circumstances.

8. MONROE left immediately with his trucks for Yakima. As there were no passengers to consider, he returned the rougher but shorter route - the Princeton Highway and leaving Canada at Osoyoos, B.C. Border Officials were advised by the B.C.P. Police, in order that the trucks could be checked on the possibility that hop-pickers might be picked up between Merritt and the Border.

9. The Indians are all definitely opposed to the outcome and state that on no account will they continue to work for the local ranchers, but will proceed to the Chilliwack and Sumas areas to obtain employment in the hop-yards there. They have been advised to apply to the National Selective Service for permits, but it is doubtful if this will be done.

10. To-date 3-9-43, approximately sixty-five half-fare transportation warrants have been issued by the Indian Agent here, to Indians to travel per C.P.R. from Merritt to Mission, B.C. It is considered here that many Indians, despite the warnings that they have been given, will, after they arrive at Chilliwack and Sumas, attempt to cross the Border and proceed to Yakima on their own.

NO EXPENSE.

CONCLUDED. COPY TO THE INDIAN AGENT, Merritt, B.C.

Sgd. Cst.  
R.A. Clayton - Reg. No. 11250  
I/C Merritt Detachment.

NAC RG 27  
Vol. 605  
File 6-19-2



641-  
Ind  
(DRAFT FOR MR. MACNAMARA'S SIGNATURE)

(Dictated by Allan M. Mitchell)

29th January 1944.

Brigadier-General W.C. Rose,  
Chief, Executive Services,  
Office for Emergency Management,  
War Manpower Commission,  
Washington, D.C.

Dear General:

With reference to your letter of January 19th to Mr. Rutherford, concerning the recruiting of Indians near the border of the State of Michigan, I find myself in some little difficulty.

You state that these Indians are required for work in the foundry industry in the State of Michigan, but it happens that one of the most acute shortages which we have in Canada in respect to our employment situation, is in that very occupation. With an acute shortage in Canada, you will appreciate that we would scarcely be justified in giving free exit across the border for this type of worker.

Therefore, before giving you a final decision in this matter, I am having our Officers at Sault Ste. Marie make a careful examination into the availability of Indian labour in their area, and will advise you in due course of the results of our inquiries.

Sincerely yours,

A. MacNamara-  
Director.

NAC RG 27  
Vol. 605  
File 6-19-3



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DEPARTMENT OF LABOUR

Employment Service and Unemployment Insurance Branch

OTTAWA

March 6, 1944

National Selective Service Circular No. 66-C

Subject: (1) Labour Exit Permits;  
(2) Indians

1. For your information, we quote herein instructions directed to Indian Agencies and Inspectors and the Indian Commissioner for British Columbia by the Director of the Indian Affairs Branch of the Department of Mines and Resources:

" As you are doubtless aware Indians are now held to be subject to the Labour Exit Permit Regulations when departing from Canada in the same manner as other people.

As it is thought that some of your Indians may have occasion to enter the United States seeking employment I am enclosing herewith, for your information and guidance, copy of the National Selective Service Civilian Regulations (Consolidated with amendments to October 15, 1943).

Please explain the requirements of the regulations to any of your Indians who might be affected. I may add that according to advice received from the Unemployment Insurance Commission, which administers the regulations, it is not the policy of the Canadian Government to grant Exit Permits at the present time to employable persons whose services are required in Canada, and Indians, of course, must conform to the wishes of the authorities like other members of the community in the national interest. It should be understood that this is a Canadian restriction and has nothing to do with the special privilege granted by the United States authorities to Indians to enter the United States regardless of immigration quotas."

2. In dealing with applications by Indians for Labour Exit Permits Local Offices must work in collaboration with the Agencies of the Indian Affairs Branch of the Department of Mines and Resources and should seek the advice of officers of that Branch in determining whether the case is a proper one for issuance of a permit.

Allan M. Mitchell  
Director of Employment Service  
and Unemployment Insurance.

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C O P Y

120  
Andrew Paull  
P.O. Box 2461  
North Vancouver B.C.

Hon. G. G. McGeer, K.C., M.P.  
House of Commons,  
Ottawa, Ont. Canada.

Honourable and Dear Sir:-

I am asking you most sincerely to do something for the Indians of British Columbia, who have been refused to cross the boundary to the State of Washington to work in the berry fields, orchards and vegetable gardens to which they have been going to for so long in some instances as twenty five years.

An Order has been issued by the Government which the Indian Department sent to the local Indian Commissioner, to the effect that any Indian who can produce something in Canada and also those of military age will not be permitted to cross the boundary.

We wrote to the Indian Commissioner to intercede for the Indians and he went to see the Selective Service here who agreed that Indians of sixty years and over will be permitted to cross the boundary to work.

There are many hundreds of Indians who go across every year, many of them on relief of about four dollars a month. When they go there they earn money and earn money to buy their clothes and still have some money for part of the winter.

There is no doubt that the B.C. farmers asked the government to stop the Indians from going to the State of Washington to work, and in the end force the Indians to work on the B.C. farms for small wages, and under bad housing and working conditions.

The Indians have tried to work in the B.C. farms but they have found it un-profitable. The white people working in B.C. farms are given better treatment, wages and better houses, while the Indians are forced to put up with un-bearable conditions, and these are the conditions that the Government un-knowingly will force upon the Indians by the enforcement of the Order.

If we made representations to the Department of Indian Affairs, or a Minister of the Crown, they are so busy they would just pigeon hole it.

So I have taken the liberty to write to you, and ask you to put up a fight for the under-privileged Indians. It had been our understanding that according to the Jay Treaty the Indians could freely cross the international boundary.

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- 2 -

We are willing that in order not to confuse matters and without prejudicing our case, we would agree not to grant permission to Indians of military age. But others should be allowed to go, and they will be required to leave here on the 20th of May next.

From Port Alberni, Nanaimo, Duncan, Saanich and the lower mainland about 400 Indians have been going down to the State of Washington every year. These have visited their Indian Agents and the Selective Service, but are told the decision must be made by Ottawa.

Will you then be good enough to see Dr. Harold W. McGill Deputy Director for the Indian Affairs, to get a copy of the Order, then please make representations on our behalf to the branch of the Government that issued the Order, and ask them for a relaxation of the Order.

This will beyond doubt work a hardship on a great number of Indians as many from the southern Interior also go down. The Indians living close to the border are related to one another, and they like to see one another occasionally.

Please do whatever has to be done so that the Indians will be granted permission to cross the boundary freely except those of military call age, and with the hope of hearing from you and thanking you in anticipation, I am,

Respectfully yours

Sgd. Andrew Paull

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C O P Y

HOUSE OF COMMONS  
CANADA

O t t a w a  
May 4th 1944.

Honourable T. A. Crerar,  
Minister of Mines and Resources,  
Ottawa.

Dear Mr. Crerar:

Re: British Columbia Indians'  
right to work in Washington,  
U.S.A.

Please find enclosed copy of letter I have  
received from Andrew Paull. This letter speaks for itself.

As you are well aware the seasonal operations vary  
in Washington and British Columbia and it would appear  
that the restrictions now imposed are an unwarranted  
interference with the right of British Columbia Indians  
to earn their own living in the way that they have been  
doing so for a great many years.

If there is any way by which these unfair  
restrictions can be removed I know that you will be sympathetic  
to the representations made.

Yours very truly,

(signed) Gerald G. McGeer, K.C.,  
M.P.

encl.

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The Director - Attention Mr. T.R. Walsh - Ottawa, Ontario.

Regional Superintendent, (Pacific).

Permits to Indians

PERSONAL

475 Howe Street,  
Vancouver, B.C.,  
May 9, 1944.

In answer to your wire of the eighth instant quoting Mr. Andrew Paul's letter to the Member of Parliament on the above named subject, this is to advise you that it is not my intention to ease up on the regulations regarding the issuing of permits to Indians.

At the present time we are only issuing permits to Indians who are sixty years of age or over and in view of the tremendous labour shortage we are faced with during the coming season, when we are likely to have one of the heaviest crops in the history of British Columbia together with increased acreage in vegetables and tomatoes, it would be dynamite if we were to open up and allow these Indians to leave the Province this year.

There has been tremendous pressure brought to bear by the Indians as a result of Americans from the other side offering them wages and conditions which are impossible to meet in Canada owing to the inflation in the United States. These American companies are using every means in their power to cause discontent amongst the Indians and to break the present regulations.

Insofar as Mr. Paul's statement that the Indians are working under bad housing and working conditions. Under the Dominion-Provincial Farm Labour Policy Indians are getting the same conditions both as to wages and housing as offered to white help.

For some time now I have been expecting something like this to break as we have had representatives from the big growers and canners from across the line visit us repeatedly in connection with this question and they have been refused any encouragement with regard to getting Indian labour from British Columbia this year.

Therefore, I would strongly recommend, in the best interests of Canada, that the present regulations be steadfastly maintained.

'sgd' Wm. McKinstry,  
Regional Superintendent,  
Pacific Region.

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## UNEMPLOYMENT INSURANCE COMMISSION

Department of Labour

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A. MacNamara, Director of N.S.S.

MAY 11 1944

FROM

T.R. Walsh

SUBJECT

Permits to Indians

To:

- ☐ DRAFT LETTER
- ☐ YOU HANDLE
- ☐ YOUR COMMENTS
- ☐ SEE ME PLEASE
- ☐ NOTE & RETURN
- ☐ GET FILE FOR ME

Ottawa, May 11, 1944 Mac N.

I am returning letter dated May 4th addressed to the Minister by G.G. McGeer, Esq., M.P., with reference to Indians going to Washington to work.

As you will probably recall, we have had difficulty with this before. You may remember one particular instance where recruiters came up from the States to take truckloads of Indians back and that we had to put a stop to it. Since then, with the cooperation of the Indian Affairs, we have got the situation under very much better control and the present understanding is that only those over sixty are permitted to go.

However, to be sure that there had been no change in the situation there I obtained a report from Mr. McKinsty and enclose a copy herewith. I have also been in touch with Mr. McGinnis of the Indian Affairs Branch and all of these references, in the long letter to Mr. McGeer, to an order, simply concern advice sent out to Indian Agents by the Indian Affairs Branch informing them of the labour exit permit requirements of our Regulations.

The situation is, quite briefly, that we need these Indians in Canada notwithstanding that they could make more money across the line. I do not know that that would satisfy the Member who wrote to the Minister as there seems to be an implication in his note that any restriction on Indians is unnecessary. I am afraid that restrictions are very necessary.

*T.R. Walsh*  
T.R. Walsh

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Office of the  
Indian Agent

416 Federal Building,  
Vancouver, B. C.  
May 11th 1944.

Indian Affairs Branch, Ottawa.

A large number of Indians who for ten to fifteen years past have left in May of each year for the berry fields in Washington State are refused permission to leave here this year as they are informed that they will be needed for the berry fields in B.C. As berries will not be ready here for another month, they are very angry at being held here without employment. They say that the berry fields in B.C. would not give them work before, whereas in Washington they have always been welcome.

Conditions of work are also different here, as in most cases accommodation is not provided for them, whereas across the Boundary they have all the necessary cabins and equipment. It does not seem fair to these people to hold them here in idleness for a month, and I do not know what to do with them meanwhile.

The Labour Board here said that they would try to find them farm work until berrypicking starts, but these Indians know nothing about farming and most of them are women, their average age being over 50. There are no men of military age, and the only men who want to go berrypicking are those who are crippled or too old for other work.

No one seems to discriminate between farm workers and these berry pickers who are not farmers in any sense of the word. They could never obtain employment before in B.C. because of discrimination - now they are being prevented from doing the only work they can to make a little money. Last year they tried to obtain work in B.C. berry fields and were told they were not required, and they have no assurance that they will be needed this year. They are told they may be needed because the farmers say they will need help, but there is nothing definite about it.

It is a distinct hardship on these people being treated in this manner and will mean relief being given to them instead of the opportunity of earning their own living for awhile. Can something be done at once to help them out, please?

B/DH.

(signed) Fred J.C. Ball,  
Indian Agent.

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## DEPARTMENT OF LABOUR

URGENT

OTTAWA, May 31, 1944.

MEMORANDUM to: Mr. A. MacNamara.

Re: Request of B.C. Indians to go to the  
United States for berry-picking.

(a) The case for the Indians (as outlined by the Indian Agent and the  
Indians)

1. They have been doing this for many years.
2. The berry season in Washington State is in May and early June, a month ahead of the B.C. berry season for which they come back.
3. There is no work to which they are accustomed available in B.C. at the specific period.
4. Wages, living and working conditions are much better in Washington State.
5. The Indians rely on this extra money to help them over winter.
6. None are of military age, and most are over 50. The only men who want to go berry-picking are those too crippled or old for other work.
7. They know nothing about farming and have never been accepted before for such work.
8. They were refused work in B.C. berry-picking last year.
9. The Indian Affairs Branch, Department of Mines and Resources, favours lenient treatment for those Indians on reserves near the border who have been accustomed to taking seasonal work across the border.

(b) The case against the Indians (as outlined by Messrs. McKimstry and Walsh)

1. There is a serious labour shortage in B.C. agriculture and the Indians could help with increased crops of vegetables and tomatoes (later in the year).
2. American growers and canners desperate for labour are stirring up unrest among the B.C. Indians.
3. Those Indians over 60 are now allowed to go to the United States for seasonal work.

2/over

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(c) My view.

1. The Indians have a legitimate complaint if no work to which they are accustomed can be provided at a living wage in B.C. during the early berry season (the next 3 or 4 weeks).
2. The age limit of 60 now in force might be dropped to 50, to take in the majority of the Indians who want to cross the border for berry-picking. These would not be of much help in B.C. farming in any event.
3. If deemed desirable, it could be stipulated that they must return in one month so as to help with B.C. berries, vegetables, etc.
4. The matter is urgent as the Washington State berry season is probably already started.

*H. T. Pammett*

H. T. Pammett.

OTTAWA

NATIONAL WAR LABOUR BOARD

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Copy

Department of Mines and Resources  
Office of the Indian Commissioner,  
Vancouver, B.C., June 1, 1944.

AIRMAIL

Indian Affairs Branch, Department of Mines and Resources, Ottawa.

With further reference to my letter of the 18th instant enclosing copy of my letter addressed to the local office of the Unemployment Insurance Commission in respect to issuance of Exit Permits to Indians of this Province in order to enable them to proceed to the United States to engage in berry picking, etc., and to your letter of the 13th instant, file 600172, enclosing copies of correspondence from Mr. G.G. McGeer, M.P., in this connection I would advise that while we would prefer to see Indians develop their reserves and avoid the necessity of such migration as much as possible, there are some aspects of this matter that cannot be entirely ignored. In the case of Indians from the West Coast, the majority of these reserves are not suitable for any kind of agricultural production and there are periods when many of the Indians could be usefully employed elsewhere. Many of them who have been proceeding to the United States could not be considered efficient farm labour. Often the whole family work in these berry fields as a group, including the children, and their earnings are pooled. The berry growers in the lower mainland of B.C. felt that this labour should be made available to them and last year put on quite a drive for this assistance and from whites as well, but when the time came to commence picking many of those who had volunteered to do the work found their services not required. The Indians claim that the accommodation provided by these growers is far from satisfactory as compared with that in the United States. They also claim that they are being discriminated against in that this restriction has been applied so far as they are aware to the Indians of British Columbia and not Indians in other parts of Canada.

It seems only reasonable that where the Unemployment Insurance Commission and the Selective Service are not in a position to place Indians in suitable and gainful employment Exit Permits should be issued, otherwise many of them for whom employment is readily available in the United States will be held here in idleness and become dependent on the department for assistance.

I have just been informed by Mr. W. McGillivray of the Dominion Provincial Farm Labour Board that after conferring with

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Mr.Wm.McKinstry of the Unemployment Insurance Commission it is the intention to relax somewhat the present restriction but it remains to be seen how far the changes contemplated will be helpful to the Indians.

(Sgd) D.M.MacKay  
Indian Commissioner for British Columbia.

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DEPARTMENT OF  
LABOUR



CANADA

Department of Labour

*J. Hereford*  
To: *J. Hereford*  
FROM LETTER  
HANDLE  
COMMITTEES  
THE POLICE  
& RAILWAY  
June 2, 1944 FOR ME

IN REPLY PLEASE QUOTE  
FILE NO.

NATIONAL SELECTIVE SERVICE

OTTAWA

To Mr. A. MacNamara  
From H. Hereford  
Subject Request of British Columbia Indians to Go Berry Picking in the U.S.

I referred your memorandum on this question to Mr. Pickersgill, and asked him to secure what information was available.

Mr. Pickersgill advises me that Mr. Hare, Agricultural Employment Advisor at No. 5 Temporary Building, has received a report from Vancouver, dated May 31st, dealing specifically with this problem. The report is from Colonel J. E. Wood, Agricultural Employment Advisor for the Pacific Region. He states that this question was discussed recently with the American authorities, and that the following arrangements have been reached: that Indians desiring to cross the border and who are not conveniently located for farm work in British Columbia will be granted authority to cross the border. As a result of these discussions, the American authorities have agreed to refrain from recruiting Indians without the approval of the Dominion-Provincial Emergency Farm Labour Service.

Mr. Hare is sending to you direct a copy of this report from Colonel Wood.

Harry Hereford  
Director of Planning & Labour Priorities

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## UNEMPLOYMENT INSURANCE COMMISSION

Mr. A. MacNamara, Deputy Minister of Labour, Confederation Bldg  
Ottawa.

FROM

W. K. Rutherford

SUBJECT

British Columbia - Indians

OTTAWA, June 2, 1944.

I learned that you have been particularly concerned about the Indians in British Columbia. A part of Col. J. E. Wood's report to this Division dated May 31st reads as follows:

"The Indian situation is still under control but after a conference with the American Government Labour Officials we relaxed our control of those located at inaccessible points. These will be granted permits to cross the line on receipt of a statement from the Dominion Provincial Emergency Farm Service that they cannot employ them. The American Officials agreed to stop all employers contacting this labour except through this service."



W. K. Rutherford  
Assistant Director - Employment.

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Copy

Department of Mines and Resources  
Indian Affairs Branch

Sarnia, June 12, 1944.

Indian Affairs Branch, Dept Mines and Resources, Ottawa.

I acknowledge receipt of letter June 7, 1944, from the Director, requesting details regarding Indians who seek employment in the United States.

About two months ago the new regulations requiring Indians to obtain Labour Exit Permits if they wished to work in United States came into effect. At that time there were about 25 Indians of the Sarnia Agency who were employed in the United States. The new regulations did not affect these 25 Indians. Shortly after the regulations became effective several Indians, about 10 in number, were released from their jobs in a local industrial concern in Sarnia. These 10 Indians immediately sought jobs in U.S. but were advised that they must obtain Labour Exit Permits to work in a foreign country. After securing a recommendation at this office they applied for the Permits through the local National Selective Service Office which, in turn, forwarded their applications to the Department of Labour at Ottawa. All were refused permits and the National Selective Service informed me that Labour Exit Permits would not be issued to any Indians unless under very exceptional circumstances.

Most of the 10 Indians accepted work in United States in spite of the Labour Exit Permits being refused. They cross the St. Clair in small boats and thus avoid inspection by immigration authorities who would refuse them permission to enter U.S. to work unless they had the Exit Permits.

Employment of Indians in U.S. has not, in reality, been interrupted but it would be drastically curtailed if the Indians could not cross in small boats and thus evade the Labour Exit Permit laws of this country. From time to time Indians quit work in Canada and cannot obtain permits to work in U.S. and your question as to the number affected varies but at present I would say that at least 10 are adversely affected by the new regulations.

Chief Adams maintains that there are 36000 unemployed persons in Canada and that the new regulations preventing Indians from working in U.S. merely aggravates the unemployment situation in Canada. He also states that during depression years Indians at the Sarnia Agency were not assisted insofar as employment was concerned and believes it is entirely unfair to impose restrictions

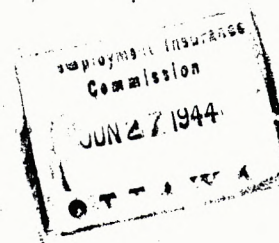
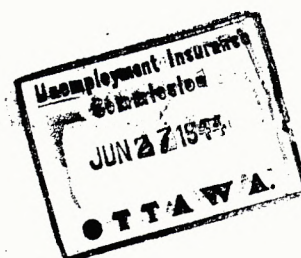
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at a time when Indians have the opportunity to earn good wages in a foreign country. The chief claims that freedom of entry and exit between the two countries insofar as Indians are concerned is supported by both Canada and United States Governments yet the Labour Exit Permit laws are in direct contradiction of this policy. He considers that treaty rights are being violated and suggests that the treaties of Indians be respected.

The above is an outline of the situation as it relates to Indians of the Sarnia Agency and I trust that this is the information which you desire.

(Sgd) M.W. McCracken  
Indian Agent.



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The Director, Head Office, Ottawa. Attn: A. Wood,  
Employment Service Div.  
 A.C.D. King, District Enforcement Officer, Victoria

Labour Exit Permits - Canadian Indians

VIA AIR MAIL

PERSONAL & CONFIDENTIAL

534 Broughton St.,  
 Victoria, B.C.,  
 June 14th, 1944.

You are probably aware that an article in the local papers some few days ago indicated some 500 Canadian Indians had proceeded to the State of Washington without Labour Exit Permits.

With reference to this situation, I would say that we have had several applications locally which, with reference to males and females alike, have been turned down but for the following exceptions. Three NSS 134's have been issued to three women of the ages 78, 79, and 86 respectively, after the ages had been confirmed by the Indian Agent and with his full approval. The Indian Agent seems to know the parties concerned, and it was their habit to proceed to Washington for the strawberry picking as they were unable to make reasonable money in that industry locally, and that they would return in the matter of about 60 days to work in the salmon canning industry where the pay was considerably more. (The issuance of these three NSS 134's was technically incorrect, and it is, of course, my responsibility).

All applications for able-bodied Indians are, of course, refused with the concurrence of the Indian Agent.

The method by which the number of Indians referred to in the press article reached the States was by boat, either fishing boat or canoe, from a point near Brentwood Bay, Vancouver Island, from which there is a sheltered route amongst the islands to the shores of the State of Washington. This route has been used by the Indians for a great many years, and is apparently still being followed without any reference being made to the local Employment & Selective Service Offices.

(p.t.o.)

EMPLOYMENT INSURANCE COMMISSION

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## UNEMPLOYMENT INSURANCE COMMISSION

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The majority of the Indians are ignorant of recent provisions making the Canadian Indians subject to the National Selective Service Regulations insofar as Labour Exit Permits are concerned, but some, of course, understand that they are in error.

Any comments you may care to make would be appreciated.

'sgd' A.C.D. King,  
District Enforcement Officer

COPY

BY MAIL

INTERNAL EXPT. 10/1/54

A.C.D. King, District Enforcement Officer

10/1/54

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ANDREW PAULI.  
President  
North American Indian Brotherhood

131

P.O. Box 2461  
North Vancouver B.C.  
July 10th. 1944.

Hon. G.G. McGeer K.C.M.P.  
House of Commons  
Ottawa Ont. Canada.

Honourable Sir;-

I am sorry that I did not answer your very welcome letter Re the new order permitting Indians to cross the border into the state of Washington when they are not conveniently located to farm work.

I and many of the Indians and a lot of white people were sorry to hear of the untimely death of your dear son Michael, and I am sure it must have been the reason for much sorrow to you, Mrs. Geer and your children. Let us hope his soul rests in peace.

I wish to also thank you for the great help you have given to the Indians in the matter of crossing the border, I cannot explain to you the bad outlook there was for some of them as that was the only way they earned money for the winter, and out of the 25, 600 odd Indians in B.C. there are about 1,100 now in the state of Washington earning good money.

But we are up against a fight with the NSS here, especially Bill McKinstry and a Mr. McGillvery the farm labour controller. He told Chief Joe Hall that he had not been informed by Ottawa of the new order by the Minister of Labour. I have by concurrent air mail sent Mr. Mitchell a letter copy of which is enclosed together with the letter from Chief Joe Hall to me.

Chief Joe Hall told me that there were 80 Indians desiring to go from Lytton Lillooet etc. and 20 of them were stranded at Mission City who could not secure employment at any of the better fields there. The White farmers did not want the Indians, but while they were wanted in the town of Conway near Mt. Vernon, Mr. McGillvery would not let them across, because he had not been notified by Ottawa, he had no knowledge of Mr. Mitchell's new order, and he said that the letter which I had must be false.

I telephone Mr. James Coleman of the Indian Commissioners office, who told me that Mr. McGillvery was investigating the matter. While he is doing that the Indians have lost the chance to earn money, and have asked Mr. Mitchell to wire Mr. McGillvery.

I see that you are very busy in the House and in the Committee on the Bank Act, but if you could again speak to Mr. Mitchell you again would be helping some poor Indians, and thanking you,

Respectfully yours

*Andrew Pauli*

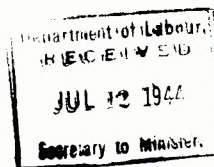
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ANDREW PAULL.  
President  
North American Indian Brotherhood

P.O. Box 2461  
North Vancouver B.C.  
July 10th. 1944.

Hon. Humphrey Mitchell  
Minister of Labour  
House of Commons  
Ottawa, Ont. Canada.



Honourable Sir:-

I take the liberty to communicate with you on a matter which is of vital importance to some of the native Indians of British Columbia, in the matter of securing permission, as in the past to work in the State of Washington.

On June 5th. last you despatched a communication to Hon. G.G. McGeer K.C. M.P., to the effect that Indians who are not conveniently located for farm work, would be given permission to cross the border into the State of Washington to work in the berry fields.

While some Indians have succeeded in getting across the border many Indians in the vicinity of Mission City B.C. who were refused employment according to my information, were refused permission to cross the border by Mr. McGillvery the local Farm Labour Controller.

When representations were made to him by an Indian Chief, he said he had no knowledge of the new order as contained in your letter to Hon. G.G. McGeer, and that it must be false.

Will you please acquaint Mr. McGillvery of the new order permitting Indians to cross the border.

While the B.C. farmers have in the past tried to get the Indians to work, they have paid much lower wages to them, than they get in the State of Washington, and the sanitary and living conditions are abominable in B.C. compared to the conditions south of the border.

Last year I know of one family that were forced to sleep in a chicken house at one of the berry fields in the vicinity of Mission City, and aparticularly in the hop fields many Indians get communicable diseases, because of the absence of adequate sanitary conditions, and the rates of pay are much lower.

So will you kindly acquaint Mr. McGillvery by wire, as the denial of this available work by the Indians is going to work as hardship on them, particularly since when they are in distress the Indian Agents only gives about four dollars worth of a relief to a family. So please extend the hand of kindness even to the native Indians who too, must eat, and thanking you, I have the honour to be,

Respectfully yours

Andrew Paull

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O t t a w a  
July 11, 1944

By Hand

Mr. George A. Cruickshank, M.P.,  
House of Commons,  
O t t a w a

Dear Mr. Cruickshank,

In replying to your letter of July 6th in reference to Indian labour going to the United States, there are several matters for consideration outlined hereunder:

1. Traditionally, Indian labourers have been going to the United States every spring and they start their trek before the harvest season in British Columbia. It is hard to bring about a feeling amongst Indians that they should not and cannot do the things they have been accustomed to doing for years.
2. It is true that the prohibition against going to the States without an exit permit applies to "persons" and I have assumed that the regulations apply to Indians and, in fact, we have stopped a number of parties from going to the States.
3. The Indian chiefs, on the other hand, state that they have a treaty which permits them to cross the border when and where they like and that this treaty is with both the United States and Canada. I am not too sure that the Indian chiefs are entirely wrong although I am not competent to state exactly what foundation there may be for this statement.
4. We have asked the Indians Affairs Department to make a research and advise us as to what justification there may be for the claim of the Indian chiefs.

(over)

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In the meantime we are saying that the regulations apply to Indians and we are enforcing the regulations to the best of our ability. Nevertheless, I would be ready to admit that a number of Indians do slip across the border at various points in Canada and no doubt the United States employer is very glad to employ them without asking too many questions.

I have answered you as fully as possible and as frankly as I possibly can at the moment.

Yours very truly,

A. MacNamara

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Harrison Mills B.C. July 12 - 44

Mrs. Andy Paull

Dear Sir

I received your letter today and was glad to hear from you. I only say that I am very glad that you have taken up Ottawa again, and Hoping that the will left the border again for the Indians, to cross the border at Sumas Huntington. as I have told you before that certain amount of Indians could not find place to Pick berries at Mission City lands there are 42 of them have gone back to their homes in Lillooet. and at the same time Americans are calling for more help over there they are poor and ready to start picking Peaches and they are paying 50¢ per crate as this is as while our B.C. farmers are only pay 75¢ per crate and the berries are very poor. So Hoping that you will get a good luck when you hear from Ottawa and let me know at once. as I don't expect to hear from Mr. McGilivray. because he has



know with in the Jordan is going over to the U.S. to  
 work and at the same time you will hear from  
 Mr. Coleman. Well I must close to close  
 with best regards

yours Truly

Chief Joe Hall

P. S.

If there was enough work to keep the  
 people going steady all day long I would not  
 be in my self looking for other places to work  
 and as far as farm work is concerned there is man  
 to be got around here. Jordan are getting so poor  
 that they are begging to steal and put to jail if the  
 District Service just let me have my way at the  
 first time this would not have happened



ANDREW PAULL.  
President  
North American Indian Brotherhood.

July 14th. 1944.

Hon. Humphrey Mitchell  
Minister of Labour  
House of Commons  
Ottawa Ont. Canada.



Honourable Sir;-

I am sorry to bother you Honourable Sir, knowing that you are so occupied with important matters, but the difficulties of the Indians to earn money for their livelihood is important to us, especially when they cannot secure work in B.C. and are denied to cross the border by Mr. McGillivray the Farm Controller. I enclose a letter which I received from Chief Joe Hall. He says in this letter that forty two Indians came to Mission City from Lillooet to look for work in the berry fields, and they were refused work, and since he had been hiring for pickers across the border he got work for them, picking raspberries at \$1.50 a crate, while the B.C. farms were only paying 75 cts. a crate. They were stranded for some time at Mission City without money or food and they had to steal to get something to eat, transportation would have been given to them to Conway Wash. which is not very far, but the Selective Service would not let them across. I know that sometimes the white people in B.C. do not want to be associated with Indians and to use the same toilets, and this may have been the case since so many society dames' daughters are picking berries. Now Sir, I implore you most sincerely, to make it possible for these Indians to cross the boundary, as it is also necessary for Indians to eat. These Indians rely on the money they earn in the berry fields in the State of Washington to carry them through the winter, together with the money they earn at the hop fields in B.C. to which place they go after picking berries in Washington State. There are circumstances in many cases insofar as the Indians are concerned, when good judgment and sympathetic consideration should be used by your officials instead of the strict letter of the law, and I do not think it was ever your intention to stop Indians crossing the border when they could not get employment in B.C. and I again pray for your very just and sympathetic consideration and thanking you in anticipation, I have the honour to be Sir,

Respectfully yours  
*Andrew Paull*  
Andrew Paull  
President  
North American Indian Brotherhood.

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File 6-19-2



OFFICE OF THE  
DIRECTOR

Department of Labour	
INDIAN AFFAIRS BRANCH	
To:	600172
<input type="checkbox"/> DEPT. OF LABOUR <input type="checkbox"/> YOU <input type="checkbox"/> YOUR OFFICE <input type="checkbox"/> SEP 10 1944 <input type="checkbox"/> DEPT. OF LABOUR <input type="checkbox"/> DEPT. OF LABOUR	
Ottawa, July 17, 1944.	
RECEIVED FOR ME	

Dear Mr. MacNamara:-

Please refer to your letter of June 26 and previous correspondence regarding exit of Indians.

A search has been made as requested but nothing has been found in the records to indicate that the Canadian authorities have ever recognized any special right of Indians to enter or leave Canada.

It is true that under what is known as Jay's Treaty between Great Britain and the United States proclaimed February 29, 1796, it was provided inter alia that Indians dwelling on either side of the boundary should have the right freely to pass and repass into the respective territories of the high contracting parties, and also that Indians so passing or repassing should not pay any impost or duty whatever on their proper goods and effects of whatever nature, but not including goods in bales or other large packages, unusual among Indians. It has been suggested that these rights may have been abrogated by the intervening war of 1812 but apparently this is not so as they were reaffirmed by the Treaty of Ghent of 1814.

The Indians, however, although thus mentioned in the treaty were not signatories thereto. In these circumstances, in my belief, it is very doubtful if the Parliament of Canada would be bound by the stipulations of the treaty in regard to Indians. Further than this I would hesitate to give an opinion without consulting the Department of Justice, and indeed a test case and decision by the Courts would appear to be the only way of settling the point with any degree of finality. I scarcely think, however, that it is necessary or desirable to press the issue at the present time as the chief difficulty which arose in connection with the Exit Permits was in British Columbia, and that has been met in what seems to me to be a quite satisfactory manner by the action which you have taken to allow Indians access to Washington for berry-picking. The situation at Sarnia and elsewhere, outside

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- 2 -

of British Columbia, does not as I understand it, involve any extensive problems. I may add, that in sending you the letter from Chief Adams I did not intend to endorse his representations, but was merely bringing the correspondence to your attention as a matter of course. I do not know the origin of his statement concerning the number of unemployed persons but I have no doubt that it is quite inaccurate.

In so far as the United States is concerned, unenfranchised Canadian born Indians are exempt from quota regulations by General Order No. 109 of the United States Department of Labor, Bureau of Immigration, of July 18, 1928, by which Indians are permitted to enter the United States freely pursuant to the provisions of an amendment to the Immigration Act passed by Congress on April 2, 1928: this right does not extend to Indians by adoption, which is interpreted to include persons of non-Indian birth married to Indians.

The United States Order mentioned apparently was based on the legislative authority of Congress rather than any right under Jay's Treaty, although the latter was cited prior to the legislation in question in certain judgments of United States Courts upholding Indian right of entry.

As I have had occasion to mention before, this Branch greatly values the privilege of free entry which has been granted to Canadian Indians by the United States as it has provided an employment market which has been of great benefit to them particularly during the depression period when it operated to substantially reduce unemployment and indigence among them. The value of the American labour market to the Indians is accentuated in slack periods by the fact that they are then among the last to be employed and first to be laid off in Canada. Accordingly, this Branch would view with anxiety any action that might compromise these advantages to the Indians in future. My thought on this phase of the question is that it might be as well at discretion to permit Indians who have regular seasonal employment or who are engaged in certain industries because of special aptitudes in the United States to be permitted to carry on with as little interference as possible consistent with the national interest. As I stated earlier, however, I do not think that the implications of the 150-year old Jay Treaty which, to the best of my knowledge, have not been invoked heretofore in so far as Canadian obligations are concerned need be tested at this date, at least at the instance of the Crown.

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- 3 -

With regard to the question of mobilization regulations and military service generally I am not aware of any treaty or agreement under which special exemption could be claimed for the Indians.

*Harold W. Hill*

Director.

A. MacNamara, Esq.,  
Director,  
National Selective Service,  
Department of Labour,  
OTTAWA.

NAC 2027  
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File 6-19-2



AIR MAIL

O t t a w a,  
July 19, 1944.

Mr. Wm. McKinstry,  
Regional Superintendent,  
National Selective Service,  
475 Howe Street,  
Vancouver, B.C.

I enclose a self-explanatory exchange of correspondence with Mr. Andrew Paull, President of the North American Indian Brotherhood, Vancouver, B.C., in which he complains that the Farm Labour Service officials are not living up to the agreement made with the United States authorities by which the Indians not conveniently located for farm work in B.C. are being refused permission to cross the border for seasonal farm work on the other side. I may say that we have also received inquiries on this matter from local Members of Parliament who have received representations along the same line.

The original report received by the Employment Service, dated May 31, 1944, from Colonel J. E. Wood, Agricultural Employment Adviser, states as above that Indians desiring to cross the border who are not conveniently located for farm work in B.C. will be granted authority to cross the border and that in return the American authorities have agreed to refrain from recruiting Indians without the approval of the Dominion-Provincial Emergency Farm Labour Service.

In view of this, I cannot understand the charge in the letter that Mr. McGillivray had no knowledge of the new arrangement and stated that it must be false.

You will note that I have said in my reply that we would see that living and working conditions are fairly good for Indians employed by farmers in British Columbia.

I wish you would ask the Farm Labour Service to see that this is done, in order to remove one of the most serious complaints of the Indians, namely, that living and working conditions are infinitely superior in the State of Washington.

2/over

NAC 27  
V01.605  
File 6-19-2



I would be obliged if you would obtain and forward a full report on this whole situation as soon as possible.

HRP/MSF  
Encl.

A. MacNamara

NAC RG 27  
Vol. 605  
File 6-19-2



C  
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Jan., May 1st, 1943.

Dear Sir:-

Your file # 8-3-0  
Re Viola Adela Ascombe

This will acknowledge your letter of May 2nd concerning the above named, and in reply to your inquiry regarding the reasons for returning her to the United States under deportation proceedings, I would advise that her deportation was ordered at the Women's Gaol, Portage la Prairie, Manitoba, on March 4th last under the provisions of Section 40 and sub-section 3 of Section 42 of the Immigration Act, in that she was a person other than a Canadian citizen or person having Canadian domicile, and has been convicted of a criminal offence and become an inmate of a gaol in Canada.

Her case was presented to the appropriate United States Authorities, who satisfied themselves of the fact, that she was a citizen of the United States by birth in that country. The United States Immigration Service accordingly issued letter authorizing her return under deportation proceedings (which were) which were carried out as indicated in my letter of May 1st through the port of Sprague, Manitoba, on April 28th.

Yours truly,

R. M. Munroe,  
District Superintendent of Immigration.Mr. E. McPherson,  
Indian Agent,  
Indian Affairs Branch,  
Department of Mines & Resources,  
Bellbird, Manitoba.NAC RG 26  
Vol. 74  
File 1648



C  
O  
P  
Y

CANADA

Office of the  
Indian AgentDEPARTMENT  
OF  
MINES AND RESOURCESPlease Quote  
File .....

Saskatoon, Man., May 7, 1945.

Indian Affairs Branch, Dept of Mines &amp; Resources, Ottawa.

Re: Viola Adale Accobne

The above noted Indian girl served a three month sentence in the Portage La Prairie Gaol. When her sentence expired, the United States authorities escorted her back to the United States, claiming her to be an American citizen by birth. Her father and her mother were members of the Rosseau River Band, treaty no. 252 and have been paid treaty money for the past twenty years. The mother and father are now deceased, but there is still two boys and one girl on this ticket. I received several letters from this girl while she was in gaol, re: her deportation to the United States. I am enclosing a copy of a letter I wrote to the District Superintendent of Immigration and also a copy of his reply.

Please advise as to this girl's status. As I have previously mentioned, the girl was born in the United States but her parents were Canadian Indians, Members of the Rosseau River Band. We have paid this girl treaty money every year. I would like the Department's decision regarding further payments. Please reply by return mail.

Yours very truly,

A. McPherson, (Sd.)  
Indian Agent.NAC RG 26  
Vol. 74  
File 1648



16th May, 1946.

MEMORANDUM:

Mr. Allan.

I am in receipt of your memorandum of the 15th instant, your file 3-125, to which is attached copies of letters received from Indian Agent McPherson, together with one from him to the Immigration Officer at Winnipeg, re Viola Adele Accobee.

From the information submitted it would appear that this girl is considered to be a United States Indian and I gather has lived outside of Canada five years continuously without permission from the Minister. If this proves to be the fact then this Indian girl has lost her membership in her band and with it her right to share in any annuities and is not entitled to receive any further monies until she has been reinstated as provided by Section 13 of the Indian Act.

Solicitor.

NAC RG 26  
Vol. 74  
File 1648



August 12, 1940.

Mr. W. W. McCracken,  
Indian Agent,  
Department of Mines and Resources,  
Sarnia, Ontario.

Dear Sir:

I have your letter of August 3rd, file 500, to the effect that you have ~~two~~ Indian families living on the Kettle Point Reserve near Forest, Ontario, who wish to be granted special permission to purchase washing machines in the United States and bring them into Canada duty free.

You are advised that there is no provision in the Canadian Customs Act or Tariff, or in any regulation established thereunder, which would permit the free entry into Canada of the washing machines imported by the Indians referred to. Goods of any kind imported by Indians are subject to the same Tariff requirements as if imported by others.

Yours truly,

L. H. Taylor,  
Secretary, Customs Division.



6-14-27  
142  
OTTAWA, MAY 9, 1947.

MR. WILLIAM MacGILLIVRAY  
DIRECTOR AGRICULTURAL DEVELOPMENT AND EXTENSION  
DEPARTMENT OF AGRICULTURE  
VICTORIA B.C.

REYOUTEL HAYTHORNE SIX MAY ALL PROHIBITORY REGULATIONS  
HAVE OF COURSE LAPSED AND THERE ARE NO LEGAL RESTRICTIONS  
AGAINST MOVEMENT TO UNITED STATES OR ADVERTISING STOP  
WE WILL BE PREPARED HOWEVER TO TAKE UP WITH WASHINGTON  
ANY DIFFICULTIES ARISING OUT OF THE SITUATION WHICH YOU  
ANTICIPATE STOP OUR INFORMATION IS THAT THE MOVEMENT  
OF INDIANS ACROSS BORDER HAS GONE ON OVER A CONSIDERABLE  
PERIOD OF YEARS AND VERY DIFFICULT TO STOP EVEN IN WARTIME  
PERIOD (.)

A. MacNAMARA.

CHM/nn

13/5/47

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Vol. 605  
File 6-19-2



Discussion

"Judge Knight filed a well-considered opinion on November 28, 1947, not yet reported, but a copy of which is attached to the United States Attorney's letter dated December 4, 1947. Therein, he held that the exemptions from the general immigration laws accorded American Indians under the various provisions referred to above, were intended to apply to racial derivation rather than present political status. Also, that the possibility of the relator's loss of her previous political status as an Indian under some of the laws of Canada, by virtue of her marriage to a white man, would have no bearing upon the present problem. The Buffalo Office of the Immigration and Naturalization Service and the local United States Attorney have recommended that an appeal be taken from the decision herein, upon the theory that the ruling is erroneous and because it would bring about anticipated embarrassment in future dealings with other persons in similar status. The Board of Immigration Appeals seems to share these views. The Commissioner does not urge an appeal, but has set forth in an attached memorandum, dated January 29, 1948, that he is not specifically opposed to an appeal.

I find myself in complete agreement with the decision of Judge Knight in this case for the reasons set forth in what I regard as a well-considered opinion. It is inconceivable to me that Indians had a "political" status when the Treaties involved herein were drafted. It seems all too clear to me that the term, "American Indian", as used in the Treaties, and in the Act of April 2, 1928, from which 8 U.S.C. 226(a), was drawn, was not used in a political sense, but in the popular sense of the meaning of such words to denote racial derivation. In all of the statutes from 1790 to 1879, the privilege of naturalization was limited to "free white persons". In 1932, the Supreme Court, in United States v. Thind, 261 U.S. 204, 214, held:

"What we now hold is that the words "free white persons" are words of common speech, to be interpreted in accordance with the understanding of the common man, synonymous with the word "Caucasian" only as that word is popularly understood. As so understood and used, whatever may be the speculations of the ethnologist, it does not include the body of people to whom the appellee belongs."

It is also stated that the State Department has followed the rule of exclusion of persons in the relator's status, which is now contended for by the District Director at Buffalo, but this does not seem to be the case. In Hackworth's Digest of International Law Volume 111, at page 749, there is quoted from an instruction by that Department to its Consul at Prince Rupert, on October 31, 1928, the following excerpt:

".....inasmuch as the term "American Indian", as used in the Act referred to above would appear to be a racial designation of a specified class of aliens, it would seem that the terms of the Act are applicable to American Indians born in Canada whether or not such persons are now members of an Indian tribe."



C O P YC O P Y

2.

If it may be assumed that the ratio of Indians to the total population is no greater in Canada than in the United States, and that the proportion of Indian women married to men of other races is no larger there than here, it would be difficult to apprehend the inconvenience anticipated by the Immigration and Naturalization Service from the adverse ruling in this case."







June 22nd, 1949.

Mr. Patrick Chausse, Jr.,  
Box 390,  
Sault Ste. Marie, Quebec.

Dear Sir:-

The Collector of Customs and Excise,  
has been referred to the Department your recent enquiry  
concerning duty payable on the importation of Indian  
tobacco and supplies to be used in the manufacture of  
cigars.

X You are advised that there is no  
provision in Canada Customs Act or Tariff, or in any regulation  
established thereunder, which would permit the free entry  
into Canada of such articles as you contemplate importing.  
Goods of any kind imported by Indians are subject to the same  
tariff requirements as if imported by others. Without actual X  
examination of the articles and materials in question it is  
of course not possible to give you even an approximation of  
the amount of duty that will be payable. I may say however  
that duty will be based on the value of the goods as appraised by  
Customs at time of entry.

I have returned the stamped self-addressed  
envelope you enclosed.

Yours truly,,

W. S. Kenney,  
Assistant Secretary,  
Customs Division

Encl:

Copy to:

Collector of Customs and Excise,  
Sault Ste. Marie, Ontario.

For your information and in acknowledgment of your letter of  
the 11th instant.





JWL:cn

40958

DEPARTMENT OF NATIONAL REVENUE  
CUSTOMS AND EXCISE

Ottawa. September 23, 1949.

Charles Hill, Esq.,  
Waterford,  
Ontario.

Dear Sir:-

I have your letter of the 10th instant asking for particulars relative to the purchase of automobiles in the United States by Indians.

Item 1215 of the Customs Tariff prohibits the importation into Canada of used or second hand motor vehicles of all kinds manufactured prior to the calendar year in which importation is sought to be made. If the car you contemplate purchasing in the United States was manufactured prior to January 1, 1949, it cannot be permitted entry. If manufactured since January 1, 1949, and brought forward before the end of 1949, it will be admissible on payment of full duty and taxes on its value as appraised by Customs at time of importation. Also, you would require a Special Import Permit from the Capital Goods Division, Department of Trade and Commerce, automobiles presently being under import control.

X Goods of any kind imported by Indians are subject to the same tariff requirements as if imported by others. X

Your questions regarding what amount of currency can be removed to the United States, and the value of ~~the~~ Canadian money in terms of United States dollars, would best be referred to the Foreign Exchange Control Board, Ottawa.

*Pass  
Emb.*

Yours truly,

*A.S. Kennedy*  
A.S. Kennedy,  
Assistant Secretary,  
Customs Division



For file

LEGAL SECTION

WMC:SW

Ottawa,  
April 13, 1960.

MEMORANDUM TO M. McGRIMMON:

Please see your memorandum of the 1st instant, immediately hereunder on file 62-66-1(M.1), on the subject of Gerard Nicholas who became a United States citizen in 1945, and the resultant problem of status of himself and his wife and children.

I am of opinion that this man by becoming a United States citizen does not lose his status as an Indian. He may by naturalization lose his status as a Canadian Indian, although I am very dubious that he does. It therefore follows that his wife and children retain their Indian status.

Legal Adviser.

NAC RG26  
Vol. 74  
File 1648



"C" Division.

C  
O  
P  
Y

Montreal, August 2, 1950.

Const. Lapointe,  
R.C.M. Police,  
LACOLLE, P.Q.

Re: Customs Act - General -

1. Will you please take the following matter up with the Collector at Lacolle in order that we may be clarified on this subject.
2. We understand that Indians, members of the Caughnawaga Reserve, are in the habit of bringing into Canada American cars under Traveller's Vehicle Permit, form E.50. It is felt that members of the Caughnawaga Reserve although working most of the time in the U.S.A. should be classified as Canadian residents and therefore not allowed to import U.S. vehicles on form E.50. Should they desire to proceed to their home in Caughnawaga with an American vehicle, form E.50E should be issued. With such permit, they would not be allowed to use the car once they arrive at their destination until ready to return to the U.S.A. Should the Collector agree with this, could you arrange to have the necessary instructions given to the Port Officers in order to issue the proper permit to Indian residents of Canada when entering U.S. vehicles.

/CL

(P. Mertens) S/Sgt.





NATIONAL REVENUE, CANADA  
CUSTOMS AND EXCISE Quote: File 125-1  
REVENU NATIONAL DU CANADA  
DOUANES ET ACCISE

Port of Lacolle, P.Q.  
Bureau de August 27, 1960.

Mr. I.H. Taylor,  
Secretary, Customs Division,  
Department of National Revenue,  
OTTAWA, ONT.

AUG 28 1960

Re: Vehicle Permit.

44952

I am forwarding a copy of a letter which has been brought to my attention by the R.C.M.P., the contents of which are self-explanatory.

Over a period of years this problem of the status of Indians working in the United States and re-entering Canada periodically has been brought up from time to time with apparently no satisfactory solution. I feel, therefore, that this whole question should again be reviewed and a ruling given as to whether or not Indians with U.S. automobiles should be given an E.50 Permit, or should they be issued with an E.50B permitting them to use U.S. automobiles to their destinations only, and for direct return to the U.S.A.

The Indians concerned are usually members of the Caughnawaga Reserve and the practice until now has been to allow some laxity in regard to their eligibility for the obtaining of an E.50 Vehicle Permit.

As Canadians, temporarily living in the United States and keeping their Canadian residence, they would not be entitled to bring their U.S. cars in on an E.50 Permit, but it is not always a simple matter, under the circumstances, determining whether or not they do maintain Canadian residence.

A further Departmental ruling on this matter is requested.

E.D. Racicot,  
Collector  
Customs and Excise.

Encl.1.



August 24, 1950.

Collector of Customs and Excise,  
Lacolle, Que.

Your letter of the 17th instant,  
file 125-1, respecting the importation into  
Canada for a temporary period of automobiles by  
Indians who reside in the Ojibway Reserve,  
is to hand.

If the Indians are residents of  
Canada but temporarily engaged abroad, they are  
in the same category as any other residents of  
this country and, accordingly, are only entitled  
to the privileges of an E.50-3 permit for trans-  
portation purposes. On the other hand, however,  
if they are residents of the United States or are  
at present temporarily residing in that country  
but are processing the matter through the United  
States Government of becoming residents of that  
country, the department is agreeable to their  
being considered non-residents and as such, the  
issuance of E.50 permits are in order.

L. R. Taylor,  
Secretary, Customs Division.





CANADA  
DEPUTY MINISTER  
OF  
CITIZENSHIP AND IMMIGRATION

Ottawa, July 20, 1951.

D. Sim, Esq., C.M.G.,  
Deputy Minister,  
Customs and Excise Division,  
Department of National Revenue,  
Ottawa, Ontario.

CUSTOMS - EXCISE  
RECORDS

JUL 23 1951

Dear Mr. Sim:

FILE NO. 44488  
7683

Representations have been received by this department with respect to the seizure of certain articles, evidently for non-payment of duty, by the R.C.M. Police from Mr. Neil Bent, an Indian of the Lower Similkameen Band, British Columbia.

It is represented that under the provisions of the Jay Treaty of 1794, Indians have the right to import goods into Canada from the United States free of duty. As you will doubtless recall, the Indians have brought this question up from time to time over a long period. Recently, as a result of a submission by one of the Indian organizations, the matter was referred to the Department of Justice for review. The relevant paragraph of a letter from the Deputy Minister of Justice, dated June 1, 1951, is quoted as follows:

"With reference to the importation of goods into Canada from the United States free of duty, I am of the opinion that it will depend on the particular facts of each case as it arises. In view of Article III, '... Indians passing or re-passing with their own proper goods and effects of whatever nature ...' need pay no duty. Consequently, it will depend in each instance whether the article in question is the Indian's own proper goods and effects. When the goods are in bales '... or other large packages, unusual among Indians ...', they would be liable for duty."

On the particular case in question, the details of the seizure are set out in the report of May 29th of the



Indian Superintendent in charge of the Okanagan Agency, which is quoted in part as follows:

"On April 9th, R.C.M.P. came to Chopaka and searched house when whole family was away, but Antoine Qualtier was there. Antoine Qualtier says R.C.M.P. gave him a paper, then went in and searched house for U.S. funds. In course of search brought out two new U.S. tires, 650-16, between \$40.00 and \$50.00 bought at Nighthawk, Wash. (no duty), new hat bought at Oroville, Wash., and worn home (\$2.00), suit coat value \$20.00 bought at Oliver a week previously at Collens Department Store, pipe-wrench value \$3.00 at Tonasket, Wash., (no duty), one flashlight from Cawston, B.C. (old), one flashlight from workman who left it there, George Shackley from Spences Bridge, three used hammers (one from Nighthawk), pliers, one saddle, 3 or 4 years old - second hand when bought - originally from Oroville, Wash., value about \$40.00. Two shirts (girl's) from Oroville last fall bought by Qualtier girls - phonograph, second hand table - from U.S., \$30.00 also bought by Qualtier girls last fall."

Pursuant to the advice contained in the letter above mentioned, the present case was also referred to the Department of Justice. In a letter dated July 13, the Deputy Minister of Justice has advised as follows:

"Referring to your letter of June 19th last, I am of the opinion that all of the goods referred to by you, with the exception of the two new U.S. tires and the two shirts (girl's), were free from Customs duty and consequently were illegally seized by the R.C.M.P.

"If the Indian can satisfy the authorities that he bought the tires and shirts for his own personal use, then I should think that these items also are free from duty."

In view of this advice, it would be appreciated if the necessary steps might be taken to have the goods in question released to Mr. Bent.

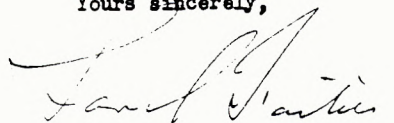
It is suggested also that you might consider the advisability of bringing the general position of the Indians under the provisions of the Jay Treaty as interpreted by the law officers of



3.

the Crown to the attention of officials of your Department for their information and guidance.

Yours sincerely,



Laval Fortier.



2. July 26th, 1951.

Laval Fortier Esq., K.C.,  
Deputy Minister of Citizenship and Immigration,  
O t t a w a.

Dear Mr. Fortier:

Re: Privileges of Canadian Indians  
under the Jay Treaty.

I have your letter of July 20th and note that recently, as a result of a submission by one of the Indian organizations, you have received an opinion from the Deputy Minister of Justice which is, I gather, to the effect that the Jay Treaty of 1794 is still in force and that under it, Indians are entitled to import "their own proper goods and effects" free of Customs duty. You also mention a particular case, in which certain goods have been seized from one Neil Bent, and ask that they be restored to him.

Dealing first with the particular instance, the situation is that the goods seized from Bent have been declared forfeit to the Crown by Ministerial decision under section 174 of the Customs Act. They were about to be sold by public auction, but instructions have been issued to cancel this sale, in view of your letter, pending further consideration.

On the general question, you as a lawyer will appreciate that I am somewhat surprised to hear of Mr. Varcoe's opinion only from you. I have not yet heard from Mr. Varcoe, but I am writing to him by concurrent mail. If the state of the law is as your letter suggests I must, of course,

...



Laval Fortier Esq., K.C......2

endeavour to apply it, but before I undertake to give any general instructions to officers in the field, I must know more than your letter tells me as to the precise nature of the privileges given and as to the class of persons to whom these privileges extend.

I will communicate with you again as soon as I have heard from Mr. Varcoe.

Yours faithfully,



51A 58 D

Kingston Detachment.  
24 Oct 1951.

51A 58 D

The Officer I/S Division I.I.B.  
C.C. Police, Ottawa, Ont.

Sir,

Re: Enforcement of the Customs Act.  
St. Regis Detachment.

1. In the above connection I have to report that while making a Detachment inspection at St. Regis Detachment on 23-10-51 Cst. J. McPhee, I/S Detachment stated that he was experiencing some difficulty in the enforcement of the Customs Act on the St. Regis Indian Reserve due to the contents of a Treaty called the "JAY TREATY" of 1784 which apparently permits Indians to import any goods they wish for their own use into Canada without the payment of Customs duties and taxes. Cst. McPhee informed the writer that he had been advised by officials of the Dept. of Indian Affairs that the Dept. of Justice had ruled in favour of this Treaty and that the Customs officials will not accept the ruling of the Dept. of Justice in this case.
2. Cst. McPhee, as you know, has only recently been posted to St. Regis Detachment and during the time that he has been there a great change has been noted in regard to the Indians and the Customs Act. They are now reporting at the Customs post at Cornwall Island with their purchases and they are also reporting purchases made at previous times due to the fact that checks are being made by Cst. McPhee under the Customs Act. These people under the guidance of Cst. McPhee are beginning to understand that it is necessary to make a report at Customs on return from the U.S.A.
3. The majority of the Indians at St. Regis Reserve are employed at the Aluminum Co'y of America and on their way home at night usually do their shopping in the U.S.A. (There are no stores on the St. Regis reserve) and they take their groceries etc home with them on their return from work. This has been the custom in the past and as there is no customs post at St. Regis, P.Q. it appears that in almost every home on the Reserve, washing machines, Refrigerators, Stoves, Radios etc etc purchased in the U.S.A. can be found. The Indians employed in the U.S.A. have been informed that they must spend their wages in the U.S.A. of lose their jobs. If they are discharged it would mean the expenditure of about \$50,000 per annum for relief by the Dept. of Indian Affairs.
4. Cst. McPhee has made seizures under the Customs Act and in nearly every instance he is accused of "picking" on certain Indians because others have goods purchased in the U.S.A. etc etc. This makes hard feelings amongst the Indians when they feel that they are being discriminated against.
5. May a definite ruling be obtained at once to clarify the situation in regard to the JAY Treaty and whether these people are to be charged under the Customs Act as in other parts of Canada. They have apparently been informed by Indian Affairs that they are exempt from Customs duties etc and that the Jay Treaty has been upheld by the Dept. of Justice, this makes the work of Cst. McPhee useless.



Enforcement of the Customs Act, St. Regis Detachment.

5. CPT Cst. McPhee is being guided at this time by correspondence under file number 49A 58 D 4 in this connection but due to the existing situation he was advised by the writer to exercise strict caution in Customs cases until a definite ruling is obtained in regard to the Jay Treaty.

6. In the event that it is ruled that the JAY Treaty is obsolete will the Customs Dept grant the Indians on the St. Regis Reserve a period of say, 3 months in which to make a declaration of goods purchased in the U.S.A. and make the necessary payment of Customs duties and taxes? It would be necessary in this event to have a Customs inspector visit every home on the Reserve and value the goods so imported.

7. If the Customs Dept rules that the Treaty does not apply it would appear that a Customs port should be established at St. Regis to handle all Customs imports as at the present time the closest Customs Port is at Cornwall Island and the Indians at St. Regis have to return to their homes via U.S.A. after making their reports at Customs, and this situation is not good from a Customs standpoint, and places our men at St. Regis in the position of being Customs collector etc there.

8. May the writer and the Cst. I/c St. Regis Detachment be advised in this connection please, as soon as possible.

(R. T. Duff) - 11063  
Section M. C. O.,

N/Sgt.

THE COMMISSIONER

FORWARDED. The Indian population of St. Regis Indian Reserve are under the impression they are exempt from Customs and Excise Regulations under the provisions of the "JAY TREATY" of 1784. The Cst. In Charge St. Regis Detachment has been informed by Officials of the Department of Indian Affairs that the Department of Justice had ruled in favour of this treaty but the Customs Officials do not accept the ruling of the Department of Justice in this matter.

2. A definite policy was laid down by the Director of Customs Excise Inspection as a result of action by Indian Agent Bonnah of the St. Regis Indian Reserve and Mr. J. E. Gendron, Supervisor of Indian Agencies in 1949 resulting from a seizure on the St. Regis Indian Reserve which is recorded under Customs Seizure No. 23349, H.M. file No. 49D 58-B-126. No reference was made to the "JAY TREATY" at that time or any ruling regarding same by the Department of Justice and in order to eliminate any further doubt concerning this particular Treaty in so far as the enforcement of the Customs Act on the St. Regis Indian Reserve is concerned could we please be enlightened in this regard.

3. Mr. Bunker, Director of Customs and Excise Inspection, in his memorandum of July 8th, 1949 to the Commissioner stated it might be necessary to again place a Customs Officer at St. Regis but to date this has not been done, in view of which, could it be ascertained whether or not the Department have any intentions of posting an Officer at this point.

4. Attached for your information in single copy is a Judgment handed down by Justice J. Siddell on March 2nd, 1921 at Belleville, Ontario but which is of considerable interest in that he dealt extensively with the laws of the Dominion as well as that of the Province of Ontario being applicable to the Indians and ruled that both applied to Indians unless the Act specified they were exempt.

CCF  
67-10-11

(D. J. McCombe) Insp.,  
or C.C. "A" DIVISION (AGD).





EXCISE  
105

JAN 30 1952

PLEASE ADDRESS  
THE DEPUTY MINISTER OF JUSTICE  
OTTAWA

OTTAWA January 29th, 1952

160997

Re: Exemption of Canadian Indians under  
the Jay Treaty of 1794

*Mr. Ellis  
Please deliver tomorrow  
34/152*

Dear Sir:

Since I last expressed an opinion upon the effect of the provision in the Jay Treaty of 1794 which purports to exempt from customs duties "their own proper goods and effects of whatever nature" of Indians, my attention has been called to a recent amendment to the Income Tax Act, namely Section 49 of Chapter 25 of the Statutes of 1949 (2nd Session). This provides that no person is entitled to any exemption or immunity from any duty or tax imposed by an Act of the Parliament of Canada unless provision for such exemption or immunity is expressly made by the Parliament of Canada.

It appears to me that this recent amendment nullifies the exemption here in question and I beg to advise you accordingly.

Yours truly,

*F. P. Varcoe*  
Deputy Minister.

The Deputy Minister,  
Department of National Revenue,  
Customs and Excise,  
O t t a w a.



*Mr. Fortier*

2. January 31st, 1952.

Laval Fortier Esq., K.C.,  
Deputy Minister of  
Citizenship & Immigration,  
Ottawa, Ont.

Dear Mr. Fortier:

RE: Customs Seizure No. 49242/28894.

With further reference to your letters of July 20th and November 29th, 1951 and mine of July 26th and December 7th, I have now received from the Deputy Minister of Justice a letter of which I enclose a copy and which you will find self-explanatory. In view of Mr. Varcoe's opinion as expressed therein, I must insist on Mr. Francis and all other Indians complying with the provisions of the Customs Act with respect to goods which they import from the United States or elsewhere and paying duty thereon when any duty is imposed by the Customs Tariff.

As I appreciate that many Indians have been acting in the bona fide belief that they were exempt by law from the payment of duties, I shall try to avoid prosecution or the exaction of penalties so far as I consistently can do so.

Yours very truly,



ENC.

NAC 2616 File A-7613 PF